

ITEM 5

Discussion Note on future arrangements to preserve ethical standards

Assuming that the Localism Bill becomes law, the present standards arrangements will be abolished, probably during early 2012. However, there will be still be a duty on local authorities to promote and maintain high standards of conduct by members.

The Department for Communities and Local Government has produced an impact assessment of the abolition of the standards regime. It “assumed that in the interest of upholding standards of conduct of their members, authorities will retain at least some aspects of the present local standards framework. To do otherwise risks creating an impression amongst local citizens that the authority is not properly committed to upholding standards of conduct of its members, and it is expected that authorities will mitigate this risk by retaining what they consider to be the most valuable aspects of the local standards framework.”

Given the ongoing requirement to promote and maintain high ethical standards by members, the main questions facing the Council are:

Whether to adopt a voluntary Code of Conduct?

Pros	Cons
Clear public statement of Council's commitment to high ethical standards	No current national guidance on a Code to replace the existing one in the Constitution (if anything other than amendments actually required)
Continuation of existing Code familiar to Council members	The maximum sanction would be censure (though this could be considered quite punitive enough)
Avoids possibility of erosion over time in member standards of conduct in those aspects not covered by alternative controls eg respect	Costs entailed in enforcing a voluntary code (which could be reduced with a more streamlined process than at present)
Standards Committee supports as the bedrock of an ethical framework	
Association of Council Secretaries and Solicitors (ACSeS) strongly recommends a national code and retention of Principles of Public Life	

How could any Code of Conduct be upheld? – the Council could delegate the role of enforcing the Code to a) an officer of the authority or b) to a committee, which could be a standards committee, or c) could be added to the functions of another committee.

a) Officer

Pros	Cons
Least bureaucratic and cheapest option (any external advice costly?)	Consistency of application dependent on Group Leadership
	Lack of transparency ; public perception could be negative - retreat from current Standards commitments
	At times difficult for an officer making judgements on member conduct

b) Standards Committee

Pros	Cons
Maintains existing level of commitment to high standards of conduct by members, including training; adds to feeling of ethical well-being in the Authority	Bureaucratic procedures; sometimes seen as unfair to councillors (procedures could be streamlined to remove objectionable elements)
Transparency/ Public perception of Council's commitment underpins trust and confidence	Cost (could be reduced in line with streamlined process)
May perform other functions such as scrutiny of complaints procedure and changes to the constitution	
Independent members neutralise concerns about partisanship in an elected member-only committee considering member conduct	Independent members' legal status changes post- Localism Act

c) Standards functions absorbed within another Committee

Maintains a degree of commitment to high ethical standards	Some dilution of commitment may be perceived by the public
Some cost saving	Questionable combination of member conduct issues and other functions within a single committee
	Loss of independent member representation (unless special steps to co-opt taken) from a combined function committee would undermine the performance of its standards role