

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

28 November 2011

Local Ethical Framework Developments – The Localism Act 2011

1.0 PURPOSE OF REPORT

- 1.1 To update Members regarding proposed changes to the national standards regime.

2.0 BACKGROUND

- 2.1 Members have been updated at recent Standards Committee meetings as to the latest developments regarding the national ethical framework and the progress of the Localism Bill, which intends to 'abolish the Standards Board regime'.
- 2.2 At the Committee's last meeting, Members considered a detailed options appraisal paper on the standards implications of the Bill for the Authority, prepared by the Monitoring Officer. Members felt that the following would be an appropriate and proportionate standards framework for the Authority in the future, dependent upon the ultimate provisions enacted via the Localism Bill:-
- (a) the Authority should adopt a voluntary, simpler, Members' Code of Conduct;
 - (b) there should be a less bureaucratic regime in place to support the Code, but which still provides reassurance to the public;
 - (c) an independent view should be retained on the Standards Committee, as well as the views of elected Members and therefore current arrangements for the Committee, in terms of its constitution, would be appropriate;
 - (d) the Standards Committee could meet less frequently but have a dedicated, experienced group of representatives to determine complaints and any transgressions in terms of the Code of Conduct;
 - (e) there was a need to protect Members and Officers from some aspects of conduct undertaken by members of the public, as had been experienced in recent times. Vexatious/harassment issues should be dealt with within the adopted process.

3.0 THE LOCALISM ACT 2011

- 3.1 The Localism Bill was published in December 2010 and brought with it, amongst other issues, the Government's proposals to change the national standards regime. The Bill's original proposals have been the subject of debate and proposed amendment in the House of Commons and House of Lords since that time.
- 3.2 The Bill received Royal Assent on 15 November 2011 and is now the Localism Act 2011. A copy of the Act (which extends to 496 pages) is available at:

<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

- 3.3 An updated Plain English Guide to the Localism Act is available on the Communities and Local Government website at:

<http://www.communities.gov.uk/publications/localgovernment/localismplainenglishupdate>

- 3.4 The standards provisions are contained in Chapter 6 (Predetermination) and Chapter 7 (Standards).
- 3.5 Standards for England has confirmed on its website that *“under the standards provisions of the Act, Standards for England’s regulatory functions will shortly cease. The date will be confirmed in commencement orders but we anticipate this will occur on 31 January, 2012. We expect further detail on transitional arrangements to be set out in regulations before the end of January.”*
- 3.6 The standards provisions are contained in Chapter 6 (Predetermination) and Chapter 7 (Standards) of the Act.
- 3.7 The CLG Plain English Guide explains that the Act provides for the following in relation to the ethical framework:

- The abolition of Standards for England:

“Instead, local authorities will draw up their own codes, and it will become a criminal offence for councillors to deliberately withhold or misrepresent a financial interest. This means that councils will not have to spend time and money investigating trivial complaints, while councillors involved in corruption and misconduct will face appropriately serious sanctions. This provides a more effective safeguard against unacceptable behaviour.”

- Clarifying the rules on predetermination:

“These rules were developed to ensure that councillors came to council discussions with an open mind. In practice, however, these rules had been interpreted in such a way as to reduce the quality of local debate and stifle valid discussion. In some cases councillors were warned off doing such things as campaigning, talking with constituents, or publicly expressing views on local issues, for fear of being accused of bias or facing legal challenge. The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on.”

The Act also:

- creates a statutory duty on relevant authorities to ‘promote and maintain high standards of conduct’ by members and voting co-opted members;
- requires a relevant authority to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity;
- requires the code adopted to be consistent with the following principles:

- ❖ selflessness
- ❖ integrity
- ❖ objectivity
- ❖ accountability
- ❖ openness
- ❖ honesty
- ❖ leadership

- requires the monitoring officer to establish and maintain a register of interests of members and co-opted members, which must be available for public inspection and published on the Authority's website;
- provides for an interests and dispensations regime;
- requires the authority to have in place:
 - (a) arrangements under which allegations can be investigated, and
 - (b) arrangements under which decisions on allegations can be made,such arrangements to include provision for the appointment by the authority of at least one independent person.

3.8 The Act provides for transitional arrangements to be put in place.

3.9 Future regulations will set out further details of the new ethical framework.

3.10 Officers are currently considering the provisions of the Act in terms of its impact on the standards regime and likely appropriate standards arrangements' options for the Authority in the future. Further detail will be provided to Members at the meeting.

4.0 RECOMMENDATIONS

4.1 That the Committee considers the issues raised in this report.

CAROLE DUNN
Monitoring Officer

Background Papers:

- <http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>
- Communities and Local Government website - www.communities.gov.uk
- Standards for England website – www.standardsforengland.gov.uk
- <http://www.communities.gov.uk/publications/localgovernment/localismplainenglishupdate>

County Hall
NORTHALLERTON

17 November 2011