

## **Localism Bill A brief summary of Chapter 5: Standards**

1. The main provisions for the abolition of the standards regime are contained in Chapter 5 of the Localism Bill introduced into Parliament on 14 December 2010. Further provisions are set out in Schedules 4 and 24.
2. The Bill abolishes the standards regime overseen by the Standards Board for England, including the Model Code of Conduct for members of relevant local authorities in England and their standards committees. The abolition arrangements also affect the First- tier Tribunal (Local Government Standards in England) under the jurisdiction of the Ministry of Justice because the Tribunal will receive no further cases after those that it is already dealing with on the abolition date have been determined.
3. Authorities will be under a duty to promote high standards of conduct. The new arrangements for standards to help them comply with this duty will in part be voluntary, and in part mandatory, with criminal sanctions where certain interests are concerned. The Bill also makes provision for transitional arrangements regarding the Standards Board and ongoing cases.
4. The Standards Board for England will no longer exist and none of its functions will transfer to any other body. There will no longer be a requirement for relevant authorities to adopt a code of conduct for their members or to appoint standards committees, and there will be no mandatory enforceable code of conduct for members that they have to undertake to follow when they take up office (i.e. elected or appointed).
5. The relevant authorities that will be affected by the abolition of the current regime and the new arrangements cover 'relevant authorities'. These include authorities other than local councils - for example, police authorities in England and Wales until they are abolished (subject to the current Police Reform and Social Responsibility Bill being passed by Parliament). Relevant authorities will continue to include Parish Councils, but they will be responsible for their own standards instead of the relevant district or county authority.
6. Matters relating to standards will be the function, i.e. responsibility, of the relevant authorities but no function can be delegated to an executive (sometimes referred to locally as a cabinet), and the adoption of a voluntary code must be done by the authority as a whole.
7. There will still be a requirement, expressed as a duty, to promote high standards of conduct, but this will now be the function of the authority and not standards committees.
8. The duty and any voluntary arrangements adopted by an authority still only apply to members of authorities who can vote. This means that voting co-opted members will be covered by any new arrangements, but non-voting co-opted members will not.
9. Relevant authorities can create a voluntary code either by revising an existing code or adopting a code to replace an existing one. Because the code is voluntary, an authority can also withdraw an existing code without replacement. The authority can publicise what it has done about the code as it sees fit.

10. Where an authority has adopted a code, it can put in place any procedure it wishes to deal with complaints and take any action it sees fit, although this may exclude suspension or disqualification as these sanctions are expressly forbidden by provisions relating to how the council deals with failure to register or declare interests.
11. The arrangements regarding interests and criminal sanctions will be dealt with by way of Regulations issued by the Secretary of State, and the main requirement to maintain a register will remain with the monitoring officer for authorities which have monitoring officers. Although the Bill allows a specified person in parish councils to be responsible for maintaining a register, it may be that the regulations could specify that this responsibility will remain with monitoring officers for parish councils in their area.
12. The Regulations will be able to specify –
  - The interests to be registered
  - The requirements for disclosure
  - Participation in decision-making
  - Dispensations
  - Sanctions (but these cannot include suspension or disqualification) and
  - Access and publicity arrangements for a register.
13. Prosecutions in relation to interests can only be brought with the consent of the DPP. Offences can only be dealt with in the Magistrates Court, and will relate to:
  - a failure to register without reasonable excuse;
  - a failure to disclose without reasonable excuse; and
  - taking part in relevant authority business (which could be wider than taking part in formal meetings).
13. Sanctions available to the court on conviction are
  - A fine, the current maximum for which is £5,000
  - Disqualification for up to 5 years from any relevant authority or from standing or becoming a member.
  - The time limit for prosecutions is 12 months from when the prosecutor decides there is sufficient evidence to support a case, but no later than 3 years from when the offence occurred.
14. The transitional provisions will be made by secondary legislation and are referred to mainly in Part 2 of Schedule 4. Part 1 consists of amendments of specific legislation which mentions the Standards Board. Transitional provisions refer to property and assets of the Standards Board and arrangements for cases.
15. There is still much to be made clear on how some of these matters are to be dealt with in practice and how they link with existing legislation and the general law, particularly in relation to misconduct cases decided before the LGA 2000 came into force.