

From: Peter Sass – Head of Democratic Services

To: Standards Committee – 17 November 2011

Subject: The Localism Bill – proposed changes to the Standards regime

Summary: This report provides an update on the proposals in the Localism Bill in relation to the future of the ethical standards regime in local authorities and is the basis for further consultation with Group Leaders as KCC develops its approach to the expected new regime.

Unrestricted

Introduction

1. At its meeting on 5 October 2011, the Standards Committee requested the Head of Democratic Services to invite the three Group Leaders to the next meeting of the Committee on 17 November 2011 to enable a discussion to take place on a number of options for the future of the ethical standards regime at Kent County Council.

The existing position

2. The Committee is reminded that all councils are currently required to establish a Standards Committee, which includes independent representatives. Kent County Council's Standards Committee is comprised of three elected and three independent Members. Its role is to ensure that a national code of conduct, which sets out standards of behaviour for councillors, is appropriately applied and any complaints from the public or other persons are assessed and, if appropriate, investigated. The Committee has the power to apply certain sanctions for breaches of the Code of Conduct, which include the power to suspend or disqualify the Councillor.

3. Under existing legislation, all elected Members must register their interests (e.g. nature of employment, land and property holdings) within 28 days of being elected. Members can participate at meetings if they have an interest in a particular matter, but may not be able to vote if there is a potential or perceived conflict between their interest and the item under discussion.

The Government's proposals

4. Under the original proposals contained in the Localism Bill, the Standards Board would be disbanded and councils would have been free, should they choose, to disband their Standards Committee and do away with the Code of Conduct or establish voluntary standards committees to consider complaints about the conduct of councillors. Such committees would, subject to councils' local constitutions, be able to censure but not be able to suspend or disqualify members from council membership. In addition, if a voluntary standards committee contained independent members, they could only act in an advisory capacity.

5. In relation to the registration and declaration of interests, the Bill provided that Members be required to continue to register and declare their interests and would not be allowed to use their position improperly for personal gain. The Government intended that wilful failure to comply with these requirements would constitute a criminal offence.

6. The Standards Committee has considered the key provisions in the Localism Bill in previous meetings and has discussed the advantages and disadvantages of a number of options, as follows:

- (i) To maintain both a voluntary Code of Conduct for all elected and co-opted Members, together with a Standards Committee to monitor compliance with the Code and assess and investigate alleged breaches of the Code, with the Committee to have independent representation (i.e. to maintain the current system), albeit that the independent Members would only be able to serve in an advisory capacity and the sanctions available to the Committee for breaches of the Code would be limited;
- (ii) To dispense with a Code and disband the Standards Committee altogether, as originally provided for in the Localism Bill, albeit noting that the Bill would impose on local authorities a “duty to promote and maintain high standards of conduct” and that the Government intended to introduce a new offence relating to the wilful failure to comply with the requirement to register interests. Political group discipline and existing mechanisms at KCC, such as Members’ Annual Reports and Member Development and training, would perhaps be sufficient to comply with the new duty and ensure that all Members remain focused on serving the people of Kent to the standards expected of elected representatives;
- (iii) A hybrid option involving the adoption of a voluntary Code of Conduct, but with authority for monitoring compliance with the Code and assessing/investigating complaints about breaches of the Code being split between the Council’s Monitoring Officer (for low level complaints) and another Committee of the Council, either with or without independent representation, with any sanctions being determined by the Committee or the full Council

Recent Developments

7. The Localism Bill received its third reading in the House of Lords on 27 October 2011. As previously promised, the Government’s Spokesman proposed amendments to the Standards section of the Bill to require all local authorities to adopt a Code of Conduct based on the seven Nolan principles of public life and to include provisions on the registration and disclosure of pecuniary and other interests. The amendments also included a provision that local authorities must appoint at least one “independent person” whose views must be sought and taken into account before the authority comes to a decision following an investigation that a Member has breached the Code. These amendments were accepted by the House of Lords. It would seem, therefore, that with the

exception of the abolition of the Standards Board and the sanctions available to local authorities in relation to breaches of the Code, the existing regime and system will remain almost intact.

8. Accordingly, the Committee is invited to discuss the proposed way forward with Group Leaders in the light of the impact of the recent developments outlined above.

Recommendation:

The Standards Committee is invited to discuss the way in which Kent County Council intends to respond to the proposed changes to the standards regime, as currently detailed in the Localism Bill and the Government's tabled amendments to the Bill, outlined in paragraph 7 above.