

STANDARDS COMMITTEE

17th May 2012

Report of the Monitoring Officer

New Standards Arrangements

1. Background

- 1.1 This report updates Members on progress with putting in place new arrangements for dealing with standards issues affecting the City of York Council and the local parish councils with effect from 1st July 2012.

2. Establishing a new Standards Committee

- 2.1 Since the last meeting the City Council has considered and accepted the Standards Committee's recommendation to establish a non statutory Standards Committee replacing the existing Committee after the 1st July. The City Council also accepted the Committee's recommendation that the Committee should:
- be a joint Standards Committee with parish councils made up of four City of York Councillors (one from each of the main political groups) and three Parish Councillors with voting rights (nominations to be made by the Local Association)
 - have the power to co-opt non-voting community members if this benefits the work of the Committee
 - appoint its own Chair at the first meeting of the municipal year.
- 2.2 The Local Association is currently balloting its members regarding the Parish representation.
- ##### **3. Independent Person(s)**
- 3.1 The City Council has also accepted the Committee's recommendation that two independent persons should be appointed to undertake the functions set out in the Act and in the draft procedures for handling complaints.

- 3.2 The Act requires the position of independent person to be advertised and excludes existing independent members from holding that Office. However, the Government has confirmed that transitional provisions will be implemented which will override this exclusion. It remains unclear as to whether advertisement will still be required and whether there will be any other conditions attached to such continuing appointments. Efforts are ongoing to attempt to clarify this.
- 3.3 A possible description for an independent person is attached at Annex A. Members are recommended to consider this draft for approval.

4. The Code of Conduct

- 4.1 The Act contains a duty for each relevant authority to adopt a code of conduct for their members and co-opted members.
- 4.2 Owing to delays in a model code being produced by the Local Government Association the Standards Committee recommended that the City Council adopt an interim position whereby the existing Code continued. To comply with the new law it was recognised that there would also need to be a requirement in the Code to register and declare Disclosable Pecuniary Interests. The City Council has now agreed this interim position with a view to a new Code being adopted at the Council's meeting scheduled for the 19th of July. The relevant Regulations have still not been issued and without them the Code cannot be completed.
- 4.3 During April the LGA model Code was published. Somewhat surprisingly the Department for Communities and Local Government also issued their own Code. Bevan Brittain LLP, Solicitors have prepared a helpful comparison of the two Codes which is attached at Annex B.
- 4.4 It is understood that NALC will not be recommending either of these Codes to Parish Councils and are working on producing another Model.
- 4.5 Monitoring Officers are also sharing possible models and attached at Annex C is a draft presented to North Yorkshire County Council's Standards Committee.
- 4.6 The Committee has previously expressed a view that it would be helpful to have some level of consistency of Code across the City and across the wider geographical area. Monitoring Officers are meeting regularly to share developments in their own Councils and are next due to meet in the week following Committee. It might therefore be helpful for

Members to discuss the various options and indicate any preferences with a view to seeing whether a local consensus may still be a possibility.

5. Arrangements for handling complaints

- 5.1 The Committee has previously considered and generally approved draft arrangements for dealing with complaints. However, the Committee was of the view that there should be an appeal provision in place for a Member who was found to have breached the Code.
- 5.2 One option would be for the appeal to be removed from the Standards Committee and be to the relevant Council or a Committee of that Council. This could have attractions given that some of the sanctions available to the Committee will be recommendation that action is taken by the relevant Council. It has obvious disadvantages though – not least being public perception of an independent and expert Committee's decision being overturned.
- 5.3 Another option would be for a different Sub Committee of the Standards Committee to hear an appeal. The main disadvantage with this approach would be that one Sub Committee probably of three members would be overturning a decision of an equally qualified body of the same number of members.
- 5.4 There are a range of other options which could be considered such as delegating the appeals function to another Standards Committee or establishing a separate appeals Committee but none are obviously attractive solutions.
- 5.5 On balance the recommended option is for appeals to be heard by a differently constituted Sub Committee of the Standards Committee.

6. Monitoring Document

- 6.1 An updated version of the monitoring document prepared for the last Committee meeting is annexed at Annex D. Members are recommended to note the progress made.

7. Recommendations

- (a) The Committee approve the role description for an Independent person

- (b) The Committee indicates its preference as to the style of Code it prefers
- (c) The Committee agree that appeals against findings that a Member has breached the Code should be referred to a differently constituted Sub Committee of the Standards Committee
- (d) The Committee note the progress on the various tasks to establish the new arrangements.

Reason: To ensure arrangements are in place for dealing with standards issues affecting the City of York Council and the local parish councils with effect from 1 July 2012.

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	Report Approved	√	Date 08/05/12

Background papers

None

Annexes

- Annex A – Role Description for Independent Person
- Annex B – Comparisons between the two model codes
- Annex C – Draft Code of Conduct for Members of North Yorkshire County Council
- Annex D – Updated version of monitoring document prepared for last committee meeting