

## **Standards Working Group Discussion Paper**

### **Future standards regime**

At the standards committee meeting on 26 April 2011 it was resolved that a member and officer working group be established to consider and produce recommendations about the type and content of a future standards regime and that it report back to the committee. It is envisaged that the working group would provide an interim report in September 2011 with a final report following in November 2011.

### **Summary**

The working group is invited to consider what advice it may wish to offer on arrangements to promote and maintain high standards of conduct of members of Harrow council in the wake of the Government's proposed abolition of the current standards regime.

### **Legislative timing update**

The Localism Bill is currently at the committee stage in the House of Lords having already been through the Commons. It is expected that the Bill will receive Royal Assent in November 2011. Parliament is now in recess and will resume on 5 September 2011.

Implementation of the new regime is likely to be April 2012. Standards for England advised on 30 June that their regulatory function to investigate complaints would cease on the 'appointed day' which they currently anticipate to be the end of January 2012.

### **How should the council discharge the proposed new statutory duty to 'promote and maintain high standards of conduct'?**

The Localism Bill introduces a statutory duty that councils 'promote and maintain high standards of conduct by members'.

The working group are asked to consider what the most effective way may be of fulfilling this duty:

- 1) Do they want a standards committee to adopt member protocols etc or do they feel that this work could be done by another committee or by officers or another way?
- 2) Do they want a code of conduct?
- 3) If so, what should that code contain?
- 4) If there is an allegation that a member breached the code what action should be taken?

### **Should the council adopt a voluntary code of conduct for members to sign up to?**

The adoption of a voluntary code would be one way in which the local authority could demonstrate compliance with the proposed new statutory duty. It is noted, however, that there is no need to adopt a voluntary code to demonstrate compliance with the statutory duty.

## **If the council decides to maintain a code of conduct, what might the content be?**

The present code covers:

- treating others with respect;
- avoiding breaches of the equality legislation;
- avoiding bullying and intimidation;
- not disclosing confidential information;
- not bringing the authority or a member's office into disrepute;
- avoiding improperly conferring an advantage, or inflicting a disadvantage, on anyone;
- using the authority's resources properly and having regard to the relevant code of publicity;
- having regard to relevant advice from officers.

If the council were to decide to maintain a code of conduct the simplest course would be to re-adopt the general conduct rules in paragraphs 3-7 of the model code, as these are the parts which will not be replaced by the statutory interests regime.

## **How might the council discharge the duty to investigate complaints?**

The Localism Bill provides that if the council adopts a code of conduct it is under a duty to set up a suitable method of considering complaints of breaches of the code.

1. Two main issues seem to arise in relation to any such investigations:
  - (a) How to ensure a simple and straightforward cost effective procedure which is fair to both complainant and member complained against?
  - (b) Should there be an outside element in the method of consideration of complaints?
2. The problems with the procedure under the present legislation are that:
  - (a) There is no way of dismissing a complaint as not worth further consideration unless it is manifestly too trivial or too far out-of-date;
  - (b) If a complaint is to be considered further, there has to be a formal investigation, which can involve costs of several thousand pounds.

One option is that once a complaint comes in it is put through a simple filter process based upon objective criteria to see if there is merit in the complaint being taken any further.

If there is any merit in the complaint going any further it could then be investigated. This would also mean that members would be aware that there is a complaint against them at an earlier stage. The matter would then be investigated and go to a hearing sub-committee.

## **Sanctions**

If there is a code of conduct and it is concluded that there has been a breach of the code, the council (or the standards committee, if so decided) will need to decide what to do in relation to a member who is found in breach. The Localism Bill does not provide any specific powers for the local authorities in such circumstances, but leaves the authority to take such action as

its other powers permit. The present powers to impose a suspension or disqualify a member would cease to exist. Two possibilities for action seem to remain:

- (a) to adopt and publicise some form of reprimand. The power to do this seems to follow from the power of the local authority, under the Localism Bill, to decide whether there has been a breach and what action to take;
- (b) to take action such as offering training.

### **Should independent members be retained and utilised?**

Consideration also needs to be given to the legal power to retain independent members and what roles they will be able to take on the committee.

That raises the issue of whether such a committee can include co-opted independent members. Section 102(3) of the Local Government Act 1972 enables the co-option of non-councillors onto the committee, but section 13 of the Local Government and Housing Act 1989 prevents them from having a vote on the committee unless it is purely advisory.

### **Consultation**

The working group has several consultation options as follows:

- (a) On-line survey - the problem with this method of consultation is that the numbers that respond to the consultation cannot be guaranteed. It could be one, it could be hundreds. The other problem is that it is not possible to ascertain who is filling in the survey form.
- (b) Residents panel – this option offers 3 to 4 consultation sessions per year. There is a charge for every question asked and the report back contains an analysis of the survey based on age, geographic location and demographics.
- (c) Focus group – a focus group of 12 to 15 people can be arranged from the residents panel. This option provides a lower cost and more direct feedback from residents than option (b). It would involve residents being asked questions over a two hour period for which they would be provided with £5 each and refreshments. A facilitator or two would have to be provided, as would a venue.