

## **FUTURE OF THE STANDARDS FOR ENGLAND REGIME**

*Reporting Officers: Raj Alagh, Borough Solicitor and Monitoring Officer;  
Lloyd White, Head of Democratic Services and Deputy Monitoring Officer.*

### **PURPOSE OF THE REPORT**

1. To provide Members with an update of the work of the Code of Conduct Review Working Group established at the last meeting to consider a range of options for the future of a locally based Standards regime for adoption in Hillingdon once the current regime is abolished as part of the Localism Act.

### **SUMMARY**

- 2.1 Members will recall that the Government set out its intention to abolish the Standards for England regime in the coalition agreement published in May 2010. It is intended to effect the abolition through the Localism Bill which was introduced in Parliament on 13 December 2010. Details of the Bill are available on the Department for Communities and Local Government website.
- 2.2 It was originally intended that Standards For England would cease to investigate complaints in late 2011 and be formally abolished in early 2012. Currently, however, the Bill is still proceeding through Parliament and the timetable is less certain. It is also not known at this stage what the final contents of the Act will be.
- 2.3 At the last meeting Members considered a report setting out the various options available when considering the future ethical framework for Members in Hillingdon. It was noted that proposals arising from these options would form the basis of a recommendation to Council for a new system to be in place when the current Standards regime is abolished by law.
- 2.4 It was resolved to set up a working group comprising the Vice Chairman, Councillors Harmsworth and Hensley and supported by the Borough Solicitor and Head of Democratic Services, to consider the proposed content of a voluntary Code of Conduct for Members, based on the existing Code, local requirements, views of Members, experiences of other authorities etc.
- 2.5 The Working Group was also asked to consider the format of a complaints and disciplinary procedure to accompany the voluntary Code based on:
  - the adoption of a 'Whips Protocol' whereby initial referral of complaints against Members to the appropriate Whips' Office should become the first stage of the complaints process.
  - an independent peer review process - similar to the current set up whereby a sub-committee of the Standards Committee would assess and determine complaints in accordance with defined procedures similar to the existing ones. The Working Party would also consider whether the 'Review' stage should be discontinued.

**RECOMMENDATION: That Members give their views and comments in relation to the work of the Code of Conduct Review Working Group to date as set out in the attached appendices**

## INFORMATION

3.1 Since being set up the Working Group has met on 3 occasions – 14 & 29 July and 30 August and has reviewed the following:

- **The current mandatory Code of Conduct for Members.** The Working Group is recommending adopting a new Code (*attached*) based largely on the existing Code but amended as follows:
  - The ten general principles of public life have been brought forward to be an actual part of the Code itself (rather than an appendix) (para' 1(2))
  - The Code will apply to Members when acting in their personal capacity where the conduct results not only in criminal conviction but also where it result in a police caution being administered (para' 2 (2) (ii))
  - In the General Obligations, para' 3(2) (b) the Code is more specific about Members not to bully or intimidate any persons "*including any officer of the Council*".
  - In the General Obligations, para' 4(a) the Code is more specific about Members not to disclose information given to them in confidence "*(including Part II information as defined in the Local Government (Access to Information) Act 1985)*"
  - Parts 2 and 3 of the Code concerning the declaration of Personal and Prejudicial Interests and the Registration of Members' Interests, remain unchanged.
  - The inclusion of a new appendix – **The Whips' Protocol** (*attached*) – to formalise the process whereby initial referral of complaints against Members to the appropriate Whips' Office becomes the normal procedure.
  
- **The Planning Code of Conduct for Members and the ICT Code.** The Working Group has considered these documents in conjunction with reviewing the Code of Conduct. It is recognised that there are areas of both Codes that will need reviewing (such as those sections relating to pre-determination in the Planning Code and the use of ICT equipment for party political purposes in the ICT Code) but that this should be undertaken when there is greater certainty as to the final content of the Act.
  
- **The Complaints Process.** This has been reviewed in line with the mandate from the Standards Committee:
  - **The Complaint Form** (*attached*) has been re-designed to include reference to the **Whips' Protocol** and the removal of the Review Sub Committee from the process.
  - **The Complaints Procedure** contained in Part 4J of the Constitution has also been reviewed and re-written along the same lines. This is not yet complete, however, as the Working Group has requested further time to review this once the Act receives Royal Assent and the exact wording in relation to the Council's powers to deal with complaints and impose sanctions is known. Currently the Bill does not specify what that

action may or may not be although any sanction would need to be reasonable and proportionate.

- In relation to a failure to register or disclose a financial or other interest, the Bill states that the sanctions that an authority may impose on a Member do not include provision for the suspension or partial suspension of a person from being a Member of the authority, or for the disqualification of a person for being or becoming (by election or otherwise) a Member or co-opted member of that or any other relevant authority. These sanctions are reserved for any criminal prosecution that may arise.

## **NEXT STEPS**

- 4.1 Subject to the Standards Committee approval of the work carried out to date by the Working Group, the next step will be to review the outstanding areas as outlined above, once the detailed wording of the Act is known.
- 4.2 The Working Group will aim to produce a final set of documents as soon as it is able to do so for approval by this Committee and ultimately for adoption by Council in 2012.
- 4.3 It is recognised that the new, localised Standards regime will need to be in place by the time the existing Standards regime is abolished, but there is little point in rushing through proposals until the exact implications of the Act are known.
- 4.4 A further update report will be submitted to the Standards Committee at the meeting on November 30.

## **CONSULTATION CARRIED OUT OR REQUIRED**

These proposals have not been the subject of any formal consultation. The Localism Act does not require any formal consultation before the adoption of a local Code. Members are invited to consider whether the proposals should be subject to consultation before they are submitted for approval by full Council.

### **Financial Implications**

There are no further Corporate Financial implications arising from this report. The adoption of a 'Whips protocol' may result in the resolution of complaints without having to resort to expensive, independent investigations.

### **Legal Implications**

The legal implications are contained in the body of the report.

Background Papers: Localism Bill; Code of Conduct for Members.