

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on Wednesday, 21 September, 2011 at 6.00 p.m. at Civic Offices, Telford

PRESENT: Councillors C.B.A. Elliott and R.J. Sloan;
Mr F. Beasland and Mr A. Selvaratnam (Chair) (Independent Members);
Councillors P. Fairclough and R. Wickson (Parish Council representatives)

ST-7 MINUTES

In relation to Minute ST-6(c) regarding consultation on the future ethical framework in Telford & Wrekin, the Head of Governance & Monitoring Officer reported that the Localism Bill was still being debated in the House of Lords, where a number of amendments had been submitted. Some of these were seeking to retain elements of the current Code of Conduct and standards framework, so there was still some uncertainty as to the final shape of the Bill. Therefore, it was not proposed to seek views from Borough and Parish/Town Councillors until the position was clearer.

RESOLVED – that the minutes of the meeting of the Standards Committee held on 16 June 2011 be confirmed and signed by the Chairman.

ST-8 APOLOGIES FOR ABSENCE

Councillors S. Davies, T.J. Hope, M.B. Hosken, A.D. McClements and A.J. Stanton
Councillors D. Edwards and R. Williams (Parish Council representatives)

ST-9 DECLARATIONS OF INTEREST

None

ST-10 REPORT ON ACTION UNDERTAKEN BY THE MONITORING OFFICER FOLLOWING A CODE OF CONDUCT COMPLAINT – COUNCILLOR ADRIAN MEREDITH

The Legal Services Manager presented a report of the Head of Governance & Monitoring Officer which updated the Committee on the action undertaken at the direction of the Referrals Sub-Committee following a complaint alleging a breach of the Code of Conduct.

On 16th June 2011 the Standards Referrals Sub-Committee considered a complaint made by a member of the public alleging a breach of the Code of Conduct by Councillor Adrian Meredith. While making no finding on whether the Code had been breached, the Sub-Committee decided to direct the Monitoring Officer to provide training to Councillor Meredith. A copy of the public summary was appended to the report for information.

On 18th July 2011, Councillor Meredith met with the Monitoring Officer and one of the Deputy Monitoring Officers to discuss sections of the Code that were the subject of the complaint along with other issues that particularly related to the planning process. Following that meeting, the Monitoring Officer was satisfied that the areas of the Code that the Sub-Committee asked to be covered in the training had been addressed, and that the appropriate training/discussions had taken place.

The Head of Governance & Monitoring Officer added that a further complaint against Councillor Meredith had been received from the same member of the public. However, this did not raise any new issues in terms of the Code of Conduct or this Committee's remit.

RESOLVED – that the Committee is satisfied with the outcome of the action undertaken by the Monitoring Officer following the decision of the Referrals Sub-Committee on 16th June.

ST-11 EXCLUSION OF PUBLIC AND PRESS

RESOLVED – that the public and press be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

**ST-12 REPORT FROM AN ETHICAL STANDARDS OFFICER
CONCERNING THE CONDUCT OF A FORMER COUNCILLOR**

The Legal Services Manager & Deputy Monitoring Officer presented a report concerning an investigation by an Ethical Standards Officer into the conduct of Denis Allen, a former Borough and Town Councillor.

The Referrals Sub-Committee met on 2 March 2011 to assess a complaint submitted jointly from the then Chief Executive and the Monitoring Officer concerning the conduct of Councillor Allen. The Sub-Committee decided to refer the complaint to Standards for England, who then assigned the complaint to an Ethical Standards Officer for investigation. In the meantime Councillor Allen's term of office ended on 5 May 2011 when he failed to be re-elected.

The final investigation report had been received, and a copy was attached to the agenda. The report concluded that Councillor Allen had acted in breach of the Code of Conduct but that no action should be taken. A public summary of the complaint would be made available on the Standards for England website but the full contents of the report remained confidential.

Members gave close consideration to the contents and findings of the Ethical Standards Officer's report, and discussed whether the case highlighted any 'learning points' for the Council's ethical framework. While some concerns were expressed at the way e-mails had been communicated in this instance,

the general view was that there were already sufficient policies and protocols in place to regulate and moderate the usage of ICT.

RESOLVED – that the contents of the Ethical Standards Officer’s investigation report into the conduct of former Councillor Denis Allen be noted.

The meeting ended at 6.27 pm

Chairman:

Date:

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 8TH DECEMBER 2011

THE LOCALISM ACT 2011 UPDATE

REPORT OF HEAD OF GOVERNANCE AND MONITORING OFFICER

1. PURPOSE

To provide the Standards Committee with the details of the Localism Act 2011 so far as they relate to the standards framework and to seek views on the future of the ethical framework for councillors at Telford & Wrekin.

2. RECOMMENDATIONS

2.1 That the Standards Committee provide the Monitoring Officer with instructions as to what action needs to be taken at this stage to accommodate the provisions of the Localism Act that relate to councillor conduct

3. SUMMARY

The Localism Act 2011 received royal assent on 15th November 2011. The new legislation will change the ethical framework from the existing model and will require the Council to make a number of decisions as to how the council's ethical framework will operate in the future. The views of the Standards Committee are sought so that the Monitoring Officer can commence the work that is required.

4. PREVIOUS MINUTES

Standards Committee 21st September 2011
Standards Committee 21st April 2009 (ST-39)
Standards Committee 18th June 2009
Standards Committee 17th June 2010
Standards Committee 16th June 2011

5. INFORMATION

5.1 Background

5.1.1 The Localism Act 2011 ("the Act") received royal assent on 15th November 2011. The numerous provisions of the Act will be brought in to force over the next few months. There will be numerous changes to the Councillor Code of Conduct regime which can be summarised as follows.

5.2 Changes to the Standards Regime – A summary of the key points

When will it be implemented?

1 April 2012 is the stated date, with 2 months to deal with all existing claims under the current regime.

What has gone?

In short, Standards for England will be abolished as will the model codes and undertaking to comply with the codes. Standards committees, as we know them today will also be abolished which spells the end of complaints of breaches of the code, referrals sub-committees, review hearings, investigations and hearings (either internally or by the First Tier Tribunal) to consider investigation reports.

What is replacing it?

General principles

The Borough Council, Town and Parish Councils must continue to promote and maintain high standards of conduct by members and co-opted members.

A new code?

It is specifically required that such authorities must adopt a code of conduct which must be consistent with the 7 principles of selflessness, integrity, honesty, objectivity, accountability, openness and leadership.

It is up to each authority to adopt its own code and there is no guidance on what it should include. However, Town and Parish councils may choose to adopt the Borough's code of conduct.

Breaches of the code

The Borough Council has to have in place arrangements for investigations and consideration of investigation reports for both complaints against its members and members of Town and Parish councils.

The role of the Independent member

This is going to change – the Borough Council would have a duty to appoint an Independent Person and then consult them during an investigation. An Independent Person could also be consulted by the member who has been complained about.

Interests

New interests are created, pecuniary interests must be disclosed within 28 days of taking office. Later regulations will define what a disclosable pecuniary interest is but they will apply to both the Councillor and his spouse/ civil partner etc.

Having this type of interest will prohibit the Councillor from participating or voting on the matter at the meeting but, unless it is a new interest it need not be disclosed at the meeting if it is already contained in the Register of Interests (see below). It will be up to the individual authority to determine if the Councillor also has to leave the room. Obviously that Councillor cannot then be further involved in that matter either. Dispensations can be secured in certain circumstances.

The Register of Interests

The Act introduces a new interests regime and will require the registration and disclosure of the defined pecuniary interests for both the Borough and Town and Parish Councils. The Register will be available for public inspection and will be published on the authority's (and the Town or Parish Council's) web-site

Sanctions

There is nothing that details the sanctions applicable. Practically it appears that naming and shaming is the only option available to the Council. (Removal from committees etc could only be carried out with the approval of the relevant Group Leader.)

Offences

There are new criminal offences of failure to disclose defined pecuniary interests, providing false or misleading information about interests, taking part in decisions (debate or voting) and having further involvement in the matter. The maximum fine is £5,000 and can also include up to 5 year disqualification.

Such offences must be initiated by the Director of Public Prosecutions and there is a defence of reasonable excuse. This is a high bench mark and we would expect few if any prosecutions to be initiated

5.3 Decisions for the Standards Committee

The changes mentioned above will require the Council to look at how it operates the ethical framework in relation to the conduct of councillors. The role of this Committee will be to look at the new legislation and make suggestions to full Council regarding the new regime. Regulations and guidance from government will provide more detail concerning the new legislative provisions but in the meantime the Monitoring Officer requests that the Committee address the following questions in order that preparatory work can be done to ensure that any new arrangements are ready to be introduced when the sections relating to councillor conduct come in to force.

The questions are as follows:

1. The future of the Standards Committee – do we need one, if so what will it do and who will be on it?
2. The development of a local code – what should it include?
3. The role of the Independent Person – what role should they have and how many should there be?
4. Withdrawal from meetings – Should a member with a pecuniary interest be required to withdraw from the meeting?
5. Dealing with Complaints – how can a complaint be made, who makes decisions on investigation, what is the process for investigation, how should an investigation report be dealt with?
6. Dispensations - how would dispensations be given?
7. Working with Town and Parish Councils – should there be a Borough wide code? How should the Council manage the Register of Interests?

The Monitoring Officer will take the views of the Committee on these questions and prepare proposals which will be referred back for consideration by this Committee in the New Year.

5.4 Equality and Diversity

All processes and procedures undertaken by the Standards Committee need to comply with the appropriate equality and diversity legislation, regulations and guidance.

5.5 Environmental Impact

No implications.

5.6 Legal Comment

At present the regime for the assessment and determination of Code of Conduct complaints (as set out in the Local government Act 2000 (as amended) and associated legislation) remains in force. Upon any change in the legislative provisions the Council will need to change its procedures to comply with the new requirements. This will require changes to the Constitution and all other relevant policies and processes.

5.7 Links with Corporate Priorities

Maintaining an effective ethical framework assists the Council in ensuring it meets the corporate priority of being a customer focussed and efficient Council.

5.8 Opportunities and Risks

The risks associated with this decision have been assessed. Every effort will be made to ensure that the risks are managed effectively and the opportunities arising from producing the annual report are maximised.

5.9 Financial Implications

The cost of standards investigations together with the management and administration of the Standards Committee are currently met from within the Legal Services revenue budget. The Chair of Standards Committee receives a Special Responsibility Allowance of £3,935 p.a., in accordance with the members remuneration scheme set out in the Constitution. There are also 4 co-opted members who each receive £260 p.a. It is difficult to assess the financial implications of the changes to the Standards Regime set out in the Localism Act at present as the detailed regulations are not yet available. When the regulations are available the Council will be able to agree its approach and assess any implications.

6. WARD IMPLICATIONS

District wide

7. **BACKGROUND PAPERS**

The Localism Act 2011

End of Report

***Report prepared by Matthew Cumberbatch, Legal Services Manager, Tel: 01952
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