

Localism Bill

Submission to Public Bill Committee

January 2011

Committee on
Standards in
Public Life

Chair: Sir Christopher Kelly KCB

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

1. The Committee on Standards in Public Life was established in 1994 with the following terms of reference:

“To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.”

2. The Committee is concerned about the provision in the Localism Bill to abolish the standards regime for local government. The provision goes far beyond simply dismantling Standards for England, the organisation charged with overseeing the standards regime, for which the Committee holds no particular brief. It includes sweeping away both the mandatory centrally determined code of conduct for councillors and of the requirement for each local authority to have a standards committee with an independent chair to oversee standards. Local authorities will be free to maintain their own codes, and their own standards committees, if they wish but there will no longer be a requirement to have either.
3. It appears that the new arrangements will instead have three main elements. Serious misconduct by councillors, for example abusing their position for personal gain, will be a criminal offence. Individuals who feel they have been personally disadvantaged by something a council or individual councillor has done will be able to complain to the local government ombudsman, whose powers will be increased to oblige local authorities to implement its decisions. For all other instances of poor standards of behaviour the remedy will be left to the ballot box, with the addition of a power of recall in instances of serious misconduct.
4. The Committee on Standards in Public Life welcomes the objectives of returning to a system based on local ownership of standards and of ending vexatious complaints. In two previous reports, on local government in 1997 (Cm 3702) and on implementing standards of conduct in 2005 (Cm 6407) the Committee has stressed both the importance of localism and putting the onus on local authorities to maintain their own standards, as well as proportionality.
5. There is correspondingly much in the Government’s proposals which the Committee on Standards in Public Life can welcome. In particular:

- A return to a system based on local ownership of standards.
 - Increased powers for the ombudsman. The ombudsman ought to be able to look at both organisational and individual behaviour in a robust way, applying sound common sense and judgement to situations which have previously been dogged by an approach which had become too rule-based
 - The objective of ending trivial, vexatious or politically motivated complaints about standards. Such complaints have been a central weakness in the system since its inception – though it has to be recognised that, as local auditors have also sometimes found, some frequent complainers can occasionally come up with a real issue
6. The Committee does, however, have two serious concerns about the proposals set out in the Localism Bill.
 7. Firstly, it would be a backward step to remove the mandatory requirement for a code of conduct. It will mean that local authority councillors will be subject to less onerous requirements than their counterparts in Scotland and Wales, or indeed than Parliament itself. Our view is that it is unrealistic to believe that in the absence of a code people will always be clear about the proper boundaries of conduct in public life. Elected representatives need to be clear about what is expected of them, as do their electors. The seven principles of public life apply to all aspects of public life but they are not sufficient without some form of elaboration as to what they mean in a particular context.
 8. Secondly, it would not be sufficient to leave any instances of poor conduct solely to be dealt with by the criminal law or through the discipline of the ballot box. There are numerous examples of types of behaviour for which a criminal prosecution would not be appropriate, or easy to undertake, but which most people would think to fall well short of the standards expected of public office holders and deserving of some sort of sanction. Nor do we believe that four yearly elections, in which electors make up their minds according to a range of different considerations including party loyalty, would be an effective substitute.
 9. The Committee on Standards in Public Life continues to believe that if standards in local government, and public confidence in them, is to be maintained the new arrangements need to include as essential parts:

- A mandatory code of conduct, which could locally determined but within a national framework set by Parliament.
 - A mechanism for making complaints.
 - A local but independent mechanism for investigation of complaints about behaviour which are non-trivial but not appropriate for criminal sanction.
 - Some way of ensuring that local codes of conduct are meeting the minimum standards, and possibly for dealing with some of the more serious complaints, for example those involving the behaviour of a leader.
10. There are clearly a number of different institutional ways by which this could be achieved, which do not need to include some of the less satisfactory aspects of the existing regime. It would, for example, be possible in principle to meet them through an expansion of the ombudsman role – though on the face of it that would not meet the desire for local determination- or as has been suggested elsewhere through more peer review involving the LGG or in other ways.
11. Unless an appropriate and effective framework which meets the requirements set out above is maintained there is a real risk that bad conduct will not be dealt with effectively and public confidence will be further eroded.

