

Standards Committee

To: C Bainton (Independent Member, in the Chair), I Waudby (Vice-Chair), Scott, D'Agorne, Leaman (Independent Member) and Crawford (Parish Council Member)

Date: Friday, 9 March 2007

Time: 10.00 am

Venue: The Guildhall, York

AGENDA

1. Declarations of Interest

At this point, members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes

(Pages 1 -
6)

To approve and sign the minutes of the meeting of the Standards Committee held on Friday 26 January 2007.

3. Public Participation

At this point in the meeting, members of the public who have registered their wish to speak, regarding an item on the agenda or an issue within the remit of the Standards Committee, may do so. The deadline for registering is 5pm on Thursday 8 March 2007.

4. Review of Workplan

(Pages 7 -
8)

To review the workplan for the Standards Committee for the 2006/2007 municipal year.

5. Revised Model Code of Conduct for Local Authority Members (Pages 9 - 16)

This report sets out the proposed changes to the Code of Conduct and a response to those proposals for consideration by the Standards Committee.

6. Annual Report of Standards Committee 2006-2007 (Pages 17 - 22)

This report sets out a review of the work carried out by the Standards Committee at City of York Council during the municipal year 2006/07.

7. Any other business which the Chair decides is urgent under the Local Government Act 1972.

Democracy Officer Details

Democracy Officer:

Name: Tracy Wallis

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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

City of York Council

Minutes

MEETING STANDARDS COMMITTEE

DATE 26 JANUARY 2007

PRESENT C BAINTON (INDEPENDENT MEMBER, IN THE CHAIR),
 CLLRS I WAUDBY (VICE-CHAIR), SCOTT,
 D'AGORNE,
 R LEAMAN (INDEPENDENT MEMBER) AND D
 CRAWFORD (PARISH COUNCIL MEMBER)

52. DECLARATIONS OF INTEREST

Members were asked to declare any personal or prejudicial interests they had in the business on the agenda.

Councillors Scott, I Waudby and D'Agorne declared a personal non-prejudicial interest in Agenda Items 6 (Amendments to the Members' Code of Conduct) and 7 (Advice to Elected Members and Senior Officers re: Activities during the pre-election Period) on the grounds that they were elected Members.

53. MINUTES

RESOLVED: That the minutes of the meeting held on 17 November 2006 be approved and signed as a correct record.

54. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak at the meeting under the Council's public participation scheme.

55. REVIEW OF WORKPLAN

Members reviewed the workplan for the Standards Committee for the 2006/2007 municipal year. It was agreed that the Officer would look into the status of the 'Report on the Committee on Standards in Public Life' due on 19 May 2007. Members queried whether there would be a meeting of the Standards Committee in May and it was agreed that the Democracy Officer would clarify this with Members having checked the Corporate Diary.

It was agreed that the next meeting of the Standards Committee would be moved from 23rd March 2007 to 9th March 2007 at 10am in order to allow Members time to approve the final response to the 'Consultation on Amendments to the Model Code of Conduct for Local Authority Members' and to discuss the Annual Report. The Presentation on the new Committee Management System will be deferred to a later date.

RESOLVED: That the amended workplan, at Annex 1 of the minutes, be approved.

56. CONFIDENTIALITY & TRANSPARENCY SCRUTINY PANEL RECOMMENDATIONS

Members received a verbal report from the Officer on the Confidentiality and Transparency Scrutiny Panel Recommendations. The report had been to Executive last year and concerns had been raised regarding the 42 recommendations. It was reported that there was now a draft report for Officers comments in circulation and the recommendations were due to go back to the Executive on 13 February 2007.

Members said that matters had been complicated by the fact that the recommendations had been drawn up before the New Constitution was in place and some of the 42 recommendations had, since then, been put into place.

RESOLVED: That the update be noted

57. AMENDMENTS TO THE MEMBERS' CODE OF CONDUCT

Members received a verbal update concerning amendments to the Members' Code of Conduct. The Officer handed out the Consultation Paper (Consultation on Amendments to the Model Code of Conduct for Local Authority Members) and notified Members that the consultation period ended on 9th March 2007. It was agreed that an informal meeting of the Standards Committee would take place on 22nd February 2007 at 10am to collate Members comments. This would be after Members had discussed the Consultation Paper with their groups. The Officer would then draft a response to be presented at the next Standards Committee meeting on 9th March 2007.

RESOLVED: That Members acknowledged receipt of the Consultation Paper and agreed to an informal meeting on 22nd February to discuss its contents.

58. ADVICE TO ELECTED MEMBERS & SENIOR OFFICERS RE: ACTIVITIES DURING THE PRE-ELECTION PERIOD

Members received a report that proposed a draft letter for circulation to all Elected Members and Senior Officers for consideration. The Officer asked that Members clarify who the letter should be sent from, the principle of sending such a letter and the contents of the letter. Members agreed the contents of the letter and suggested that the letter should say that the Standards Board had asked the Officer to write. It should also include a date from when the contents of the letter apply. The letter would be sent to all Members and all Corporate Leadership Groups.

Members suggested an article in the staff magazine would bring the contents of the letter to the attention of all staff and it was agreed that the Officer would contact the Head of Marketing and Communications to implement this.

RESOLVED: That the letter be circulated to all Members and Corporate Leadership Groups to assist in their activities during the pre-election period.

59. ETHICAL GOVERNANCE AUDIT

Members considered a report that provided information to the Standards Committee on the process of undertaking an Ethical Governance Audit and proposals for undertaking this process in City of York Council.

Members agreed that the Head of Civic, Democratic and Legal Services should draft an invitation to quote for a trained practitioner to undertake the Ethical Governance Audit. The Officer stated that in the first instance the Council's documents and protocols would be examined, audits carried out and meetings attended to clarify any problems that there might be.

RESOLVED: That Members:

- i. Note the contents of this report and the process for progressing the Ethical Governance Audit
- ii. Reaffirm their commitment to participating and supporting the Ethical Governance Audit

60. ANY OTHER BUSINESS WHICH THE CHAIR DECIDES IS URGENT UNDER THE LOCAL GOVERNMENT ACT 1972.

The Head of Civic, Democratic and Legal Services updated Members with regard to the Appeal to the High Court by the Mayor of London, Ken Livingstone and how this cast some doubt on the ability of the code of conduct to exclude behaviour of Members in their private capacity.

C BAINTON

Independent Member, In the Chair

The meeting started at 3.05 pm and finished at 4.10 pm.

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2006/07 Workplan for Standards Committee

Ongoing Activities

Cases referred for investigation or determination
 Database of Standards Committee topics
 Standards Board Guidance
 Parish Council Issues
 Member and Officer Training

Programme of New Work

<u>Programme of New Work</u>	<u>Meeting Date</u>	<u>Communication / Strategic Activity</u>
Confidentiality and Transparency – Conclusions of the Executive on the report of the Scrutiny Panel	26 January 2007	
Amendments to the Members' Code of Conduct	26 January 2007	
Advice to Elected Members re activities during the purdah period	26 January 2007	
Ethical Governance Audit	26 January 2007	
Presentation on new Committee Management System	TBA	
Annual Report	23 March 2007	
Report of the Committee on Standards in Public Life	TBA	
Parish Councils – Good Practice at Meetings	May 2007	
Review of the Complaints Procedure	TBA	
Employee Code of Conduct – Member/Officer training.	2006/07	

Programme of New Work

Meeting Date

Communication / Strategic Activity

Full Ethical Audit

2006/07

Yes

Comprehensive Performance Assessment (CPA) – contribution of Standards Committee

TBA (Late 2007)

2006/07 Workplan for Standards Committee

Ongoing Activities

- Cases referred for investigation or determination
- Database of Standards Committee topics
- Standards Board Guidance
- Parish Council Issues
- Member and Officer Training

Programme of New Work

<u>Programme of New Work</u>	<u>Meeting Date</u>	<u>Communication / Strategic Activity</u>
Parish Councils – Good Practice at Meetings	May 2007	
Review of the Complaints Procedure	June 2007	
Presentation on new Committee Management System	June 2007	
Assessment of the impact of the White Paper	June 2007	
Employee Code of Conduct – Member/Officer training.	2006/07	
Full Ethical Audit	2006/07	Yes
Comprehensive Performance Assessment (CPA) – contribution of Standards Committee	TBA (Late 2007)	

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STANDARDS COMMITTEE**9 March 2007**

Report of the Head of Civic, Democratic and Legal Services

A REVISED MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS**Summary**

1. This report sets out the proposed changes to the Code of Conduct and a response to those proposals for consideration by the Standards Committee.

Background

2. The Standards Board for England and the Department for Communities and Local Government have been considering amending the Model Code since 2005. On 27 May 2005 the Standards Committee considered a report on the then proposed amendments and submitted a formal response as part of an initial consultation exercise.
3. The Local Government White Paper, Strong and Prosperous Communities issued in October 2006 indicated the Government's proposals to put in place a clearer, simpler and more proportionate Model Code of Conduct, which would include changes to the rules on personal and prejudicial interests. The proposed amendments have now been circulated for consultation and are contained at Annex 1 to this report, together with a suggested response.
4. It is noted that responses to the consultation are required by 9 March 2007 as it is anticipated that Councils will be expected to adopt the revised Model Code of Conduct for the next municipal year 2007/08.

Consultation

5. A copy of the proposed amendments have been circulated to Parish Councils and to the political groups. The Parish Councils and political groups have been asked to submit any comments through their Standards Committee representatives.

Options

6. Members are asked to consider the collated comments at Annex 1 and agree or amend as appropriate.

Analysis

7. The analysis of the responses is contained in the Annex attached.

Corporate Priorities

8. Compliance with the Model Code of Conduct forms part of the corporate governance framework and contributes to the corporate priority of improving leadership at all level to provide clear, consistent direction to the organisation.

Implications

9. There are no specific Financial, HR, Equalities, Legal, Crime and Disorder, Information Technology, Property or other implications of the amendments to the Code of Conduct. However, legal and constitutional procedures will need to be followed to ensure the amendments are implemented and compliance monitored.

Risk Management

10. A robust Code of Conduct will assist in reducing any risk of a successful complaint against Members in respect of their conduct.

Recommendations

11. Members are asked to consider the Annex attached and amend or approve as appropriate for submission to the Department of Communities and Local Government.

Reason: To ensure the views of members in the York District on the proposed amendments to the Code of Conduct are forwarded to the Government within the requisite timescale.

Contact Details

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Chief Officer Responsible for the report:

Suzan Hemingway
Head of Civic, Democratic and Legal Services

Report Approved

Date 26 February 2007

Specialist Implications Officer(s)

None

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex 1 – Proposed Amendments to the Model Code of Conduct

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A REVISED MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS – PROPOSALS

This document considers the proposals set out in the consultation on amendments to the Model Code of Conduct for Local Authority Members circulated by the Department of Communities and Local Government.

General Comments

1. Parish Councils have expressed some concerns that the proposal to combine both Codes will result in a more complicated Code of Conduct for the Parish Councils as there are a number of areas from which they are exempted. It is suggested that this may lead to confusion as to which parts of the Code apply to all Councillors and which parts do not apply to Parish Councils. In addition, the Parish Councils feel there should be a simplified Code for Parish Councils, which is more aligned to their functions and which recognises their limited budget and employees. They agree that such a Code should endorse the principles of public life but they suggest that the combined Code creates a regulatory structure which is too rigid and may discourage people from participating in Councils at local level.
2. It is noted that in a number of areas of the consultation document there is mention of guidance from the Standards Board for England regarding the application of particular provisions. It is strongly suggested that such guidance should be available immediately the Code is adopted to ensure consistency and provide as much assistance as possible for Monitoring Officers and Members to understand the new provisions.

In addition, any guidance should make clear how a particular provision applies to Parish Councils.

3. Members have asked whether it is proposed to use the opportunity of amending the Code to raise public awareness of its provisions.

Main Document

1. **Unlawful Discrimination** - Proposal to delete reference to Unlawful Discrimination

This proposal is agreed, although it is noted that it does represent a higher duty on Members and possibly a higher training obligation for Authorities.

2. **Bullying** - Proposal to add a provision specifically proscribing bullying

This is generally agreed, although there are some concerns regarding the subjective nature of this issue and suggests guidance will be needed as to what would constitute bullying.

In addition, there is concern that the SBE should not be the first point of contact for bullying by members of officers. Where possible this should be dealt with by internal Council procedures through intervention by senior managers/Directors.

3. **Disclosure of Confidential Information** - Proposal to allow Members to disclose confidential information where such disclosure is in the public interest

This proposal is generally agreed, although it is suggested the wording of paragraph 3 (a) (iii) (bb) ought to be amended to read :

' ... made in good faith and does not breach any requirements of the Authority where it would be reasonable to expect the Member to comply.'

It is suggested that there may be reasonable requirements but it may also be unreasonable for a Member to comply with that requirement. For example, the Council may reasonably require all allegations of financial impropriety by Officers to be first reported to the Chief Executive. However, if the Members suspects the Chief Executive is implicated then it would not be reasonable for the Member to comply with that reasonable requirement.

4. **Behaviour Outside Official Duties**

Question 2 is agreed.

5. **Commission of Criminal Offence before taking office.**

The proposal is noted but Members have asked to what extent activities before a Member took office ought to be considered. There is a suggestion that guidance should deal with the proximity of the offence to the period of office, its seriousness and the Member's role within the Council.

6. **Using or Seeking to use Improper Influence** - Proposal to amend para. 5 by adding 'or attempt to use'

Agreed

7. Proposed amendments to para. 5 (b) (ii)

Agreed

8. **Publicity Code** - Proposal to add reference to para. 5 to the need for the Member to have regard to the guidance set out in the Local Governments Publicity Code

Question 3 – Members agree the Code of Recommended Practice on Local Authority Publicity does serve a useful purpose as it gives a baseline position. It is agreed that if the Code is abolished then some of the provisions should be the subject of central guidance. In particular, Parish Councils would want to understand how any provisions applied to them.

9. **Reporting Breaches of the Code and Prescribing Intimidation** - Proposal to delete the duty in para. 7 and add a prescription on the intimidation of complaints and witnesses

Both these proposals are agreed.

10. **Gifts and Hospitality**

Question 4 – Members agree the proposed text does combine the need for transparency as well as proportionality in making public information with regard to personal interests. However, there is a suggestion that the Code should specify that the requirement only applies to gifts and hospitality received in their official capacity as a number of Members receive gifts/hospitality as part of their employment. In addition, there is some concern about the effect of cumulative gifts of a small amount.

11. **Body Influence Public Opinion or Policy**

The proposal is agreed.

12. **Interests of Family, Friends and those with a Close Personal Association -**
Proposal to amend by adding reference to any person with whom the Member has a close personal association.

Parish Councils have concerns about this amendment as they are aware that in small communities Parish Councillors are likely to have a close personal association with a substantial number of residents. It is suggested that this is evidence of the need for a separate Code for Parish Councils.

13. **Definition of Family and Friends**

Question 5 – Please see comments above. Need specifically to consider the provision in the context of Parish Councillors and small communities.

14. **Definition of Personal Interests** - Proposed amendment to the definition

This is agreed.

15. **Disclosure of Personal Interests** - Amendment to para. 8 (iv)

This amendment is agreed.

16. **Public Service Interests** - Proposal to create a new category of 'public service interests'

The principle is agreed. It is suggested that it should also include employment as well as membership of organisations/public bodies.

Concern has been raised where a majority or all of a Parish Council are also trustees of a local public community trust. The proposed amendments would still make it impossible for the Parish Council to discuss financial issues relating to the trust as they would not be quorate. How can the Code be amended to facilitate this situation?

17. **Prejudicial Interests** - Proposal to extend the list of exemptions

This is agreed.

18. **Overview and Scrutiny Committees** - Proposal to extend the Members excluded from Overview and Scrutiny Committees where they were previously involved in the decision under scrutiny.

The principle is agreed.

19. **Participation in relation to Prejudicial Interests** - Proposal to provide a clearer prejudicial interest test to apply for public service interest and where Members attend to make representations

Question 7 – Members agreed the proposed text relaxing the rules to allow increased representation at meetings is appropriate. Again the question has been raised as to the position where all Members have a similar prejudicial interest.

20. **Sensitive Information** - Proposal to provide for sensitive information in respect of private interests not to be included in the Register of Interests

This principle is agreed.

21. **National Parks and Broads Authorities – Prejudicial Interests**

No view expressed.

22. **Register of Members' Interests** - Proposal to re-arrange the position of various provisions within the Code

No view

23. **Gender Neutrality of Language** - Proposal to amend the Code to ensure gender neutrality of language

Question 8 – Members agree the use of the word 'you' is better than 'he or she'.



STANDARDS COMMITTEE**9 March 2007**

Report of the Head of Civic, Democratic and Legal Services

THE ANNUAL REPORT OF THE STANDARDS COMMITTEE**Summary**

1. This report sets out a review of the work carried out by the Standards Committee at City of York Council during the municipal year 2006/07.

Background

2. The Standards Committee has met formally on five occasions during the municipal year 2006/07 on 19 May 2006, 6 October 2006, 17 November 2006, 26 January 2007 and 9 March 2007. In addition, there have been some informal meetings where the Standards Committee has considered the recruitment of a new Chair for the Committee and the consultation document on the proposed amendments to the Members' Code of Conduct.
3. The Standards Committee has an approved work plan, which is reviewed at each meeting, to assess the progress made against agreed areas for consideration. The most up-to-date version of the work plan is attached to this report at Annex 1.
4. In addition, the Standards Committee has continued to review and monitor advice from the Standards Board for England regarding interpretation of the Code of Conduct for Members and attended training on Local Investigations. The Monitoring Officer has reported verbally to the Standards Committee in respect of complaints to the Standards Board for England regarding the conduct of Members in the York district where such information is in the public domain.
5. During the municipal year 2006/07 the Monitoring Officer has been notified of five allegations reported to the Standards Board for England against City of York Council elected Members. On each of these matters the Standards Board for England has determined that a breach of the Code had not occurred. The Monitoring Officer is not notified of allegations made against Parish Councillors unless they are referred to the Monitoring Officer for local investigation. There have been no referrals during the municipal year post 2006/07.

6. Set out below are the specific tasks the Standards Board agreed to undertake, together with other issues that have arisen during this municipal year.

Recruitment of a new Independent Chair for the Standards Committee

At the end of the last municipal year Roger McMeeking stood down as the Independent Chair of the Standards Committee. A recruitment exercise was undertaken to appoint a new Chair. Christine Bainton was appointed as the new Independent Chair of the Standards Committee at the Council meeting on 5 October 2006.

Tenth Report of the Committee on Standards in Public Life

The Standards Committee have considered the Tenth Report of the Committee on Standards in Public Life and specifically the recommendations on public appointments, the ethical standards framework for local government, proportionality, culture and how the seven principles of public life can be embedded into organisational culture.

Review of the Complaints Procedure

The Standards Committee has continued to monitor the progress in the review of the Council's Complaints Procedure and both Rita Leaman (Independent Member of the Standards Committee) and the Head of Civic, Democratic and Legal Services continue to attend the Project Team meetings to provide a link with the Standards Committee. The Standards Committee expects to comment formally on the proposed amendments shortly.

National Standards Board for England Conference

The Head of Civic, Democratic and Legal Services attended the Standards Board for England National Conference on 16 and 17 October 2006. The main issue for discussion at the Conference were the proposed changes to the Code of Conduct and the Role of the Standards Board for England. A report on the issues raised at the Conference was considered by the Standards Committee at their meeting on 17 November 2006.

Advice to Elected Members and Senior Officers regarding activities during the pre-Election period

The Standards Committee had a discussion on issues around the relationship of Officers and Members and activities during the pre-election period. The Standards Committee considered a letter drafted by the Head of Civic, Democratic and Legal Services, which was subsequently circulated to all Members and Senior Officers.

Ethical Governance Audit

The Standards Committee has considered the proposed Ethical Governance Audit and reiterated its commitment to participating and supporting progression of the Audit. In addition, consideration would be given as to how the Standards

Committee can lead in any improvement programme identified as a result of the Audit.

Amendments to the National Code of Conduct for Local Authority Elected Members

The Standards Committee has met and discussed in detail the proposed amendments to the Code of Conduct and has submitted a formal response.

Consultation

7. The Standards Committee continues to consult with Parish Councils through their representatives on the Committee.

Options

8. Not applicable – this report is for information.

Analysis

9. Not applicable – this report is for information.

Corporate Priorities

10. The effectiveness of the Standards Committee is a core part of the Council's ethical governance arrangements. As such, it makes a contribution towards improving leadership at all levels and providing clear, consistent direction to the organisation.

Implications

11. There are no Financial, HR, Equalities, Legal, Crime and Disorder, IT, Property or other implications in this report.

Risk Management

12. The functions of the Standards Committee contribute to ensuring appropriate ethical arrangements are in place and understood and as such reduce the risk of complaints made against the Council regarding its decision-making processes.

Recommendations

13. 1) That Members of the Standards Committee note and comment on the Annual Report

Reason: To ensure the Annual report reflects the activities of the Standards Committee during the municipal year 2006/07

- 2) That Members of the Standards Committee approve the report, together with any amendments, to be referred to Full Council.

Reason: To comply with the provisions of the Council's Constitution.

Contact Details

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Chief Officer Responsible for the report:

Suzan Hemingway
Head of Civic, Democratic and Legal Services

Report Approved

Date 26 February 2007

Specialist Implications Officer(s)

None

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex 1 - The Standards Committee Work Plan

2006/07 Workplan for Standards Committee

Ongoing Activities

Cases referred for investigation or determination
 Database of Standards Committee topics
 Standards Board Guidance
 Parish Council Issues
 Member and Officer Training

Programme of New Work

<u>Programme of New Work</u>	<u>Meeting Date</u>	<u>Communication / Strategic Activity</u>
Confidentiality and Transparency – Conclusions of the Executive on the report of the Scrutiny Panel	26 January 2007	
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Review of the Complaints Procedure	TBA	
Employee Code of Conduct – Member/Officer training.	2006/07	

Programme of New Work

Meeting Date

Communication / Strategic Activity

Full Ethical Audit

2006/07

Yes

Comprehensive Performance Assessment (CPA) – contribution of Standards Committee

TBA (Late 2007)