

Standards Committee

- To:** Mrs Christine Bainton (Independent Member, in the Chair)
Cllrs Horton (Vice-Chair), Waudby, Hudson and Taylor (CYC Members)
Mr Dixon, Mr Hall and Mr Wilson (Independent Members)
Cllrs Crawford, Mellors and Forster (Parish Council Members)
- Date:** Friday, 26 June 2009
- Time:** 3.00 pm
- 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 3 - 4)
To approve and sign the minutes of the meeting of the Standards Committee held on 13 March 2009.
- 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 10 am on Thursday 25 June 2009.

- 4. Meetings with Leader and Chief Executive**
To receive a verbal update from the Chair of the Standards Committee regarding her meetings with Leader and Chief Executive of City of York Council.
- 5. Review of the Protocol on Officer/Member Relations** (Pages 5 - 14)
To consider approving the draft Protocol on Officer / Member Relations, as amended following review and consultation.
- 6. Annual Report of Standards Committee 2008/09** (Pages 15 - 20)
To consider the contents of the Standard Committee's Annual Report to Council for the municipal year 2008/09 and to approve the report for submission to Full Council at the next available opportunity.
- 7. New Regulations Affecting Standards Committees** (Pages 21 - 24)
To consider a report from the Monitoring Officer advising of the contents of the New Standards Committee (Further Provisions) (England) Regulations 2009 (SI 2009/1255), which will be in force from 15 June 2009.
- 8. Annual Standards Assembly** (Pages 25 - 26)
To receive information on the 2009 Annual Assembly of Standards Committees, to be held in Birmingham on 12-13 October and to decide which, if any, members should attend this event.
- 9. Review of Work Plan** (Pages 27 - 28)
To review the work plan for the Standards Committee for the 2009/10 municipal year.
- 10. Urgent Business**
Any other business which the Chair decides is urgent under the Local Government Act 1972.

Democracy Officer:

Name: Fiona Young

Contact Details:

- Telephone – (01904) 551027
- E-mail – fiona.young@york.gov.uk

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.

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Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	STANDARDS COMMITTEE
DATE	13 MARCH 2009
PRESENT	MRS BAINTON (INDEPENDENT MEMBER, IN THE CHAIR) COUNCILLORS HORTON (VICE-CHAIR), WAUDBY, HUDSON AND TAYLOR (CYC MEMBERS) MR DIXON, MR HALL AND MR WILSON (INDEPENDENT MEMBERS) COUNCILLOR MELLORS (PARISH COUNCIL MEMBER)
APOLOGIES	COUNCILLORS CRAWFORD AND FORSTER (PARISH COUNCIL MEMBERS)

30. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. No interests were declared.

31. MINUTES

RESOLVED: That the minutes of the Standards Committee meeting held on 23 January 2009 be approved and signed by the Chair as a correct record.

32. PUBLIC PARTICIPATION

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme.

33. REVIEW OF WORK PLAN

Members reviewed the work plan for the Standards Committee for the current Municipal Year.

With reference to the training session on declarations of interest, which had been delivered to Standards Committee in advance of this meeting, it was noted that a date would be arranged with Member Services to deliver a similar session to all Members, as revised in accordance with the feedback received after today's session.¹

With reference to the item on reviewing the profile and operation of the Standards Committee within the Council, the Monitoring Officer reported

that he had met with the Council's Audit and Risk Manager with a view to arranging for a wider range of relevant issues to be reported to the Committee in due course. Such matters might include, for example, the Council's performance in relation to the management of complaints and the promotion of ethical governance as part of the new Comprehensive Area Assessment (CAA) regime.

RESOLVED: That the information provided be noted and that the Standards Committee's Annual Report to Council be added to the work plan for consideration at the next meeting.²

REASON: In the interests of organising the business of the Committee and to ensure that the Annual Report is agreed before submission to Full Council.

Action Required

- | | |
|---|----|
| 1. Arrange date for Member training on declarations of interest | GR |
| 2. Update the Standards Committee work plan | GR |

34. REVIEW OF MEMBER / OFFICER PROTOCOL - UPDATE

Members received a verbal update from the Monitoring Officer on progress with the review of the City of York Council's Member / Officer Protocol.

It was reported that the draft Protocol had now been amended and circulated for consultation to Group Leaders, Group Secretaries, Directors, and Trades Unions, as agreed at the last meeting.

RESOLVED: That the update be noted.

35. ANY OTHER BUSINESS WHICH THE CHAIR DECIDES IS URGENT UNDER THE LOCAL GOVERNMENT ACT 1972 - ASSESSMENTS SUB COMMITTEE

With the permission of the Chair, the Monitoring Officer reported under this item the outcome of the recent meeting of the Assessments Sub Committee, held on 4 March to consider complaints against four Members of City of York Council.

Decision notices in relation to these complaints would shortly be published on the Council's website.

RESOLVED: That the information provided by the Monitoring Officer be noted.

C Bainton, Chair

[The meeting started at 3.35 pm and finished at 3.45 pm].



STANDARDS COMMITTEE – 26 JUNE 2009

Report of the Head of Civic, Democratic & Legal Services

Review of the Protocol on Officer/Member Relations

Summary

1. On 23 January 2009 the Standards Committee considered a report outlining the review of the Protocol on Officer/Member Relations.
2. The Committee was presented with three options and approved option B agreeing the amended draft of the Protocol subject to various amendments and consultation.
3. The amendments suggested by the Committee have been incorporated into the draft Protocol.

Consultation

4. As recommended by the Committee, a copy of the draft Protocol (as amended) was forwarded to the group leaders, group secretaries, directors, trades unions and the Head of Human Resources on 13 March 2009, inviting comments by 15 May 2009.
5. No responses were received, except one from Human Resources, which stated "... I welcome the draft as it should make things more transparent and relationships with Members clearer than they currently are, both for Officers and Members".

Implications

6. There are no legal, financial or human resources implications.

Recommendations

7. It is hereby recommended that the Standards Committee:
 - (a) Agree the amended Protocol on Officer/Member Relations.

Author:
Quentin Baker
Head of Civic, Legal & Democratic Services

Chief Officer responsible for the report:
Quentin Baker
Head of Civic, Legal & Democratic Services

Tel No: 01904 551004

Specialist Implications Officer(s)

Wards Affected: *List wards or tick box to indicate all*

All

Background Papers:

Appendices:

Appendix A: Report to Standards Committee dated 23 January 2009

Appendix B: Minute of Decision



Standards Committee – 23 January 2008

Report of The Head of Civic, Democratic & Legal Services

Review of the Protocol on Officer/Member Relations

Summary

1. This report concerns the review of the Officer/Member protocol currently in place at City of York Council. The review forms part of the actions arising from the findings of the recent Ethical Governance Health-check conducted in conjunction with the Audit Commission.
2. One area identified for further work was that of raising awareness of the different roles and responsibilities undertaken by officer and by elected members. The officer/member protocol is designed to assist in ensuring functional and professional working relationships between elected councillors and employed officers of the council. It seeks to do this by offering some guidance and clarity about the different roles of councillor. The existing protocol has been in place for some years and it is an opportune moment to review its content to look to see if it may be improved.

Background

3. The Member/Officer protocol can be found in most council constitutions and at CYC it is located at Part 5C. The purpose of the document is to offer guidance to Officers and Councillors as to aspects of their working relationships with each other.
4. It is recognised that the roles of Officers and Councillors differs significantly and that this difference can, in some instances, give rise to tensions or antagonisms. The Officers are paid employees of the Council itself, i.e. the corporate body of the council. They are employed to provide services and advice in the operational running of the council. They report to their line manager and ultimately all officers report to the Council's S.4 Officer, the Head of Paid Service (HOPS) who is invariably the council's Chief Executive. The Officers are not directly responsible to Councillors and their primary duty is to the interests of the council as a whole.
5. Councillors, on the other hand, have allegiances to their political groups which are entirely separate from the corporate body of the council and may have differing priorities and interests. Councillors also have a role as representing

the residents within their wards and here again the interests of the individual ward residents may not exactly mirror those of the council as a corporate body.

6. The difference in the roles can give rise to conflicts between officers and Councillors for instance where the Councillor is proposing action and the Officer advice is not supportive or is contradictory. There may be differences of professional judgement for instance relating to judgements about planning applications. Additionally, Officers may find themselves having to advise that a course of action is either not permissible within the legal framework or is represents a high risk to the Council. Experience has shown that in such circumstances, tensions can arise and Officers may, rightly or wrongly, feel under considerable pressure to temper their advice. The overriding consideration here is that local authorities are publicly funded bodies that must operate within a highly regulated environment and they must bare in mind the public interest when making decisions.
7. The results of the Ethical Health-check work conducted by the Audit Commission revealed that a small but significant number of senior officers at CYC who reported that they felt that they had been subjected to inappropriate pressure from Councillors in connection with the provision of advice or preparation of reports. In response to this finding the Council held two awareness raising sessions for Councillors and Officers and the review of this protocol is a further action in response.
8. In addition to the issue highlighted by the findings of the Ethical Health-Check another matter which has, to my knowledge, arisen in the day to day workings of the council is that relating to confidentiality particularly where that relates to advice provided to the administration in the formulation of its policy proposals. This is a particularly tricky area for Officers who can feel caught in the middle if asked to divulge the content of emerging policies whilst still in a draft state.

Review Process

9. I have concluded that the simplest way to get the review of this protocol underway is for me to provide the committee with an amended version of the existing protocol as a starting point and to include a number of examples of these protocols from other councils. I attach at Appendix A, the existing CYC protocol with some suggested amendments.
10. I have also attached in the appendices examples of the protocols taken from the following councils:-
 - a) Peterborough
 - b) Telford & Wrekin
 - c) Wigan MBC
 - d) Cheltenham BC

11. From the examples it is possible to see distinct approaches, for instance at the most basic level, length and complexity, Peterborough are clearly significantly more detailed in their approach than the other examples. I would say that having looked at around 20 council's protocols for the purposes of this report, the Peterborough protocol was the longest and most complicated that I found.
12. The difference in approach may result from the purpose which the authority regard the protocol as fulfilling. Is it intended to be guidance aimed directly at officers and councillors, or is intended as regulations that can be interpreted by the Monitoring Officer. I would say that the Peterborough model falls into the latter category.
13. I have approached my amendments on the basis that the protocol is intended to be directly accessible to both Officers and Councillors, and the public also. I have sought to reduce the length of the existing document by removing irrelevant information, and simplify the language where possible to make it easier to understand. I have also introduced a list of bullet points at the start of the protocol that are intended to capture the key messages for those who don't get past the first page or two. I have also sought to augment the protocol in certain areas such the provision of advice and preparation of reports.

Consultation

14. Following consideration of the amended version I shall invite comments and proposals from members of the standards committee as to whether the amended version will suffice, whether further amendments are necessary or whether you would like me to go away and re-draft the thing starting from scratch but following a different style. A further option is that of retaining the existing version unchanged.
15. In all but the last of these scenarios I would propose that the proposed draft version be circulated to representatives of the Officer cohort and of the Councillors. I would welcome suggestions on how to do this but at the very least would propose circulating it amongst all Councillors and amongst the Assistant Directors and Directors on the Officer side.

Options

16. There are three main options for the committee as follows:-
 - a) To retain the existing code unaltered;
 - b) To agree an amended draft version, based on the option existing one, such as the example at Appendix A, and instruct the Monitoring Officer to undertake consultation exercise and report the results of that consultation to a future meeting;
 - c) If the committee feels that a complete re-draft is required then it will need to agree the key elements of the revised document and highlight the particular style it wishes to see, and instruct the Monitoring Officer to prepare a draft document meeting the criteria set down.

Implications

17.

Legal	There are no legal implications arising from this report or the proposals it contains. There is no legal requirement that a local authority must have a member/officer protocol but it is almost universally the case that they voluntarily adopt such a document. Quentin Baker quentin.baker@york.gov.uk
Financial	There are no financial implications arising from this report or the proposals it contains.
Human Resources	There are no human resource implications arising from these recommendations.

Recommendations

18. I hereby recommend that the Standards Committee: -

- a) **Endorses the content and format of the existing protocol on Officer/Member relationships, or;**
- b) **The committee agrees an amended version of the existing document and instructs the Monitoring Officer to undertake a consultation exercise based on that proposed draft document and reports the results of that consultation back the committee in due course.**
- c) **If the committee is of the opinion that a more fundamental re-working of the existing protocol is necessary, it agree a set of proposed criteria concerning the style, content and format of the new document and instructs the Monitoring Officer to prepare a draft protocol in accordance with those criteria, to be reported back to the committee at the earliest opportunity.**

Contact Details

19.

Author:
Quentin Baker
Head of Civic Legal and Democratic Services

Chief Officer Responsible for the report:
Quentin Baker
Head of Civic, Legal and Democratic Services

Tel No.01904 551004

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:

Appendices:

Appendix A:- Existing protocol with amendments in tracked changes

Appendix B:- Peterborough City Council's Protocol

Appendix C:- Wigan MBC

Appendix D:- Telford & Wrekin BC

Appendix E:- Cheltenham BC

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City of York Council

Committee Minutes

MEETING	STANDARDS COMMITTEE
DATE	23 JANUARY 2009
PRESENT	MRS BAINTON (INDEPENDENT MEMBER, IN THE CHAIR), CLLRS HORTON (VICE-CHAIR), WAUDBY, HUDSON AND TAYLOR (CYC MEMBERS) MR DIXON AND MR HALL (INDEPENDENT MEMBERS) CLLRS CRAWFORD, MELLORS AND FORSTER (PARISH COUNCIL MEMBERS)
APOLOGIES	MR WILSON (INDEPENDENT MEMBER)

27. REVIEW OF THE PROTOCOL ON OFFICER/MEMBER RELATIONS

Members considered a report which presented details of the review of the Officer / Member Protocol currently in place at City of York Council and suggested amendments to the current Protocol.

The review formed part of the actions arising from the findings of the recent Ethical Governance Health Check carried out with the Audit Commission. Other actions had included two awareness-raising sessions for Members and Officers.

A draft amended version of the current protocol was attached at Annex A to the report. Protocols from a number of other authorities were also provided, at Annexes B-E, for the purpose of comparison. Members were invited to decide whether to:

- Retain the existing Protocol unaltered (Option A)
- Agree an amended draft version of the Protocol, based on the existing one, and instruct the Monitoring Officer to undertake a consultation exercise on the resulting document (Option B) or
- Agree a set of criteria to enable a complete re-draft of the existing Protocol (Option C).

RESOLVED: (i) That Option B be approved.

(ii) That the following amendments be agreed to the revised draft Protocol at Annex A:¹

- a) In the introduction, include reference to those Officers with certain responsibilities in law and add 'Whistleblowing Policy' to the list of documents in para. 1.2.
- b) In para. 3.1 add compliance with the Officer Code of Conduct to the list of what Members can expect from Officers.

- c) In para. 4.2, delete the words *'should, therefore, be avoided'* in the last line and substitute *'Therefore care should be exercised'*.
- d) Clarify the content of para. 4.3
- e) In para 4.4, include reference to the information on confidential documents etc. in paras. 7.1 and 7.2 and in the last line change *'will'* to *'may'*.
- f) Remove para. 5.6.
- g) Re-word paras. 7.4, 7.5 and 7.6 to reflect recent changes to legislation (in particular, the Freedom of Information Act).
- h) In para. 8.2, include reference to electronic / e-mail communication.

(iii) That, having made the above amendments, the Monitoring Officer be instructed to undertake a consultation exercise based upon the proposed draft document (as amended) and to report the results of that consultation back to the Committee in due course.²

(iv) That the consultation be carried out with Group Leaders, Group Secretaries, Directors and Trades Unions.²

REASON: In order to agree a more effective Member / Officer Protocol for City of York Council and to respond to the issues raised during the Ethical Governance Health Check.

Action Required

- | | |
|---|----|
| 1. Make the agreed amendments to the draft revised Protocol | GR |
| 2. Carry out consultation as agreed | GR |



Standards Committee**26 June 2009**

Report of the Chair of Standards Committee

**Annual Report of Standards Committee
Year 08-09****Foreword by the Chair**

I am pleased to provide a foreword to this annual report of York's Standards Committee. I hope that, from this report, you will gain a good insight into our work.

We have accomplished much this year, including the recruitment and induction of three new independent members and two additional parish council members. It was good to know that we were able to attract enough high calibre applicants to meet the needs of the new local assessment framework, as detailed in Paragraph 6.

The committee is pleased to accept comments and questions about this report.

Summary

1. This report sets out a summary of the work and activity of the City of York Council Standards Committee during the municipal year 08/09.

Background

2. Each local authority is required by law to establish a Standards Committee to uphold and promote good standards of ethical conduct within the authority and any Parish Councils within the authority's area, focussing primarily on the activities of elected members. A major aspect of the committee's work concerns interpreting and applying the Members' Code of Conduct when dealing with complaints from members of the public. In addition the committee contributes to ensuring high ethical standards in other ways such as the review of internal protocols and raising awareness through training.
3. The committee consists of 11 members, 4 Elected Members of the authority, 4 Co-opted Independent Members and 3 Co-opted Parish Council Members. The Chair of the Committee and its sub-committees must be a Co-opted Independent Member and when the committee/sub-committee is dealing with a complaint concerning a Parish Council, it must include at least one Co-opted Parish Council representative.

4. In 2008 the committee established 3 sub-committees, Assessment, Review and Hearing, to deal with complaints under the new local assessment process introduced in May 2008. The local assessment sub-committee considers initial complaints and decides whether the complaint warrants further investigation. Following a complainant's request the review sub-committee reviews decisions of the assessment sub-committee where it has decided that no further action is necessary and finally, the hearings sub-committee considers the results of investigations where one has been initiated. The sub-committees sit in panels of three and must be chaired by a Co-opted Independent Member.

Summary of Activities

5. The Standards Committee has met on six occasions during the municipal year 08/09. In addition to these regular meetings the local assessment sub-committee has met on four occasions during which it considered six complaints concerning nine elected members. In two cases the sub-committee decided to initiate an investigation. The review sub-committee has met on 2 occasions and on both occasions it upheld the earlier decision of the local assessment sub-committee. The hearings sub-committee has not yet been convened to consider the report of an investigation initiated by the local assessment committee.

Specific Projects –

Implementing the New System for the Local Assessment of Complaints

6. One of the main pieces of work for the Standards Committee in the last year was the implementation of the new system for dealing with complaints about the conduct of elected members. Prior to May 2008 complaints against members were made to the Standards Board for England. Once they received a complaint their own staff would decide whether it warranted an investigation and, if so, the Standards Board would either investigate it or refer it to the local authority for investigation. Under the new system, complaints are made directly to the Monitoring Officer who is required to report them to the Local Assessment sub-committee of the Standards Committee which is responsible for deciding whether the complaint warrants investigating.
7. The actual process to be followed when assessing complaints locally is laid down in regulations and guidance issued by the Standards Board. In addition, the CoYC Standards Committee has developed a protocol to assist it and others to understand how complaints will be dealt with. As with any new system issues are emerging in practice and the Standards Committee will undertake a review of how the system has been functioning following a year in operation. Additionally, the Monitoring Officer, has taken part in a number of workshops with the Standards Board for England, in order to feedback concerns on how the new regime is working in practice and it is hoped that this may contribute to future development of the process.
8. One concern which has emerged both at CYC and at other councils, is the limited amount of information that may be given to the member being

complained about prior to the matter having been reported to the Local Assessment sub-committee. Another related issue is that the member complained about is not permitted to make any representations to the sub-committee at the initial assessment stage.

9. The implementation of the new local assessment system has been a major project for the Standards Committee and the officers supporting it. In addition to devising the processes the change in process was required to be publicised in order that the public are aware of how to complain. In this regard a dedicated area on the council's website was developed containing all the relevant information and guidance. The introduction of the system was also publicised in the press and the staff magazine. Members of the committee also undertook training workshops in order to familiarise themselves with the process and the nature of the decisions required to be made.

Review of the Member/Officer Protocol

10. Although much of the committee's efforts have been absorbed in the implementing and running the new complaints system, the committee has also found time to undertake some other specific projects including a review of the Member Officer Protocol which was initiated in response to the findings of the Ethical Governance Health check. The Health Check itself was undertaken by the Audit Commission whose final report was issued in June 2008 and discussed by the Standards Committee at its meeting in July 2008. The Ethical Health Check had highlighted potential areas for improvement in the way officers and members understand each others' roles and responsibilities and thereby facilitate more effective working relationships. The report also commented on the awareness of equalities and human rights legislation.
11. It was recognised that the Member/Officer protocol can play a part in establishing clear guidelines for members and officers as to their respective roles. The committee considered the protocols of a number of other local authorities and agreed some changes to the CYC protocol with the intention of making the protocol clearer and simpler. The revised draft protocol has been issued for consultation and the results are currently being collated and will be considered in the formulation of a final draft. The Standards Committee will agree a final draft and then recommend this to full council for approval.

Consultation – Revised Code of Conduct and an Officers' Code of Conduct

12. During the year the DCLG issued a consultation document that sought views on proposals to make further changes to the Members' Code of Conduct and on the introduction of a mandatory Officers' Code of Conduct. The proposed changes to the Members Code are various but include the extension of the code to cover actions in one's private life which may constitute a criminal offence. The Standards Committee discussed the proposals at length and a summary of the discussions was submitted to DCLG.

13. Head of Civic, Democratic & Legal Services and the Chair of Standards Committee attended the National Conference in Birmingham on 5 and 6 September 2008, at which developments in respect of the role of Standards Committees and the implementation of the new local assessment of complaints were discussed. The conference also included a range of workshops for delegates to give them hands on experience of a range of matters and the opportunity to share experiences with others from around the country and feedback to the Standards Board itself. The Monitoring Officer in conjunction with the Standards Board Head of Legal, ran a workshop on the initial stages of dealing with complaints.

Future Work-plan

14. Going forward into the new municipal year there are a number of significant areas of work for the Standards Committee. A revised code of conduct for members is expected to be issued at some stage during 2009 and this will need to be implemented and training undertaken. There may also be a new code of conduct for Officers which will need to be introduced and promoted and we await further news from the DCLG on this front.
15. With the additional workload arising from the new local assessment system there has been renewed interest in the possibility of joint working with other councils. New regulations have recently been enacted which specifically enable councils to establish joint standards committees to undertake some of the functions in this respect. It is envisaged that such arrangements may be particularly beneficial in the context of dealing with complaints as such joint arrangements offer the possibility of greater independence for the decision making panels and more consistency in decision making within an area.
16. However, there are many complex issues for the Standards Committee to consider before it would be in a position to make any recommendations regarding joint working and there would also need to be another council willing to explore the possibility. The Standards Committee shall give careful consideration to these issues and assess whether there are any potential benefits for York in pursuing such a course.
17. An ongoing challenge for the Standards Committee is that of promoting itself and its work within York in order to raise awareness of CYC's commitment to high standards of conduct. In this respect the committee will seek to raise its profile and seek to enhance its engagement with the 31 Parish Councils within the City of York boundary in recognition of the important part the Parishes play in the local government landscape.
18. As mentioned earlier in the report, the Standards Committee will also be conducting a review of the functioning of the new local assessment of complaints with a view to ensuring that the CYC protocol and structures are fit for purpose.
19. The Standards Committee will also be playing its part in supporting and contributing to relevant aspects of the Council's 'Improvement Plan'.

Closing Remarks from the Chair

The ethical agenda has once again been brought to the fore, in the minds of the general public, with the publicity surrounding the MP's expenses. It is evident that the public are interested in and concerned about ethical behaviour. Therefore the role of the Standards Committee in creating an ethical framework which governs the relationship between high standards of conduct and transparency and openness in decision making needs to be more widely publicised and promoted in order to ensure public confidence in the council's strong, healthy ethical culture.

Recommendations

20. It is recommended that Members of the Standards Committee:-

- (i) note the content of the annual report.
- (ii) approve the report, together with any amendments, to be reported to full Council at the next available opportunity.

Contact Details

Author:

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Chief Officer Responsible for the report:

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Standards Committee

26 June 2009

Report of the Head of Civic, Democratic & Legal Services

New Regulations Affecting Standards Committees**Summary**

1. New Standards Committee (Further Provisions) (England) Regulations 2009 (SI 2009/1255), in force from 15 June 2009, make provision for the Standards Board for England to suspend the functions of a local Standards Committee where the Committee is failing to perform its functions satisfactorily, and either to discharge the functions itself or to arrange for another authority's Standards Committee to discharge them.
2. The regulations also give authorities a power to establish Joint Standards Committees, and extend the power of Standards Committees to give members dispensations where they would otherwise be prohibited from participating on a matter because of a prejudicial interest.

Suspension of Standards Committee Functions

3. The function of initial assessment of complaints of breach of Code of Conduct by members was transferred from the Standards Board to the Standards Committees (or rather the Assessment/Referrals Sub-Committees) of local authorities from 8 May 2008. Most local authorities have taken on this new responsibility and are discharging this function effectively, but the regulations now give a power for the Standards Board to intervene in an individual authority if that were necessary.
4. An intervention can be triggered by the Standards Board where:
 - 4.1 It is the view that the authority's Standards Committee has failed:
 - to have regard to SBE guidance;
 - to comply with a direction from SBE;
 - to carry out its functions within a reasonable time or in a reasonable manner;
 - 4.2 It is of the view that the authority's Monitoring Officer has failed to carry out his/her functions within a reasonable time or in a reasonable manner;
 - 4.3 The authority or its Standards Committee has requested the Standards Board to intervene.

5. Where the Standards Board considers intervention, it must give the authority notice of its intentions and reasons and give the authority at least 28 days to respond before making a direction. The effect of a direction is to transfer the initial assessment function to either the Standards Board itself, or to the Standards Committee of another named authority (“the substitute authority”). In practice, as the Standards Board is not staffed up to resume the initial assessment function, the preferred route is to transfer the function to a substitute authority, but that is likely to be dependent on the two authorities reaching agreement on costs.
6. During the period of the intervention, the Standards Board, or the Standards Committee of the other named authority, would undertake the initial assessment and review in exactly the same manner as the original authority, and can decide to refer the allegation for a local or a Standards Board investigation, alternative action or no action, as appropriate. The intervention is strictly in respect of the initial assessment function, so the regulations give a discretion to the Standards Board to use their own investigators and the Adjudication Panel for hearings (or the substitute authority to use its own Monitoring Officer and Hearings Sub-Committee) or to use the Monitoring Officer and/or the Monitoring Officer and/or Hearings Sub-Committee of the original authority if that is appropriate.
7. An intervention can be terminated by the Standards Board at any time.

Joint Standards Committees

8. The regulations give a discretion for two or more local authorities to set up a Joint Standards Committee, and make it clear that such a Joint Standards Committee can be established to discharge all of each participating authority’s standards functions, or can be established to discharge just some of the authorities’ standards functions, such that each authority retains its own Standards Committee to discharge those standards functions which have not been allocated to the Joint Committee.
9. Accordingly, authorities might agree to establish a Joint Standards Committee which would establish a Referrals and a Review Sub-Committee, but each retain their own Standards Committees to discharge the functions of conducting hearings, providing member training and promoting high standards of conduct. But where all standards functions are allocated to the joint Standards Committee, then participating authorities would no longer maintain their own separate Standards Committees. Where a function is allocated to the Joint Standards Committee, it cannot then be discharged by the Standards Committee of an individual participating authority.
10. Where authorities wish to establish a Joint Standards Committee, the full Council of each participating authority would need to resolve:
 - to establish the Joint Standards Committee;
 - which standards functions are to be allocated to the Joint Committee and which, if any, are to be retained by the authority’s own Standards Committee;

- the administrative arrangements to support the Joint Standards Committee;
- whether standards complaints should be addressed directly to the Joint Standards Committee, or should continue to be addressed to the individual authority;
- the number of members, including Independent and Parish members, to be appointed to the Joint Standards Committee by each participating authority, and their terms of office;
- make provision for the Joint Standards Committee to appoint members to its Referrals, Review and/or Hearings Sub-Committees, as required;
- provide for the payment of allowances to members of the Joint Standards Committee;
- provide a procedure for an authority to withdraw from the Joint Standards Committee; and
- provide how the costs incurred by the Joint Standards Committee shall be shared between the participating authorities (or in default to be determined by an arbitrator).

Dispensations

11. The original 2002 Dispensations Regulations provided that a member who had a prejudicial interest in a matter which was coming before the authority could apply to the Standards Committee for a dispensation, and that the Standards Committee could give a dispensation to allow the member to speak and to vote on the matter at meetings. The regulations specified two grounds for dispensation:
 - 11.1 the first ground, repeated in the new regulations, was that the business of the authority would be impeded because more than 50% of the members of the decision-making body (Council, Committee, Sub-Committee or Cabinet) would otherwise be prohibited from voting on the matter;
 - 11.2 the regulations got the second ground wrong, by providing that it would apply where, because of the prejudicial interests of members, the business of the authority would be impeded because the authority was unable to comply with the proportionality requirements for Committees or Sub-Committees. In practice, the proportionality rules apply only to the process of appointment of Committees and Sub-Committees, and not to attendance at individual meetings, so this ground was ineffective.
12. The regulations now re-state the second ground to apply where the business of the authority will be impeded because the absence of members as a consequence of prejudicial interests would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting.
13. Where one or more members have made a written application for a dispensation, setting out why they consider that a dispensation would be desirable, the Standards Committee may only grant a dispensation if it is of the opinion that it is appropriate to grant a dispensation. A dispensation can

be granted for a particular meeting or for a period, not exceeding four years. A dispensation cannot be granted for a member who is prohibited from participating at an Overview and Scrutiny Committee by virtue of having been involved in taking the original decision, or for a Cabinet Member for the exercise of delegated powers (on the basis that the appropriate course would be to refer the matter to the Leader or to full Cabinet for decision). All dispensations are then entered in the register of members' interests.

14. In practice, the grant of dispensations will continue to be problematic because members are rarely aware of the numbers of members who are going to be debarred from the consideration of a particular matter by reason of prejudicial interests until it is too late to call a Standards Committee to consider their requests for dispensation before the meeting takes place. The re-drafted text of the second ground for a dispensation would suggest that a dispensation can now only be granted where the request is supported by clear evidence that voting at the meeting on this item will be conducted on strict party lines, and that the Standards Committee should only grant the minimum number of dispensations necessary to secure that the same result is achieved as would have been achieved had no members had prejudicial interests (i.e. that the majority party, if any, secures a majority of votes, but not that it secures the same degree of majority as it would otherwise have secured).

Recommendations

15. I) That the Monitoring Officer advise all members of the new grounds for application for a dispensation.
- II) The Monitoring Officer make tentative enquiries of other Standards Committees within the vicinity to establish whether any are considering exploring the potential for joint working and report back to the Committee.

Contact Details

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Event information

Venue

The conference is held at the Birmingham International Convention Centre (ICC):

The ICC

Broad Street

Birmingham B1 2EA

For directions [click here](#).

For further details about the venue, visit the [ICC website](#).

Accommodation

Birmingham offers a wide range of hotels, both in terms of price and location, but they do tend to get booked up early. If you require accommodation, we strongly advise you to book as soon as possible.

Delegates are responsible for selecting and booking their accommodation and settling all associated costs with their chosen hotel.

The Standards Board for England has made arrangements with a number of hotels to hold a limited number of rooms for Annual Assembly delegates. For more information [click here](#).

Steering committee

The Annual Assembly of Standards Committees is your conference, and we want to ensure that we are tackling subjects that matter to you, in a way that is most appropriate.

Each year we invite applications for delegates to become part of an Assembly steering committee. The committee provides invaluable advice and assistance to us on many aspects of the conference, from drafting the programme to sourcing speakers. To see who is on the 2009 Annual Assembly steering committee [click here](#).

Green focus

As ever we are committed to ensuring that the Assembly is as environmentally responsible as possible. All conference materials will be printed on FSC accredited paper using vegetable inks.

Hosting the event at the ICC helps us to deliver a more environmentally friendly Annual Assembly. The venue has energy saving sensors, switch off procedures, eco friendly purchasing compliance and a waste management policy which means that all conference materials are recycled.

The energy at the ICC comes from a district based combined heat and power plant which helps to minimise their carbon footprint and the impressive presentation system used in Hall 1 is designed to use less electricity than standard presentation systems. The ICC also features a green roof, designed to improve insulation, and will eventually enhance the atmosphere of Birmingham city centre.

The Standards Board for England, Fourth Floor, Griffin House, 40 Lever Street, Manchester, M1 1BB

enquiries@standardsboard.gov.uk - www.standardsboard.gov.uk

Information taken from:

<http://www.annualassembly.co.uk/Eventinformation/>

Draft 2009/2010 Work Plan for Standards Committee

Ongoing Activities

Local assessment of complaints
 Standards Board Guidance
 Member and Officer Training

<u>Item</u>	<u>Meeting Date</u>	<u>Notes</u>
Local Government Ombudsman's Annual Letter	28 August 2009	
Member Development Steering Group – Progress Report	28 August 2009	
Report on Substitutes for Standards Committee	28 August 2009	
	18 December 2009	
Annual Report to Council	21 January 2010	
	1 April 2010	

Other items to add (dates tba):

- *Review of Planning Code of Conduct*
- *Members' Register of Gifts and Hospitality (every 6 months)*
- *Officers' Register of Gifts and Hospitality (every 6 months)*
- *Member Declarations of Interest (annual)*
- *Corporate Complaints Review (annual, from 2010/11 Municipal Year, following introduction of new system in September 2009)*

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