

STANDARDS COMMITTEE

WEDNESDAY 14 MARCH 2012

7.00 PM

Bourges/Viersen Room - Town Hall

Contact - alexander.daynes@peterborough.gov.uk, 01733 452447

AGENDA

Page No

1. **Apologies**

2. **Declaration of Interests (if any)**

At this point Members must declare whether they have an interest, whether personal or prejudicial, in any of the items on the agenda. Members must also declare if they are subject to their party group whip in relation to any items under consideration.

3. **Monitoring Officer's Report - Localism Act 2011**

1 - 6

Exclusion of Press and Public

In accordance with standing orders, Members are asked to determine whether any detailed discussion of complaints cases relating to item 4, Monitoring Officer's Report – Complaints to the Standards Committee, which, in accordance with Paragraph 7c of Schedule 12(a) Part 1 of the Local Government Act 1972, could reveal exempt information relating to the deliberations of a Standards Committee or sub committee established under the provisions of Part 3 of the Local Government Act 2000, should be exempt and the press and public excluded from the meeting when individual cases are discussed, or whether the public interest in disclosing this information outweighs the public interest in maintaining the exemption.

4. **Monitoring Officer's Report - Complaints to the Standards Committee**

7 - 10

Committee Members:

Independent: S Boast (Chairman), A Smith (Vice Chariman), D Whiles, O Menendez and R Nesbitt
Councillors: M Todd, A Miners, J Shearman, P Froggitt (Parish) and D Batty (Parish)

Substitutes: Councillors: N Khan, R Dobbs and C W Swift

Emergency Evacuation Procedure – Outside Normal Office Hours

In the event of the fire alarm sounding all persons should vacate the building by way of the nearest escape route and proceed directly to the assembly point in front of the Cathedral. The duty Beadle will assume overall control during any evacuation, however in the unlikely event the Beadle is unavailable, this responsibility will be assumed by the Committee Chair.



There is an induction hearing loop system available in all meeting rooms. Some of the systems are infra-red operated, if you wish to use this system then please contact Alex Daynes on 01733 452447 as soon as possible.

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STANDARDS COMMITTEE	AGENDA ITEM 3
14 March 2012	PUBLIC REPORT

Contact Officer(s):	Helen Edwards, Solicitor to the Council & Monitoring Officer Kim Sawyer Head of Legal Services & Deputy Monitoring Officer	Tel. 452539 Tel: 452361
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LOCALISM ACT 2011

R E C O M M E N D A T I O N S
That the Standards Committee: (1) Notes the contents of the report (2) Considers any recommendations it may wish to make to Council

1. A NEW STANDARDS REGIME

1.1 Upon election it was the Government's stated intention to abolish the 'standards board regime'. The Localism Act 2011 Act received Royal Assent in November 2011 and has clarified what the Government intended by that statement:

- (1) That Standards for England, the regulatory body, is to be abolished
- (2) The Code of Conduct is to remain compulsory, although members will be free to decide upon some of its content
- (3) The Code is to include new provisions about pecuniary interests which will carry criminal penalties for failure to comply, although the information regarding what constitutes a 'disclosable pecuniary interest' is to be defined in Regulations not yet released
- (4) That there will be new arrangements for considering any breach of the Code of Conduct, such arrangements to be at the discretion of members
- (5) New independent persons are to be appointed in a different role.

1.2 The date for implementation of these changes is 1st July 2012. The Standards Committee is to consider the changes in more detail and make recommendations for Council to consider in April. The purpose of the Standards Committee is to play an advisory role only, with members being the ultimate decision makers on all the proposals.

1.3 The purpose of this report is to consider the proposed changes and make recommendations to Council regarding the different options available to it.

2. THE CAMBRIDGESHIRE APPROACH

2.1 It had initially been intended that a working party of standards committee members and Monitoring Officer would be set up to look at the proposed changes brought about by the Act. It has however become apparent since the Act was published that many of the discretions that were to appear in the Act have been removed.

2.2 The Monitoring Officers and Deputy Monitoring Officers of the seven Cambridgeshire authorities have instead been meeting regularly to discuss the implementation of the changes. These officers are recommending to their respective authorities that a county wide approach is taken to the implementation of the new changes. It is believed that this shared service approach will provide a cost effective and efficient means of implementing the changes.

- 2.3 The officer group intend to recommend a common code of conduct, shared independent persons appointed following a joint recruitment process and a common set of arrangements for dealing with breaches of the code. Those joint proposals are outlined in this report. This approach has yet to be sanctioned by the members of this Council

3. CODE OF CONDUCT

- 3.1 The requirement to have a code of conduct is mandatory but there is discretion about what the Code is to contain, so long as it gives effect to the Nolan principles. A draft model code is in preparation by the Local Government Association working with the Association of County Secretaries and Solicitors but there is no fixed date for release of that draft Code.
- 3.2 The officer group of the Cambridgeshire authorities have together decided to consider a draft code based upon paragraphs 3 – 7 of the existing code of conduct (see annex A). This is because the existing paragraphs of this Code correspond largely to the Nolan principles and are familiar to the members. That code is currently in preparation and is expected to be considered at a further meeting of the officer group on the 2 April 2012. Whether that code will be acceptable to members is a matter they will have to consider at a later meeting.
- 3.3 The Code will have to contain a requirement to register ‘disclosable pecuniary interests’ (DPIs). These DPIs will be prescribed in regulations but there is no fixed date for release of those regulations.
- 3.4 Councils may also include within the code the requirement to register such other interests as they think fit however until it is known what interests it will be mandatory to disclose it is difficult to assess what discretion the members may wish to exercise.

4. THE FUTURE OF THE COMMITTEE

- 4.1 As expected, there is no requirement in the Act for a Standards Committee. There remains, however, a requirement to have a process to deal with breaches of the Code of Conduct. The question for members will be to decide what new arrangements should be put in place.
- 4.2 The Act does allow members to decide how complaints should be processed. At present any complaint made is automatically referred to the standards committee who make the decision whether to refer the matter for investigation. This has meant that a Committee meeting has to be convened at short notice to deal with some trivial and minor complaints. A widely recognised advantage of the Act is that the new arrangements would allow the Monitoring Officer to filter the complaints and only refer the more serious complaints on for investigation, with the Committee only sitting to consider the outcome of the investigation. This would not only improve the speed with complaints are dealt with but would also allow greater scope for informal resolution of complaints.
- 4.3 In common with other authorities it is considered appropriate that there ought to be some form of standards committee to hear the complaint where the investigation report concludes there has been a breach of the code. Some Councils are maintaining a separate standards committee but others are dealing with this through a sub-committee of the audit committee. That will be a decision for the members.
- 4.4 Any such committee will be governed by political proportionality (i.e. the political membership will have to reflect the political make up of full Council), unless the Council votes otherwise with no member voting against. The present restriction to only one member of the Executive on the Standards Committee will cease to apply.
- 4.5 The rules for access to meetings and to papers will be the same for a new standards committee as for other ordinary committees of the Council. So meetings will be held in public and papers subject to advance public disclosure (unless exempt).

- 4.6 The Act does not give the Council or its Standards Committee any powers to impose sanctions for breach of the Code, such as suspension or requirements for training or an apology on members. So, where a failure to comply with the Code of Conduct is found, the range of actions which the authority can take in respect of the member is limited.

5. INDEPENDENT PERSONS

- 5.1 Under the Act the current co-opted independent members will cease to hold office upon implementation of the new process. The Act establishes a new category of Independent Persons and provides that the existing co-opted independent members cannot serve as Independent Persons for 5 years.
- 5.2 The Independent Persons will have an entirely different role to the existing independent members. The Independent Persons are not co-optees and therefore cannot sit as part of the standards committee. This also means the chair of the 'standards' committee will be a councillor.
- 5.3 The independent persons will not be paid a members allowance but will be remunerated separately by the authority to which it is appointed.
- 5.4 Currently the officer group is considering a joint recruitment exercise with the other Cambridgeshire authorities to appoint a county wide set of independent persons. The recruitment exercise is intended to identify up to 5 persons across the county for this role. Each authority would appoint a single one of the 5 persons to be the independent person (meaning therefore that an independent person may be appointed to more than one authority) with a further 1 member appointed as a substitute.
- 5.5 Recruitment costs will be saved by undertaking a single recruitment process across the county rather than recruiting separately in each authority.
- 5.6 Existing Independent members are not prevented from applying for the post of independent person provided that they are not appointed to the authority to which they have previously served as an independent member.

6. CONSULTATION

- 6.1 This report has been distributed to each of the parish councils within the Peterborough area as the City Council is the parent authority for the purposes of the standards regime.

7. REASONS FOR RECOMMENDATIONS

- 7.1 The Standards Committee believes that Council's endorsement of the contents of this report will enable it to fulfil the function of promoting high standards of ethical behaviour within the authority.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The Council is required to set up a Standards Committee by the Local Government Act 2000.

9. IMPLICATIONS

- 9.1 There are no financial or legal implications, other than those contained within the body of the report.

10. BACKGROUND DOCUMENTS

- 10.1 Reports to the Standards Committee in the last civic year.

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ANNEX A

General obligations

3.—(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006(a));

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it; (ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements; and

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. Paragraph 7 does not apply to your authority.

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STANDARDS COMMITTEE REPORT	AGENDA ITEM 4
14 MARCH 2012	PUBLIC REPORT

Contact Officer(s):	Helen Edwards, Solicitor to the Council & Monitoring Officer Kim Sawyer Head of Legal Services & Deputy Monitoring Officer	Tel. 452539 Tel: 452361
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COMPLAINTS TO THE STANDARDS COMMITTEE

R E C O M M E N D A T I O N S
<p>That the Committee</p> <p>(1) Considers the number of recent minor complaints made to the Assessment Sub-Committee</p> <p>(2) Recommends that the Monitoring Officer shall in future request members subject to a complaint to be notified of and submit responses to any complaint prior to referral of the complaint to the Assessment Sub-Committee.</p>

In accordance with standing orders, Members are asked to determine whether any detailed discussion of complaints cases relating to item 4, Monitoring Officer's Report – Complaints to the Standards Committee, which, in accordance with Paragraph 7c of Schedule 12(a) Part 1 of the Local Government Act 1972, could reveal exempt information relating to the deliberations of a Standards Committee or sub committee established under the provisions of Part 3 of the Local Government Act 2000, should be exempt and the press and public excluded from the meeting if individual cases are discussed, or whether the public interest in disclosing this information outweighs the public interest in maintaining the exemption.

1. COMPLAINTS MADE TO THE STANDARDS COMMITTEE

1.1 Members may recall that in the foreword to the previous annual report the Chair of the Standards Committee stated:

"My purpose is to encourage the members of this Council to take the opportunity to reinforce their individual position as leaders in standards of conduct, setting an example to other bodies they work with, and to the community at large. This is not to say that we do not hold councillors formally to account; just that this is the last, not first, resort.

"I am encouraged by the work undertaken by the Committee over this last year and the diminishing number and seriousness of complaints being made to the Committee."

1.2 The purpose of this report is to highlight:

- A rise in the number of complaints made to the Assessment Sub-Committee which have resulted in a finding of no further action (non-serious complaints), or
- Complaints being made through the Assessment Sub-Committee for apparently political motivation.

1.3 This report is brought at the request of the Chair of the Standards Committee to enable members of the Council who may have been subject to recent minor or political complaints to address the committee about those complaints.

2. COMPLAINTS

- 2.1 Over the past 12 months a total of 12 complaints have been made to the Assessment Sub-Committee. Of these, seven were considered to require no further action. Primarily this was on the grounds that the complaint was minor and would not warrant the resources of a formal investigation process.
- 2.2 Two of the remaining 5 complaints were referred for 'other action'. Similarly this is where an investigation is not merited but the complaint may demonstrate that informal training with the Monitoring Officer may reduce the likelihood of a further complaint. There is a concern that 75% of the complaints received had no basis for further investigation.
- 2.3 In two cases where other action was decided upon, it transpired that the complaints had been made by members of an opposition party and upon meeting the Monitoring Officer to discuss the complaint, the complaint had appeared to be politically motivated.

3. THE CRITERIA FOR ASSESSING COMPLAINTS

- 3.1 The purpose of the initial assessment decision is simply to decide whether any action should be taken on the complaint – either as an investigation or some other action. The assessment sub-committee makes no findings of fact. For this reason the Act, as currently drafted, does not permit the Monitoring Officer or the Assessment Sub-Committee to canvass any views upon the complaint prior to it being referred to the Sub-Committee.
- 3.2 The Standards Committee applies statutory guidance when considering complaints. This guidance indicates that the Assessment Sub Committee should not consider complaints which are trivial or politically motivated as complaints made for these purposes undermine the standards regime. It is often difficult to assess whether there is any motivation behind the complaint without an investigation of the facts.
- 3.3 The guidance encourages the assessment sub-committee to consider 'other action' on a practical basis, taking into account the needs of their authority. Whilst the purpose of other action is not to find out whether the member breached the Code, as the decision is made as an alternative to investigation, those members who have been subject to a finding of other action have considered that the decision is unwarranted and adversely affects their standing and reputation.
- 3.4 Whilst the decision notice has been recently altered to make clear that a course of other action does not mean that the subject member failed to comply with the Code, it is not considered by the subject member to adequately explain their position. Complaints that have been referred to the monitoring officer for other action should not then be referred back to the standards committee if the other action is perceived to have failed. Generally whilst this rule is designed to protect the subject member it can be unfair if the subject member considers that the complaint was unmerited and they have no means of formal response to the complaint.

4. MEMBERS AFFECTED

- 4.1 All Councillors have been invited to attend the Committee to discuss their views about these complaints. It is intended that a round the table discussion of any concerns can help to improve the system of complaints particularly as the Council goes into the new standards regime.

5. PROPOSED SOLUTIONS

- 5.1 The Committee will consider any matters put forward by members attending the Committee regarding changes in practice. This may assist in the development of a new regime upon implementation of the Localism Act in July.

6. CONSULTATION

- 6.1 This report has been distributed to each of the parish councils within the Peterborough area as the City Council is the parent authority for the purposes of the standards regime.

7. REASONS FOR RECOMMENDATIONS

- 7.1 The Standards Committee believes that Council's endorsement of the contents of this report will enable it to fulfil the function of promoting high standards of ethical behaviour within the authority.

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