

**ANNUAL REPORT OF THE STANDARDS COMMITTEE**

*To:* County Council

*Date:* 17<sup>th</sup> May 2011

*From:* Chairman of the Standards Committee

*Purpose:* To report on the work of the Standards Committee over the previous year and to highlight any impending developments in the arrangements for ethical governance in the Council.

*Recommendation:* It is recommended that Full Council note the content of the report.

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## **1. Summary**

- 1.1. This report sets out some of the main activities of the Standards Committee over the past year and provides some background information on the role of the Committee.
- 1.2. During 2010 - 2011 the Standards Committee has received and considered two complaints against Members, has undertaken a review of the Council's Planning code and has made recommendations to Full Council after having considered the implications of the Localism Bill which will, if enacted in its current form, dismantle the current system for complaints against Members.
- 1.3. The year ahead is likely to be a time of great change in this context and the Standards Committee is engaged in developing proposals for the Council as to how it might demonstrate its commitment to high ethical standards in the future.

## **2. Background**

- 2.1. The Local Government Act 2000 requires local authorities to establish Standards Committees, which must undertake certain minimum roles as defined in the Act relating to member conduct. The Standards Committee plays a major role in the ethical framework relating to member conduct where it has 3 key areas of responsibility:

- To advise the Council on the adoption and any revisions to the Code of Conduct, to monitor its operation, and to assist Councillors and co-opted members to observe its provisions
- To promote high standards of conduct by Councillors and co-opted members.
- To deal with complaints alleging breaches of the Code of Conduct.

A number of other minor functions have been allocated to the Committee. The full terms of reference are included as Appendix 1 to this report.

### **Membership**

- 2.2. The Standards Committee consists of a mixture of Elected Members of the Council and Independent Co-opted members who are drawn from the public and must have no direct connection with the council.
- 2.3. The current membership of the Committee comprises five elected members and three Independent Co-opted members as follows:-

Cllr K Churchill,  
Cllr D Downes,  
Cllr V Lucas,

Cllr J Powley  
Cllr T Sadiq.

The three Independent Co-opted members are:-

Mr D Boreham, (Chairman)  
Dr K Gaseltine and  
Mrs M Sanders. (Vice Chairman)

- 2.4. In February 2009, the Council appointed three substitute members to the Standards Committee, Councillors. C Carter, G Harper and S van de Ven. The main purpose of this change was to widen the pool of members from which the membership of the Assessment Sub Committee can be drawn to ensure that there should always be members available to undertake local assessments.

### **3. New Legislation**

- 3.1. In December 2010 the Secretary of State for Communities and Local Government launched the Localism Bill which contains some provisions that directly impact upon the system of promoting ethical governance with local authorities. The headline proposals are as follows:-

- Standards for England to be abolished.
- The mandatory model code of conduct for members to be revoked.
- The requirement for an authority to have a Standards Committee to be revoked.
- The First Tier Tribunal will be abolished.
- All authorities will continue to have a duty to promote and maintain high standards of conduct by its members and co-opted members.
- New regulations will create criminal offences for failure, by a member, to register or disclose certain interests. Such prosecutions may only be brought by the DPP.
- On the current timetable, the legislation is likely to come into force in the spring/summer of 2012.
- Transitional provisions will apply that will provide for all complaints live at the date of enactment can be completed although there will be only a limited sanction available and no right of appeal.

- 3.2. As part of its election manifesto the Conservative party made it clear it intended to abolish the Standards regime. The Department for Communities and Local Government (DCLG) issued a statement confirming that it considers the Standards Board regime, consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend a local authority member and regulated by a national body, to be inconsistent with the principles of localism.

- 3.3. In addition it stated that there was a concern that the regime is a vehicle for vexatious or politically motivated complaints. The briefing goes on to say that;

*“...the Government considers that it is the right and the responsibility of the electorate to determine who represents them and that the abolition of the regime will restore power to local people. Accordingly, given the interdependencies of the bodies, requirements and guidance that constitute the Standards Board regime, the Government is proposing to abolish the regime in its entirety. Subject to Parliament approving the necessary legislation.”*

- 3.4. Turning to some specific provisions, Section 14 enacts provisions which revoke or amend the primary legislation which establishes the existing standards framework.
- 3.5. Section 15, requires that a ‘relevant authority’ must:-  
  
*“...promote and maintain high standards of conduct by its members and co-opted members.”*
- 3.6. Section 16 provides that a relevant authority **may** adopt a code dealing with the conduct that is expected of its members when they are acting in that capacity.
- 3.7. S.16(3) provides that where an allegation is made to an authority that one of its members has failed to comply with its code, (adopted pursuant to S.16), it **must** consider whether to investigate and if it decides that an investigation is necessary it must investigate in *“such manner as it thinks fit”*.
- 3.8. S.16(4) provides that if an authority finds that a member has failed to adhere to its code it may have regard to that failure in deciding what action to take.
- 3.9. S.17 and 18 provide for regulations to establish a statutory requirement for members to register and disclose certain interests and to preclude members from taking part in certain business of the authority relating to those interests.
- 3.10. The bill specifically precludes regulations enabling an authority to disqualify, suspend or partially suspend a member from the authority for breach of these rules on interests. However, S.18 provides a sanction under the criminal law, limited to a maximum of a fine at Scale 5, (£20k), for breach of the rules on registration and disclosure of interests. A prosecution under this section may only be instituted with the approval of the Director of Public Prosecutions.

### **Proposed Transitional Measures**

- 3.11. The present conduct regime (a model code governing local authority members’ conduct and enforced through local authority standards committees, regulated in turn by SfE), will continue to function in the usual manner, considering, investigating and determining allegations of misconduct, until a fixed date (“the appointed day”), probably two months after the Bill receives Royal Assent.
- 3.12. This means that, until the appointed day, an allegation of misconduct can be

made; after the appointed day, no further allegations of misconduct can be made under the standards board regime. It also means that, at the appointed day, allegations will be in the process of investigation and, further, that appeals against sanctions will be pending. Transitional measures will be put in place to address this.

- 3.13. Any case in the system on the appointed day, will make its way through a transitional regime. The Government proposes that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation.
- 3.14. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.
- 3.15. Any cases which have been referred to the First-tier Tribunal, (Local Government Standards), on or before the 'appointed day' will be concluded by that tribunal. The tribunal will not receive any appeals against standards committee rulings after the 'appointed day'. This means that after the 'appointed day' the right of appeal will not exist for cases dealt with by Standards Committees during the transitional phase.
- 3.16. The sanctions available to standards committees have always been significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards), maximum 6 months suspension as opposed to 5 years disqualification. However, the Government proposes that the suspension sanction is removed from standards committees for the 'transitional phase'. As a result, the most severe sanction a standards committee could impose in a case dealt with after the 'appointed day', would be to issue a councillor with a censure or a request that they undergo training.

### **Implications for local Authorities**

- 3.17. The combined effect of these provisions leaves local authorities with an obligation to maintain and promote high standards of conduct amongst its members but having wide discretion as to how it fulfils this obligation. There is no obligation for any authority to have a members' code of conduct but if it does, then it is required to deal with complaints alleging breaches of the code.
- 3.18. The Standards Committee sought an indication from Full Council as to whether it would like to retain a Code of Conduct for CCC Members and at its last meeting, Full Council supported the principle of retaining a voluntary code. However, it is recognised that there would be a benefit to having consistency amongst voluntary codes adopted by local authorities and the Chairman of the Standards Committee wrote to the Secretary of State and to the Chair of the Local Government Association to make this point.
- 3.19. The Chairman is also seeking to enter a dialogue with other Standards Committees in the County with a view to encouraging consistency. The

Standards Committee is also actively monitoring developments around the country and will bring further reports to Full Council over the coming months to update Council and make recommendations as to the content of a voluntary code and the mechanisms to support it.

#### **Disclosure of Members' Interests**

- 3.20. In relation to the registration and disclosure of interests by Members, which is currently dealt with under the Members Code, under the new legislation this will be covered by regulations issued by central government that will define what interests must be disclosed and how. Breaches of these requirements will be dealt with by way of criminal prosecution and potential fine instead of the present system of complaints to the local Standards Committee.

#### **4. Local Assessment of Complaints**

- 4.1. In comparison with many other local authorities, Cambridgeshire CC has a low number of complaints against its elected members and has a record to be proud of. Over the last year the Assessment sub-committee has received and considered two alleged breaches of the code. In one case the Local Assessment Sub-Committee concluded that no further action was warranted.
- 4.2. In the other case, the Sub-Committee concluded that an investigation was warranted. An investigating officer from the Council's Audit Team was appointed to investigate the allegations and he submitted his final report at the end of March 2011. On the 8th April the Standards Committee concluded that the matter should be heard at a local level and appointed a Hearings Sub-Committee for that purpose. It is envisaged that the hearing will take place within the next month or so.

#### **5. Review of the County Council's Code of Development Control Guidance.**

- 5.1. During the year the Standards Committee undertook a review the Code of Development Control Guidance. The process involved reviewing the content of the existing and comparing it with examples from other local authorities. The draft suggested amendments were subject to consultation amongst relevant Members and Officers.
- 5.2. The resulting proposed amendments were intended to reflect changes in the relevant legal context and to clarify the guidance where it was thought that it could be more clearly expressed. The New version has been included in Part 6 of the Constitution.

<b>Source Documents</b>	<b>Location</b>
Agenda and reports of the Standards Committee 2008/09	Democratic Services Team

**STANDARDS COMMITTEE TERMS OF REFERENCE**

The Standards Committee will have the following roles and functions:

- (a) Promoting and maintaining high standards of conduct by Councillors, co-opted members and Church and Parent Governor Representatives.
- (b) Assisting the Councillors, co-opted members and Church and Parent Governor Representatives to observe the Members' Code of Conduct.
- (c) Advising the Council on the adoption or revision of the Members' Code of Conduct.
- (d) Monitoring the operation of the Members' Code of Conduct.
- (e) Advising, training or arranging to train Councillors, co-opted members and Church and Parent Governor Representatives on matters relating to the Members' Code of Conduct.
- (f) Granting dispensations to Councillors, co-opted members and Church and Parent Governor Representatives from requirements relating to interests set out in the Members' Code of Conduct.
- (g) Undertaking the local assessment of complaints alleging breaches of the Code of Conduct and determining what action should be taken.
- (h) Determining requests to review decisions not to take action or to investigate an alleged breach of the Code of Conduct.
- (i) Undertaking hearings into alleged breaches of the Code of Conduct.
- (j) Determining appropriate sanctions or actions in response to breaches of the Code of Conduct.
- (k) Advising the Council on the adoption or revision of a Protocol governing the relationships between Councillors and officers.
- (l) Establishing and keeping under review a Code of Conduct relating to the ethical standards expected of officers.
- (m) Granting and supervising the giving of dispensations to persons who are disqualified from certain political activities under the Local Government and Housing Act 1989, having regard to any advice which may be issued thereon by the Secretary of State.
- (n) Overview of the Council's Whistle-blowing Policy.
- (o) Appointment of the Chairman and members of an Independent Panel to review and make recommendations on members' allowances.

(p) Monitoring the Council's exercise of powers under the Regulation of Investigatory Powers Act.