

REPORT OF MONITORING OFFICER

SUMMARY

1. This Report informs Members of the pending abolition of the current Standards regime and asks Members to consider whether they would wish in principle to adopt a new Code of Conduct for Members to be put in place when the current Standards regime is abolished.

Recommendation

2. Members are asked to consider whether they might wish to resolve in principle to adopt a voluntary Code of Conduct when the Localism Act 2011 comes into force and to ask the Monitoring Officer to consider and advise in due course as to the contents of a new voluntary Code.

Background

3. The Standards regime currently in place for Local Authorities was introduced by the Local Government Act 2000 implementing recommendations of the Nolan Committee on Standards in Public Life. The key features of the current regime are:-
 - A mandatory Code of Conduct to be adopted by each Local Authority.
 - A regulatory body "Standards For England".
 - A mandatory Standards Committee for each Authority with independent representation.
 - An elaborate procedural framework for enforcement of the regime.
 - A range of statutory sanctions for breach of the Code.
4. It should be recalled that prior to the 2000 Act provisions there was a pre-existing "National Code of Local Government Conduct" which was enforced by the Local Government Ombudsman (albeit that the Ombudsman only had power to impose sanctions against the Authority, not against individual Members) and by Local Authorities themselves. The High Court case of *Lashley v Broadland District Council* established that all Local Authorities had the power to establish Standards Committees in order to promote and maintain Standards and Conduct of elected Members.

Localism Bill 2011

5. This Bill contains provisions which will sweep away all the features of the current Standards regime as summarised above. The implications of this are:-

- There will be no central or national apparatus for Standards - Standards For England will be abolished and all Standards issues will be dealt with at local level.
- Although Local Authorities will be under a duty to promote and maintain high standards of conduct by their Members they will not be obliged to have a Standards Committee. If they choose to do so, nevertheless, in accordance with the Lashley decision noted above, there is scope for Local Authorities to constitute such Committees. If Members were not minded to appoint a Standards Committee, the task of overseeing Standards issues could conceivably be allocated to another existing Committee.
- Local Authorities may, if they wish, adopt a Code of Conduct. Although any new Code may be based upon their current Code, the current Code will not itself continue in existence. Local Authorities must positively address the issue of whether and what Code they would like to see in place.
- The statutory sanctions for breach of the Code will be abolished. Suspension or disqualification will thus no longer be an option for Local Authorities to impose by way of sanction on those Members who have been found to be in breach of the Code. Sanctions under the new regime will likely include censure, and removal of defaulting Councillors from membership of Committees. [Local Authorities may also have the power to cease payment of Members' allowances to defaulting Members.]
- The Bill proposes to give powers to the Secretary of State to make provision for the disclosure and registration of Members' interests and for Members to disclose those interests in relevant circumstances. Regulations may include sanctions on Members for failing to comply with this duty but such sanctions may not include suspension or disqualification. The Bill will create a criminal offence of failing to register or to disclose a financial interest and upon conviction a Court may disqualify the convicted person from being or becoming a Member of the Authority for a period of up to five years.
- Regulations will make provision for transitional arrangements to allow for Standards cases going through the "old" system.

A Voluntary Code of Conduct

6. Members are asked to consider whether they would like, in principle, to have a Code of Conduct for Members under the Localism Act. As noted above, there is a duty on Local Authorities to promote and maintain high standards of conduct and the adoption of a Code might be the most straight forward means of fulfilling that duty. There might now be a public expectation that Local Authorities will have a Code. It may be seen as a commitment to the strengthening of confidence in local democracy.

7. A decision in principle to have a Code of Conduct would not imply any commitment to a Standards Committee. As noted earlier, the Bill makes no mention of Standards Committees and the Authority would have to consider whether it wished to have a Standards Committee and what powers such a Committee might have conferred upon it.
8. The Monitoring Officers for the various Authorities in Norfolk have given thought to the possibility of a "Norfolk Code". If the Norfolk Authorities were open to the idea of Voluntary Codes then a form of Code acceptable to all Authorities for use within the County might have advantages. Members who were elected to more than one Authority would only have to consider one Code whilst they conducted the business of each Authority.