



Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 16th February 2011

Subject: Implications of the Localism Bill for the ethical framework in Leeds

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to summarise the contents of the Localism Bill which was presented to Parliament on 13th December 2010, and to seek feedback from Members of the Committee on the questions posed in this report. The Localism Bill contains several clauses which affect Leeds City Council, but this report concentrates on those which affect the standards regime.
2. It is proposed that the following Members will be consulted on the options available: the Group Leaders, Corporate Governance and Audit Committee, Standards Committee, and Group Whips before asking the General Purposes Committee to make a recommendation to full Council for it to make a final decision. The final decision will need to be made in advance of February 2012.
3. In order that the possibility of regional arrangements can be explored all the West Yorkshire Councils have been sent the briefing note attached as Appendix 1, and have been asked to provide feedback on the questions listed on the first page. This will assist officers in establishing whether there is an appetite for regional arrangements, and whether it would be possible to reach agreement on what those arrangements might be.
4. Members of the Standards Committee are asked to:
 - Consider the implications of the Localism Bill as they relate to the Council's ethical governance arrangements; and
 - Consider and comment upon the questions listed in paragraph 3.12 of this report.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to brief Members of the Standards Committee on the aspects of the Localism Bill which relate to the Council's ethical governance arrangements, specifically;
- Members' Code of Conduct
 - Standards Committee
 - Local Assessment arrangements

2.0 Background Information

- 2.1 The government set out its intention to abolish the 'Standards Board Regime' in the coalition agreement published in May 2010. It is the government's intention to effect the abolition through the Localism Bill which has its first reading in Parliament on 13th December 2010.

3.0 Main Issues

- 3.1 The Localism Bill proposes to abolish the current standards regime established by the Local Government Act 2000. In summary, this will have the following consequences:
- The Members' Code of Conduct and the General Principles of Public Life will be revoked.
 - The requirement for the Council to have a standards committee will be abolished.
 - Standards for England (formerly known as the Standards Board for England) will be abolished, as will all its functions.
 - The First-tier Tribunal (Local Government Standards in England) (formerly known as the Adjudication Panel for England), which dealt with the most serious cases and heard appeals against Standards Committee decisions, will lose its jurisdiction over the conduct of Councillors.

Duty to promote and maintain high standards of conduct

- 3.2 When enacted the Localism Bill will impose a new duty on Councils to promote and maintain high standards of conduct by Members and co-opted members of the authority. There are no further details available at the current time regarding how this duty is to be fulfilled or what it will entail.

Voluntary codes of conduct

- 3.3 The Localism Bill also contains provisions to allow Councils to adopt a code of conduct to apply to Councillors and co-opted members whilst they are acting in that capacity. The Council could choose to:
- (a) Revise the existing code of conduct;
 - (b) Adopt a code of conduct to replace the existing code of conduct; or
 - (c) Withdraw its existing code of conduct without replacing it.
- 3.4 If a Council chose to continue to have a code of conduct in place then it must receive and consider complaints about potential misconduct. If, having received a complaint, a Council considered that investigation was appropriate, the Council must investigate the allegation in such a manner as it thinks fit.

- 3.5 If, as a result of the investigation or otherwise, a Council found that a Member or co-opted member had failed to comply with their adopted code of conduct, that Council must decide whether to take action and what action to take.

Local standards committees

- 3.6 The Localism Bill specifies that the above functions of considering, investigating and taking action in relation to complaints, are not to be executive functions and therefore must be carried out by full Council, a Council Committee, or an officer acting under delegated powers. It would also be possible to create a joint standards committee¹ for the West Yorkshire authorities.

Disclosure and registration of Members' interests

- 3.7 The Localism Bill proposes to make regulations which will require the Monitoring Officer to establish and maintain a register of Members' interests. These regulations will also explain when Members will have to declare their interests in meetings, when these interests will prevent them from taking part in decision making, and will make provisions for the Council to grant dispensations to Members in some circumstances.
- 3.8 The Localism Bill also makes it an offence to fail to comply with the obligations in the regulations. The penalty that the magistrates court may impose upon conviction is a fine of up to £5,000 and an order disqualifying the person from being a Member of a relevant authority for up to five years.

Consultation on possible local standards arrangements

- 3.9 The Localism Bill is still in its early stages of development and may be amended significantly before reaching its final form and receiving Royal Assent (anticipated in November or December 2011). However it is necessary for Members to consider the implications of the Bill now in order that, should Members' view be that Leeds City Council should adopt a local Code of Conduct, work can commence on drafting the code and the mechanisms that might be needed to support it in time for consultation and agreement by full Council.
- 3.10 The government has already announced transitional arrangements to be put in place between the Bill receiving Royal Assent and the 'Appointed Day' when the Act comes into force. Any local arrangements would therefore start after the 'Appointed Day'.
- 3.11 In the first instance the Assistant Chief Executive (Corporate Governance) is seeking views on the implications of the Bill from Group Leaders, Corporate Governance and Audit Committee, Standards Committee, and Group Whips. In addition the Chair of the Corporate Governance and Audit Committee and the Head of Governance Services will also be attending a conference on "The Localism Bill & Ethical Standards; – Challenges & Solutions" by an organisation called Ethical Standards & Complaints - Advice Training & Investigations (ESCati) to be held on 29th March 2011 in Birmingham.
- 3.12 The themes on which initial views are being sought are as follows:

¹ This would not have the statutory functions or membership requirements of current standards committees as these legislative requirements are abolished by the Localism Bill.

1. Are we going to adopt a voluntary code of conduct?
 - a. If yes, should the Council:
 - revise the existing code of conduct²; or
 - adopt a completely new code of conduct to be drafted locally?
 - b. If the Council wishes to adopt a completely new code of conduct, what types of behaviour / situations should this cover?
2. If a code is to be introduced, should there be different processes for dealing with differing types of complaints, namely:
 - Member against Member;
 - officer against Member; and
 - member of the public against Member?
 - a. If yes, how should these processes differ?
3. Should the Council have a separate 'Standards Committee' (or another name) to carry out any of the above functions, or instead give the function to an existing committee exercising Council functions?
 - a. If an existing committee is preferred, which committee would be the most appropriate?
 - b. Alternatively, would the Council prefer to delegate some of these functions to an officer?
4. Would there be any value in retaining the facility to have a co-opted independent member(s)³ on any committee dealing with complaints of member misconduct and if so, might those co-opted members have a role in chairing consideration of complaints against Members under any of the options shown in Question 2 above?
5. Is there an appetite for having a regional Standards Committee?

3.13 Standards Committee's views are sought on these question areas.

3.14 From the initial discussions and soundings which are taking place it is anticipated that a further detailed options paper will be drawn up for further discussion with Political Groups.

3.15 Members may also be interested that in order that the possibility of regional arrangements can be explored all the West Yorkshire Councils have been sent the attached note (Appendix 1), and have also been asked to provide feedback on the questions. This will be of assistance in establishing whether there is an appetite for regional arrangements, and whether reaching agreement on what those arrangements might be would be practical.

² At the least the Council would need to remove the reference to the General Principles which will be revoked, and the requirements regarding the registration and declaration of interests as these will be covered in separate Regulations.

³ The position of Independent Member as it currently stands will be abolished, but the Council could choose to co-opt someone onto the committee to fulfil a similar function.

4.0 Implications For Council Policy And Governance

4.1 As stated earlier, the proposals in the Localism Bill have consequences for the Council's governance arrangements, including the Code of Corporate Governance. Members will also need to consider what impact a local code would have on the local codes and protocols already in existence (in Part 5 of the Constitution), such as the Protocol for Member Officer Relations.

5.0 Legal And Resource Implications

5.1 The legal implications of the Localism Bill (as they relate to the Council's ethical governance arrangements) are set out in the report.

5.2 No longer being required to have a standards committee, which must be chaired by an Independent Member and have Parish Members, will represent a saving to the Council in terms of Special Responsibility Allowances.

6.0 Recommendations

6.1 The Standards Committee is asked to:

- consider the implications of the Localism Bill as they relate to the Council's ethical governance arrangements; and
- consider and comment upon the questions listed in paragraph 3.12 of this report.

Background Documents

Localism Bill 2010/2011