

Wolverhampton City Council

OPEN INFORMATION ITEM

Originating Service Group(s)	STANDARDS COMMITTEE	Date: 8 SEPTEMBER 2011
Originating Service Group(s)	DELIVERY	
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Title	<u>MONITORING OFFICER'S REPORT</u>	

RECOMMENDATION

Standards Committee is requested to note the contents of this report and indicate any areas in respect of which further information is requested.

MONITORING OFFICER'S REPORT

1.0 BACKGROUND

1.1 The joint meeting of the Audit and Standards Committees held on the 16 April 2007 agreed that the Standards Committee should receive regular reports from the Monitoring Officer. This is the second such report for 2011/12.

2.0 FUTURE OF STANDARDS FOR ENGLAND/STANDARDS REGIME

- 2.1 A report on the future of the Standards Regime, Code of Conduct for Councillors and Local Assessment through Standards Committees, following publication of the Localism Bill on 13 December 2010, was presented to the Joint Audit/Standards Committee on 13 January 2011. On 28 July 2011 the Standards Committee requested information on the current status of the Bill as it relates to the Standards Regime.
- 2.2 The Bill is now proceeding to its Report stage in the House of Lords. At the time of writing the report, the next scheduled date for further line by line examination of the Bill is 5 September 2011.
- 2.3 Leading Counsel James Goudie of 11 KBW London has advised on the provisions of the Bill, as they relate to the Standards Regime, as set out below
- 2.4 The Bill will abolish the Local Authority Member's Standards Regime, including the model code of conduct, the Standards Board for England and Statutory Local Authority Standards Committees. Local authorities will be free to adopt their own voluntary codes of conduct and establish voluntary standards committees, if they so wish.
- 2.5 The Bill introduces a new criminal offence of failing to disclose or register a relevant interest without reasonable excuse for doing so. Council's will be bound by a duty to ensure that their members and co-opted members maintain high standards of conduct.
- 2.6 The current regime will be abolished on a day to be appointed by the Secretary of State. Until this point, the regime will operate as at present. After the appointed date, no complaints can be made under the current procedure.
- 2.7 The Bill not only continues the requirement for authorities to maintain a register of interests of members it also gives the Secretary of State the power to make regulations to specify what will be included in the register. The new criminal offence of failing to comply with the obligations, which might be imposed by such regulations without reasonable excuse, can lead to a fine of up to £5,000 and disqualification from being a councillor for up to five years.
- 2.8 Clause 14 and Schedule 4, abolishes the Standards Board Regime, which consists of the Standards Board for England, standards committees of local authorities, the jurisdiction of the First Tier Tribunal in relation to local government standards in England, and codes of conduct for councillors. None of the functions of the Standards Board for England are to be preserved. The power for the Secretary of State to issue a model code of conduct and to specify principles to govern the conduct of members of relevant authorities is removed together with the requirement for relevant authorities to establish standards committees. The First Tier Tribunal loses its jurisdiction over councillor conduct issues.
- 2.9 Clause 15 places a duty on a relevant Authority to ensure members and co-opted members maintain "high standards of conduct". It also defines what a "co-opted member" is and what a relevant authority is for the purpose of this Chapter of the Bill. Clause 16

provides that a relevant authority may adopt a voluntary code of conduct. If an allegation of a breach of a code is made in writing, the authority must take a decision on whether or not to investigate the allegation and, if it is considered that an investigation is warranted, investigate in any way the authority sees fit.

- 2.10 Clause 17 provides for the establishment and maintenance of a register of members and co-opted members interests, by the local authority, by giving the Secretary of State power to make regulations to specify what interests must be recorded in that register. The regulations may make provision for restrictions on taking part in the business of the council to be imposed on a member or co-opted member with a registered or declared interest. The regulations may require the register to be available to the public and may make provision about exempting sensitive information from it.
- 2.11 Clause 18 makes it a criminal offence to fail, without reasonable excuse, to comply with obligations imposed by regulations under Clause 17, to register or declare personal interests or to take part in council business when prevented from so doing by such regulations. The penalty that the magistrate's 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. A prosecution for the offence may be brought within 12 months of the prosecuting authorities having the evidence to warrant prosecution, but only by or on behalf of the Director of Public Prosecutions.
- 2.12 Clause 20 gives the Secretary of State power to make transitional provision in relation to the abolition of the Standards Board Regime. Allegations of misconduct can be brought against a member up to the date when Section 57A of the Local Government 2000 Act is repealed. The transitional provisions made under this clause will make provision for any such allegations to be transferred from the Standards Board for England to local standards committees, and may make provision for the penalties which can be imposed by those committees, and for rights of appeal to be modified.

3.0 LOCAL ASSESSMENT

- 3.1 No complaints under the Members' Code of Conduct have been received since the last meeting of the Standards Committee on 28 July 2011.

4.0 PUBLICATIONS

- 4.1 Standards for England have not issued any publications since the last meeting of the Standards Committee.

5.0 LEGAL IMPLICATIONS

- 5.1 This report details work undertaken to comply with the ethical framework relating to Local Government under Part 3 of the Local Government Act 2000

[FD/31082011/D]

6.0 FINANCIAL IMPLICATIONS

- 6.1 The Council is required to provide the Monitoring Officer with sufficient resources to undertake her responsibilities. Provision is made within the Revenue Budget.

[GE/31082011/S]

7.0 EQUAL OPPORTUNITIES IMPLICATIONS

7.1 The Members' Code of Conduct contains specific obligations relating to equalities.

8.0 ENVIRONMENTAL IMPLICATIONS

8.1 There are no direct environmental implications arising from this report

SCHEDULES OF BACKGROUND PAPERS

File Ref: GP29/11 held in Legal Services

Previous "Monitoring Officer Reports" on previous agendas of Standards Committee