

CHESHIRE EAST

STANDARDS COMMITTEE

Date of meeting: 29 March 2009

Report of: Monitoring Officer

Title: The Bribery Bill

1.0 Purpose of the Report

- 1.1 To inform members of the content and impact of prospective legislation.

2.0 Decision Required

- 2.1 To note the report.

3.0 Financial Implications

- 3.1 None.

4.0 Legal Implications

- 4.1 As outlined in the report below.

5.0 Risk Assessment

- 5.1 The presentation of this report draws the proposed change in the legislation surrounding bribery and corruption to the Committee's attention and mitigates the risk that its impact may be overlooked.

6.0 Background/Context

- 6.1 The Bribery Bill was published in draft as part of a White Paper on 25 March 2009 and passed through pre-legislative scrutiny by a Joint Committee of both Houses of Parliament. That Committee received written and oral evidence from May 2009 and published its report on 28 July 2009. The Bill was introduced in the House of Lords on 19 November 2009, and having had its Third Reading on 8 February, it was referred to the Commons on 9 February, where it has been referred to a Public Bill Committee on a date to be confirmed. Once it has passed through this process, it then only awaits final Royal Assent which will bring it into force.
- 6.2 The aim of the prospective Act is to provide a more effective legal framework to combat bribery in the public and private sectors. It will replace the current fragmented and complex offences at common law,

as well as the body of Acts between 1889 – 1916, comprising the Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts 1906 – 1916.

- 6.3 Two new general offences will be created, covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting of an advantage. The formulation of these offences is designed to abandon the agent/principal relationship, in favour of a model based on intention to induce improper conduct.
- 6.4 A further separate offence of bribery of a foreign public official will also be created.
- 6.5 As well as the above, there will be an offence of failure by a commercial organisation to prevent a bribe being paid for or on its behalf. It will be a defence if the organisation has adequate procedures in place to prevent bribery.
- 6.6 The prospective Act also aims to support business by ensuring that everyone is clear about their responsibilities to do business in an open and honest way and to help to deal with the threat posed by bribery to economic progress and development around the world.
- 6.7 More information about the background to this prospective legislation can be found on the Ministry of Justice's website, at <http://www.justice.gov.uk/publications/bribery-bill.htm>. An explanatory note detailing the background to the Bill, albeit drafted in April 2009, can also be found on the Parliament website at <http://www.parliament.uk/commons/lib/research/briefings/snpc-05045.pdf>. (Attached as appendix.) The latter document provides a summary of the offences under the existing law and provides a commentary on the need for reform and an earlier attempt at revision with the abortive Corruption Bill in 2002-3.
- 6.8 The new legislation does not require any changes to be made to the existing codes of conduct to which members of the council, and employees of the council, are already subject. These are in any event the subject of ongoing Government consideration although it is understood that no changes to the Member Code will be proposed before the General Election. The prospective legislation however needs to be noted by both elected members and employees, and future conduct and ethics training will need to reflect it. As it is possible that further amendments may be made before the Bill becomes law, particularly having regard to the high profile currently being given by central government to ethical issues, a further report will be submitted to the Standards Committee at the appropriate point in time to confirm the final effect of the legislation.

7.0 Reasons for Recommendation

7.1 As outlined in part 6 above.

For further information:

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Background documents

None.