

STANDARDS COMMITTEE

25 NOVEMBER 2011

Present :- Mr P. Fitton (Independent Member) Deputy Chairman
Chairman
Councillor Anderson
Councillor Arnold
Councillor Bartier
Councillor Chapman
Mr Farmer (Independent Member)
Councillor Gamble
Mr Roberts-Mee (Independent Member)
Councillor Spyvee

8. Minutes

The minutes of the meeting held on 24 June 2011 were confirmed as a correct record.

9. Chip Abnett

The Chairman expressed his sadness at the recent death of Parish Councillor Terence "Chip" Abnett. The Chairman paid tribute to Chip who had made a valuable contribution to the work of the Committee and its Sub-Committees. His presence and contributions would be missed.

10. Localism

The Monitoring Officer provided the Committee with a verbal update on the Localism Act and its implications for the Standards Committee regime and circulated a briefing note explaining how the Localism Act impacted on standards issues.

The Monitoring Officer indicated that the Localism Act received Royal Assent on 15 November 2011. The key headlines of the Act as it related to Standards Committee and the Ethical Standards Framework were as follows:-

- The "Standards Board regime" and all the current legislation will be repealed. This includes the model code of conduct, statutory Standards Committees and Standards for England. It was expected that this would take place in April 2012.
- There will be a new general duty to promote and maintain high standards of conduct by members and voting co-opted members.
- Each "relevant authority" (districts and parishes) must adopt a code which deals with the conduct expected of members and voting co-opted members when acting in that capacity. (It had previously been indicated that adoption of a Code would be optional). The Code must be consistent with a new set of general principles and the rest of the new legislation, but there will be no national model. It will need to include

provisions about members' interests but most of the content is for the authority to decide.

- Regulations will define “disclosable pecuniary interests” of members and spouses/partners. The Monitoring Officer must maintain and publish a register of these as before, but the details of the duty to notify are different. Members will have to make an oral disclosure at meetings if their interest has not been registered. As before, sensitive information can be kept private if there is a risk of violence or intimidation.
- A member with an interest of this kind in a matter must not participate in any discussion of, or vote on, the matter at the meeting. Standing orders may require the member to leave the meeting. There is a similar rule for individual member decisions.
- It is a criminal offence to fail to notify the Monitoring Officer of an interest of this kind, or to participate in a meeting or take a decision, without reasonable excuse. It is also an offence knowingly or recklessly to provide false or misleading information. Only the Director of Public Prosecution can authorise prosecutions, and there are time limits.
- The authority can, however, grant dispensations permitting participation. The grounds for so doing are much wider than before.
- Authorities must “have in place arrangements” under which allegations of breach of the code can be investigated and decisions on allegations can be taken, with or without an investigation or a hearing. This could, but need not, include some kind of Standards Committee. However, any such Committee would be established under the normal rules and would need to be politically balanced. However, it would have no sanctions apart from “naming and shaming” and possibly withdrawal of facilities in some cases.
- Authorities must appoint an “independent person” (IP). The appointment of the IP would need to be approved by Council. They must consult the IP after an investigation, and may consult the IP on other complaints. A member about whom an allegation has been made can also consult the IP. The IP cannot be, or have been in the last five years, a member, co-opted member or officer of the authority. In discussion it was clarified that the IP was a single individual and the legislation did not allow for more than one appointment.
- These provision applied to parish councils, with modifications, except that their principal authorities will make and operate the “arrangements” for them and they will use the principal authority’s IP.
- The main gaps are the absence of any national coordination or consistency, and the lack of any express controls over disrespect, bullying, intimidation, misuse of position or resources or breach of confidentiality, underlined by the omission of “respect” and “stewardship” from the new list of principles. An authority’s code may cover these issues, but this is optional.
- The Government hopes the legislation will take effect in April 2012 but the Regulations about disclosable pecuniary interests have not yet been published. There

will be transitional arrangements for existing casework.

In respect of issues on predetermination and bias, the Monitoring Officer indicated that these were outside the Code of Conduct so were not directly affected by these changes. However, new rules on pre-determination and bias would come into force on 15 January 2012. Advice on these issues would be circulated to members in advance of this date. However, the position would be that expressing a view on an issue in advance of taking a decision on that issue would no longer be a sustainable basis of a challenge to that decision on the basis of predetermination or bias.

The Monitoring Officer reported that an all party group may be established within the Council to consider how to take forward the work on a potential Code of Conduct and the establishment of a process for dealing with complaints against elected members. Monitoring Officers across Essex were meeting to discuss how to take these issues forward and it was hoped that this would lead to a standard Code of Conduct that could be applied across Essex.

The Committee noted the Monitoring Officer's comments and expressed concern that the considerable experience of the Committee members in dealing with ethical and standards issues would be lost.

RESOLVED that the implications of the Localism Act 2011 for the Standards Committee and the ethical standards framework be noted.

11. Review of Ethical and Corporate Governance Arrangements

The Committee considered a report from the Monitoring Officer setting out the details of a review of the Council's Ethical and Governance arrangements.

The Monitoring Officer explained that the review of ethical and corporate governance arrangements had been triggered by an internal audit report that had indicated that not all staff were fully aware of the Council's anti-fraud and corruption measures, together with the need to review the arrangements in the light of the introduction of the Bribery Act 2010. Particular attention was drawn to the Ethical Governance Statement. This set out for the first time the Council's position on ethical governance and stressed the Council's zero tolerance approach. The document would be positioned and promoted so it would be visible to staff and it would be published on the Council's website. The ethical and corporate processes had been redesigned so that all allegations would be channelled through the Monitoring Officer or the Section 151 Officer who would assess whether the concern was valid and if so, what process it should be determined under.

The Monitoring Officer emphasised that these new arrangements had top level commitment from the political and managerial leadership of the Council. Awareness sessions for members and for officers would follow. The sessions for officers would commence once the new arrangements were approved so that the Council's commitment to these arrangements could be emphasised.

In response to an enquiry from the Committee, the Monitoring Officer explained that it

was not yet clear as to whether the external person on the Ethical Governance Review Group would be the Independent Person appointed under the provisions of the Localism Act. However, the external challenge this role would provide was an integral element of the new arrangements.

RESOLVED that the revised Ethical and Governance Arrangements detailed at paragraph 7 of the Monitoring Officer's report be approved.

RECOMMENDED to CABINET that it endorse the revised Ethical and Corporate Governance arrangements and they be referred to Full Council for adoption in the Policy Framework.

12. Local Government Ombudsman - Annual Review 2010/2011

The Committee considered a report from the Monitoring Officer about the Local Government Ombudsman Annual Review for 2010/2011.

The Monitoring Officer highlighted that there were no findings of maladministration against the Council and no formal reports issued.

RESOLVED that the contents of the Local Government Ombudsman's Annual Review for 2010/11 be noted.

13. Annual Review of Local Assessment of Complaints Against Members 2010/2011

The Committee considered a report from the Monitoring Officer reviewing the local assessment process for the period 2010/2011.

The Committee were pleased to note that the local assessment process continued to work well. Whilst the statutory time targets had been scrapped, the report measured progress against these and the Committee noted that performance against these was good. The Committee expressed its thanks to Andrew Weavers, Hayley McGrath and Richard Clifford for the support it received. In the light of this positive report, the Committee again expressed its disappointment about the loss of expertise and experience that would result from the implementation of the provisions of the Localism Act.

RESOLVED that the contents of the Monitoring Officer's report be noted.

14. Review of Training for Members on the Code of Conduct and Local Assessment Process

The Committee considered a report from the Monitoring Officer providing an update of training for members on the Code of Conduct and the local assessment process.

The Committee noted that there would be a need for training for both district and parish councillors on the new Code of Conduct and ethical governance regime that would be established by the Localism Act. Of particular importance would be training on the registering and declaring of pecuniary interests. However, it was accepted that this training would need to await the detailed provisions that would be included in Regulations made under the Act.

RESOLVED that training be provided in due course for both district and parish councillors on the new Code of Conduct and ethical governance regime established by the Localism Act.