

Southend-on-Sea Borough Council

**Agenda
Item No.**

4

**Report of Corporate Director of Support Services
To**

The Standards Committee

on

7th March 2011

Report prepared by: James Baker, Principal Solicitor

Members' Code of Conduct and Changes to the Standards Regime

A Part 1 Agenda Item

1. Purpose of Report

To refer to the Committee the notice of motion agreed at Council on 16 December 2010 committing to the retention of the Standards Committee and the development of a voluntary Code of Conduct in consequence of the provisions of the Localism Bill relating to the abolition of the current Standards regime.

2. Recommendations

To request the Monitoring Officer to report to a future meeting of the Standards Committee progress on the development of a new, voluntary code of conduct and complaints procedure having regard to any guidance issued by the Local Government Association and discussions with Monitoring Officers in neighbouring authorities.

3. Background

- 3.1 The Localism Bill published in December 2010 is expected to be enacted by the end of 2011. Amongst its many provisions, the Bill will abolish the Standards Board regime and confer power on local authorities to make their own decisions as to how to regulate their members' conduct – although it will become a criminal offence to withhold or misrepresent a personal interest. This should provide an opportunity to reduce the amount of time and money spent on dealing with trivial complaints, whilst the criminal code may offer a more effective safeguard against unacceptable behaviour.
- 3.2 In consequence of the abolition of the standards regime, the current Members' Code of Conduct, undertakings to comply with it and procedures for assessing, investigating and determining complaints will cease to have effect.
- 3.3 In their place, the Bill proposes a duty to promote and maintain the highest standards of conduct by members and co-opted members. This will be supplemented by discretionary powers to adopt voluntary codes of conduct including powers to revise its code, adopt a replacement or simply withdraw it without replacing it.

- 3.4 The requirement to maintain a Standards Committee will be abolished although local authorities would be free to establish voluntary Standards Committees to consider complaints about the conduct of Members. Alleged breaches of codes will no longer be subject to the prescriptive provisions regulating how the allegations must be dealt with. Nevertheless, there will be a duty to consider whether to investigate and how. Sanctions will be more limited e.g. censure or restricting access to officers, premises and facilities – however it may be very difficult to enforce such restrictions if the Member chooses to ignore them. Other than as a consequence of prosecution, the risk of suspension or disqualification will be removed.
- 3.5 Notwithstanding the opportunities presented by these proposals, in the absence of a national model code and an independent complaints procedure, leaving it up to each local authority to determine its arrangements potentially risks lower standards, public confusion and a decline in public confidence.
- 3.6 The requirement for the Standards Committee of the Borough Council to exercise the same functions in relation to the Town Council will also be abolished. At this time, it appears the Town Council will have the same opportunities as the Borough Council to determine how it wishes to discharge its responsibilities under the new regime.
- 3.7 On 16 December 2010 the Council agreed to refer to the Standards Committee a notice of motion committing the Council to the retention of the Standards Committee and the development of a voluntary Code of Conduct, separately or in association with other local councils. The full text of the motion is attached at **Appendix 1**.
- 3.8 It is understood that the Local Government Association will take a lead on the development of a model, voluntary code. The Heads of Legal Departments across Essex authorities working through the Essex Legal Services Partnership are monitoring progress and have agreed a project with a view to jointly developing a consistent approach that will be relevant to local needs.
- 3.9 A degree of standardisation of codes and complaints procedures across authorities would seem desirable to establish a viable and credible approach to promoting the highest standards of conduct and ensuring public confidence. This would also facilitate assistance between neighbouring authorities with investigations in line with public policy in developing shared services.

4. Background papers

None

5. Appendices

Appendix 1 – Notice of Motion

SOUTHEND-ON-SEA BOROUGH COUNCIL

Meeting of The Council

Date: Thursday, 16th December, 2010

622 Notice of Motion

In accordance with Council Procedure Rule 8.1 the following Notice of Motion was presented by Councillor Longley and seconded by Councillors Holdcroft, Gilbert and Terry:

“This Council considers recent announcements regarding the abolition of the Standards Board and Standards Committees to be a retrograde step in the accountability of member representation and in the light of the governments proposals:

- To abolish the requirement for Local Authorities to adopt the model Code of Conduct which Members must abide by.
- To abolish the requirement for Local Authorities to maintain a Standards Committee.
- To abolish the Standards Board for England (now known as Standards for England).

That this Council commits to developing its own voluntary Code of Conduct separately or in association with other local councils and that a Standards Committee be retained to be responsible for the accountability of Members.

That any new code designed to maintain standards should be in line with that currently in operation and will have an appropriate range of powers.

That the Notice of Motion be referred to the Standards Committee to enable preparations to begin on the development of a voluntary code.”

Resolved:

That the Motion be adopted.