

To: **Members of the Standards Committee**

Notice of a Meeting of the Standards Committee

Monday, 5 March 2012 at 2.00 pm

County Hall, New Road, Oxford



Peter G. Clark
County Solicitor

February 2012

Contact Officer: Sue Whitehead
Tel: (01865) 810262; E-mail: sue.whitehead@oxfordshire.gov.uk

Membership

Chairman – Ms A. Griffiths
Deputy Chairman - Dr N. Alphey

Councillors: Mike Badcock Mrs C. Fulljames Val Smith
Norman Bolster David Robertson
Ann Bonner Roz Smith

Voting Independent Members: Professor M. Dean Mr M. Greenwood

Notes:

- **Date of next meeting: 24 May 2012**

Declarations of Interest

This note briefly summarises the position on interests which you must declare at the meeting. Please refer to the Members' Code of Conduct in Part 9.1 of the Constitution for a fuller description.

The duty to declare ...

You must always declare any "personal interest" in a matter under consideration, i.e. where the matter affects (either positively or negatively):

- (i) any of the financial and other interests which you are required to notify for inclusion in the statutory Register of Members' Interests; or
- (ii) your own well-being or financial position or that of any member of your family or any person with whom you have a close association more than it would affect other people in the County.

Whose interests are included ...

"Member of your family" in (ii) above includes spouses and partners and other relatives' spouses and partners, and extends to the employment and investment interests of relatives and friends and their involvement in other bodies of various descriptions. For a full list of what "relative" covers, please see the Code of Conduct.

When and what to declare ...

The best time to make any declaration is under the agenda item "Declarations of Interest". Under the Code you must declare not later than at the start of the item concerned or (if different) as soon as the interest "becomes apparent".

In making a declaration you must state the nature of the interest.

Taking part if you have an interest ...

Having made a declaration you may still take part in the debate and vote on the matter unless your personal interest is also a "prejudicial" interest.

"Prejudicial" interests ...

A prejudicial interest is one which a member of the public knowing the relevant facts would think so significant as to be likely to affect your judgment of the public interest.

What to do if your interest is prejudicial ...

If you have a prejudicial interest in any matter under consideration, you may remain in the room but only for the purpose of making representations, answering questions or giving evidence relating to the matter under consideration, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Exceptions ...

There are a few circumstances where you may regard yourself as not having a prejudicial interest or may participate even though you may have one. These, together with other rules about participation in the case of a prejudicial interest, are set out in paragraphs 10 – 12 of the Code.

Seeking Advice ...

It is your responsibility to decide whether any of these provisions apply to you in particular circumstances, but you may wish to seek the advice of the Monitoring Officer before the meeting.

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named on the front page, but please give as much notice as possible before the meeting.

AGENDA

1. **Apologies for Absence**
2. **Declarations of Interest - see guidance note**
3. **Minutes (Pages 1 - 4)**

To approve the minutes of the meeting held on 1 December 2011 (**ST3**) and to receive information arising from them.

4. **Petitions and Public Address**
5. **Local Authority Standards (Pages 5 - 8)**

Report by County Solicitor & Monitoring Officer (**ST5**).

At its meeting in December 2011, the Standards Committee gave initial consideration to the standards implications of the Localism Act. At that time, the Committee was minded to recommend Council to retain a standards committee under the new regime. However, following an informal meeting of the Committee on 16 January 2012 to further consider the implications of the Act in more detail, this matter has been brought back to the Committee for further consideration.

The Committee is RECOMMENDED to recommend Council that:

- (a) ***a Standards Committee is not appointed under the Localism Act 2011;***
- (b) ***the Audit Committee be renamed as the Audit and Governance Committee and its terms of reference expanded to include oversight of member standards;***
- (c) ***a member-officer working group be appointed to enable consideration of standards complaints against members of the Council reporting to the Audit & Governance Committee; and***
- (d) ***The Monitoring Officer be delegated to agree appropriate procedures for the handling of complaints.***

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STANDARDS COMMITTEE

MINUTES of the meeting held on Thursday, 1 December 2011 commencing at 10.00 am and finishing at 11.50 am

Present:

Voting Members: Ms A. Griffiths – in the Chair

Dr N. Alphey (Deputy Chairman)
Councillor Norman Bolster
Councillor Mrs Catherine Fulljames
Councillor David Robertson
Councillor Roz Smith
Councillor Val Smith
Professor M. Dean
Mr M. Greenwood

Officers:

Whole of meeting Peter Clark, County Solicitor & Monitoring Officer, Geoff Malcolm, Committee Officer

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting and decided as set out below. Except as insofar as otherwise specified, the reasons for the decisions are contained in the agenda and reports, copies of which are attached to the signed Minutes.

60/11 APOLOGIES FOR ABSENCE

(Agenda No. 1)

Apologies for absence were received from Councillor Mike Badcock and Councillor Ann Bonner.

61/11 MINUTES

(Agenda No. 3)

The Minutes of the meeting held on 26 May 2011 (ST3) were approved and signed.

Matters arising from the Minutes

- Minute 55/11:
The Hall Keepers had tested the Meeting Room microphones and found no matters of concern.

- Minute 57/11:
 - Gifts & hospitality: the Monitoring Officer was asked to circulate the advice to all councillors and co-opted members.
 - Call-in process: the Monitoring Officer was asked to circulate the advice to all Standards Committee members and voting independent members.

62/11 THE LOCALISM ACT AND THE STANDARDS REGIME

(Agenda No. 5)

The Committee considered a report by (ST5) which confirmed that on 15 November 2011 the Localism Act had received Royal Assent. The Act brought about a number of key changes to the standards regime operating in local authorities. Changes would be required to the code of conduct for councillors and co-opted members, including the registration of interests and the investigation of complaints. The Act also affected the future of the standards committee and abolished the national body Standards for England. The report summarised the changes and highlighted some practical implications for the Council.

Key points in debate were as follows:

Councils could adopt joint code of conduct arrangements. The Committee considered that such a uniform approach would be effective and efficient. Parish/town councils could adopt their district council's code of conduct or have their own. The Committee generally favoured the former approach.

The Committee considered a suggestion that the code of conduct and arrangements for investigating complaints of breach should aim for a 'light' touch. The Committee supported an aim for an 'appropriate' touch, in that the processes should be timely and hold members to account but not infringe their rights and be overly bureaucratic.

In considering whether the code should be the responsibility of the Monitoring Officer with a Panel or a Committee of the Council, members recognised that a Committee would be a more transparent approach in terms of the public perception. The value of the role of the existing voting independent members in the Standards regime, in particular for breach hearings, was also recognised and the Monitoring Officer was urged to promote this point where possible.

RESOLVED:

- (a) (on a motion by Cllr Roz Smith seconded by Cllr Val Smith and carried unanimously) to **RECOMMEND** the Council to appoint a Committee under the Localism Act;
- (b) (on a motion by Cllr Robertson seconded by Mr Greenwood and carried unanimously) to endorse the proposal to work with Oxfordshire's District Councils to develop a common code of conduct for approval by the Council;
- (c) (on a motion by Cllr Robertson duly seconded and carried unanimously) to agree the potential arrangements, including the appointment and involvement

of independent persons, for resolving allegations of breaches of the new code of conduct; and

- (d) (on a motion by Cllr Robertson seconded by Dr Alpey and carried unanimously) to agree that the Committee be responsible for potential areas of training for councillors and co-opted members arising from the Localism Act 2011.

63/11 INITIAL ASSESSMENT PANEL REPORTS

(Agenda No. 6)

On 26 May 2011 the Standards Committee asked for a formal report on the nature of complaints against councillors or co-opted members and the outcomes of the Initial Assessments.

The Committee considered a report (ST6) which summarised two cases which had occurred.

With reference to paragraph 4 of the report the Monitoring Officer undertook to:

- include the Voting Independent Members in the general reminder to members to review regularly their registerable interests; and
- explore whether the register of interests could include track changes and dates, for ease of use and transparency.

RESOLVED: to note the report.

64/11 CRIMINAL RECORDS AND VETTING AND BARRING CHECKS FOR COUNCILLORS & CO-OPTED MEMBERS

(Agenda No. 7)

In 2004, the Council agreed that councillors and co-opted members, as guardians of public standards, should be subject to a Criminal Records Bureau (CRB) check in the public interest. This arrangement provided some measure of public confidence in the ability of members to undertake their duties and responsibilities. However, changes were being made by the Government to the framework of criminal records checking and to the vetting and barring provisions which regulated those seeking to work with children and vulnerable adults.

The Committee considered a report (ST7) on the proposed changes under the Protection of Freedoms Bill to the twin requirements for Criminal Records Bureau checking and the Vetting and Barring provisions. The current position was that requirements under both processes continued to exist but would be formally merged and simplified by the time of the next county council elections in 2013.

RESOLVED to:

- (a) note the potential changes to the criminal records and barring regime under the forthcoming Protection of Freedoms Bill; and

- (b) **RECOMMEND** Council to make no changes at this time to the Council's current approach to criminal records checking.

65/11 WORK PROGRAMME

(Agenda No. 8)

The Committee was asked to determine its Work Programme in the light of the introduction of the Localism Act.

However, in the light of the changes proposed in the Localism Act and to the Standards Regime the Committee considered that it was not possible / appropriate to develop its programme at this time.

RESOLVED: to hold an informal meeting in January 2012 (followed by an additional formal Standards Committee meeting if necessary) to discuss with the Monitoring Officer progress towards / a proposed Code and Procedure prior to Council consideration.

..... in the Chair

Date of signing

Division(s): NA

STANDARDS COMMITTEE – 5 MARCH 2012

LOCAL AUTHORITY STANDARDS

Report by County Solicitor & Monitoring Officer

Introduction

1. At its meeting in December 2011, the Standards Committee gave initial consideration to the standards implications of the Localism Act. At that time, the Committee was minded to recommend Council to retain a standards committee under the new regime. However, following an informal meeting of the Committee on 16 January 2012 to further consider the implications of the Act in more detail, this matter has been brought back to the Committee for further consideration.

Background

2. The Coalition Government proposals with regards to fulfilling their commitment to abolish the standards regime are now in place. The key changes are:
 - a) Abolishing predetermination rule to allow Local Members to speak up on local issues.
 - b) Abolition of Standards for England.
 - c) Local Councils to make provision for their own local arrangements for maintaining standards.
 - d) Requirement to have a Local Code of Conduct (with reduced number of key principles).
 - e) Freedom to make their own arrangements for handling and investigating complaints.
 - f) Requirement to consult an Independent person.
 - g) Limitation of sanctions against misconduct.
 - h) Criminal sanction introduced for failing to register and declare a pecuniary interest (with safeguards).
3. The remit of the Government is that Members should be responsible for their own conduct but that they should be answerable to the electorate for their conduct and answerable to the Court if they have broken the law. In many respects it is a return to the pre 1999 position whereby complaints were handled by the Monitoring Officer in close liaison with the Chief Executive and relevant Group Leaders.
4. The law requires the Council to promote and maintain high standards, to adopt a local Code of Conduct and to have in place arrangements for investigating and deciding on any allegations of a breach of the Code. Therefore, there needs to be agreed arrangements as to how these matters will be dealt with in a proper manner, which is politically neutral and independent from undue influence. The

Monitoring Officer has the statutory responsibility for these arrangements and will need to have some form of procedure in place.

5. At the informal meeting of Standards Committee members in January 2012 to consider these issues in more details, a consensus emerged for a move to a more common sense approach which is less driven by procedure and more proportionate. Consideration was given to suggesting a new arrangement which would reflect these aims.

Proposal

6. The Committee is therefore asked to consider recommending the following arrangement to Council, whereby a standards committee is not reappointed and alternative arrangements are put in place. It is suggested that a member /officer Working Group could be set up along the lines of the existing Audit Working Group, thereby creating a pool of members who could be involved in handling complaints about Councillors under any revised Code of Conduct. Its work could be simply reported to the Audit Committee, giving the assurance of formal Member oversight. The Monitoring Officer would include reference to this work in his Annual Monitoring Report, which already goes to the Audit Committee.
7. Adopting this arrangement would simply require the slight expansion of the terms of reference of the Audit Committee to reflect its oversight of the standards matters. The advantage is that this avoids the necessity of having an additional statutory Committee solely to deal with standards and becomes part of the wider governance framework whilst still maintaining proper Member oversight and ownership.
8. In making such a change, and to reflect it more clearly, it might be appropriate to expand the title of the current Audit Committee to the "Audit and Governance Committee". The Audit Committee is well used to handling confidential matters in both an informal and a formal manner and in general terms is 'non-political' in its role and outlook.
9. The Chief Executive and the Monitoring Officer regard this as the minimum arrangements that should be place in order for the Monitoring Officer to fulfil his statutory obligations as regards Member standards under the Localism Act. This proposal, therefore, has the general support of the Chief Executive, the Monitoring Officer, Group Leaders and the Chairman of the Audit Committee.

Recommendation

10. The Committee is **RECOMMENDED** to recommend Council that:

- (a) a Standards Committee is not appointed under the Localism Act 2011;
- (b) the Audit Committee be renamed as the Audit and Governance Committee and its terms of reference expanded to include oversight of member standards;
- (c) a member-officer working group be appointed to enable consideration of standards complaints against members of the Council reporting to the Audit & Governance Committee; and

- (d) the Monitoring Officer be delegated to agree appropriate procedures for the handling of complaints.

PETER G CLARK
County Solicitor & Monitoring Officer

Background papers:

The Localism Act 2011

Contact Officer: Peter Clark, County Solicitor & Monitoring Officer, Tel: (01865) 323907

February 2012

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