

## **STANDARDS COMMITTEE – 26 MAY 2011**

### **ANNUAL MONITORING OFFICER REPORT**

#### **Report by the Monitoring Officer and County Solicitor**

#### **Introduction**

1. The Monitoring Officer reports annually to the Standards Committee on governance and conduct issues. This report summarises progress, developments and the changing context over the past year.

#### **The Committee and its responsibilities – a review**

2. Since my last report the most significant change to affect the area of governance and conduct has been the new Coalition Government's agenda for the standards regime and the impact of its spending review. From the outset, the Coalition Government declared its intention to abolish the current standards regime – including the requirement for a code of conduct and for the appointment of a standards committee. The agenda also included a statement to abolish Standards for England.
3. The changes to the standards regime were to feature in the Localism Bill which was duly introduced to Parliament in December 2010. Prior to that, Standards for England had decided not to issue new initiatives but maintained that it would be 'business as usual' in respect of complaints referred to it. It also cancelled its annual conference of standards committees scheduled for October 2010.
4. In short, the published Localism Bill sought to abolish the Standards Board regime and the model code of conduct, and to introduce local accountability and a criminal offence of deliberate failure to declare an interest. The Bill does however allow a local right to retain a code of conduct, and a standards committee. However, under any such arrangements, the Council would not have any legal sanctions available to it other than censure.
5. In addition, in May 2010, the Government announced that the Comprehensive Area Assessment would be abolished and the Audit Commission subsequently instructed its auditors to cease all 'use of resources assessment' work. This has the effect of freeing councils from much of the governance requirements on which it had previously been assessed.
6. These changes, together with the implications of the Government's spending review, have meant that the landscape of ethical governance has changed over the past year and will continue to do so.

7. This has meant a revision to the Standards Committee's areas of focus. Consequently, the meeting of the committee scheduled for December 2010 was cancelled to allow the emerging implications of the Localism Bill to become apparent.
8. The committee has nevertheless remained in place, with Ms Ann Griffiths and Dr Nina Alphey continuing as chairman and deputy chairman respectively.
9. The committee's responsibilities are set out in the Constitution and as yet remain unchanged until the Localism Bill is enacted. Each of the headings below represent an area of the committee's responsibility and I have summarised some developments – either in progress or context – under each.

***To Promote and Maintain High Standards of Conduct by Councillors and Co-opted Members***

10. Promoting and maintaining high standards depends in part on the existence of robust policies and procedures together with activity to make sure these are working in practice. Given that members work integrally within the council's decision-making structure, it is also important that the council's decision-making reflects transparency and accountability. The following is a summary of activity which demonstrates how high standards have been promoted and maintained:

The Monitoring Officer

11. The Monitoring Officer's Group has been formally included within the Council's Corporate Governance Working Group. The Monitoring Officer's Group is an officer group that reviews corporate governance issues including scrutiny of the Forward Plan of Cabinet decisions, the consideration of lawful decision making and standards issues generally. Given the Council's Business Strategy emphasis on slimming down the number of meetings, the opportunity was taken to merge the Monitoring Officer Group with the existing council-wide Corporate Governance Working Group. This has ensured the continuation of the Monitoring Officer Group's focus while reducing the number of meetings and ensuring wider awareness of, and input to, the issues concerned.
12. Monitoring Officers from the county and district councils have also continued to meet together to discuss issues of common concern, including the sharing of perspectives about the emerging Localism Bill and ethical governance arrangements.
13. The Monitoring Officer has also continued to maintain and raise the profile of the register of members' interests. All members completed their registers following the 2009 elections and reminders and articles have reinforced awareness of the need to keep these up to date.

Democratic process

14. In September 2009 the Council began using modern.gov, a software package which is mainly used for creating, tracking and publishing council meeting agendas, reports and minutes, but which also contains modules for elections, Forward Plan and e-petitions (a new statutory duty on local authorities from 15 December 2010). Councillors' web pages are updated using information from the system, including responsibilities (such as Chairman or Cabinet Member), committee appointments, as well as appointments to outside bodies. The system is also able to publish on the website parish council contact names and details.
15. In December 2010, the Council's e-petitions system module went live and has already received 16 petitions many of which have received signatures in the several hundreds. This has coincided with the Council's spending review and has also therefore allowed members of the public to channel petitions as part of their engagement with the consultation processes.
16. The Council has also produced DVDs of several short films for members of the public specifically to raise awareness about the role of councillors, how to address meetings, and the importance of making complaints and freedom of information requests, as well as explaining how to vote or become a councillor. Following a successful external funding bid, the DVDs have been produced at no cost to the Council. They are subtitled in six community languages and are currently being circulated to community groups and all secondary schools and colleges.

Closed sessions

17. The Audit Commission has recommended scrutiny of the council's use of closed sessions in which members of the public are excluded from meetings. The public can be excluded from the whole or part of a meeting if the meeting is to discuss confidential or exempt information (as set out in Schedule 12A of the Local Government Act 1972, as amended). The Monitoring Officer, in his role of ensuring lawful decision making, has reviewed the number of times this has happened over the past year via quarterly reports to the Monitoring Officer's Group. The results are set out in the **Annex 1** to this report. There has been a slight decrease in closed sessions (21 in 2010/11 compared to 23 last year) and the Monitoring Officer is satisfied that the reasons were appropriate in each case.

Cabinet – Forward Plan

18. Items for decision by the Cabinet over any forthcoming four-month period are included in a Forward Plan. Occasionally, decisions are needed on items that have not been included on a Forward Plan. These are dealt with by General Exception notices to the Forward Plan. The Monitoring Officer has reviewed

the number of times that this has occurred and is satisfied with the reasons in each case. **Annex 2** to this report gives a list of the 9 instances.

### Scrutiny Call-In

19. The Council's Scrutiny Procedure Rules (Rule 17a) allow for executive decisions to be exempted from call-in if they are deemed urgent and any delay would prejudice the council's interests. There were 5 such instances in 2010/11 and the Monitoring Officer's Group has reviewed these. **Annex 3** gives a list of instances.

### Chief Executive Decisions

20. Under the Council's Constitution, the Chief Executive has delegated powers to undertake any function of the Cabinet after appropriate consultation. Any exercise of this function is reported to the Cabinet. During the year 2010-11 this delegation was exercised on 7 occasions, 6 fewer than in 2009/10. Of these, 5 were for exemptions to the requirements of the Contract Procedure Rules and required (and received) a legal (County Solicitor) and financial (Chief Finance Officer) appraisal.

### ***To Assist Councillors and Co-Opted Members to Observe the Members' Code of Conduct***

21. Following the county council elections a full programme of induction took place and part of this involved a thorough awareness-raising of the Code of Conduct and its observation. Since that time, emphasis has been on reinforcing specific issues such as understanding of the planning code of practice and a review of registers of interest.
22. In April 2010 a session was held with members of the Planning & Regulation Committee and potential substitutes on the planning code of practice. In July 2010, the Monitoring Officer issued a reminder to all members of the council to review their registers of interest. These registers have been maintained and updates have taken place since then, when individual members' interests have changed. The full range of registers continues to appear on the Council's website.
23. Potential changes to the Criminal Records Bureau regime were halted by the incoming Coalition Government who announced the intention to introduce a more proportionate scheme. No changes were made to the Council's existing arrangements. All members of the Council were subject to a check following election.
24. The following activities have also taken place in the past year:
- (a) publication on the council's website each month of the allowances paid to each councillor and co-opted member

- (b) Monitoring Officer review/decision on individual member appeals on allowances claim issues, under the council's adopted procedure
- (c) Monitoring Officer advice to individual members/co-opted members on their own specific interests and whether or not these require registration
- (d) Further updates to the Constitution in November 2010 and circulation of updates to all members of the Council.

***To Advise the Council on the Adoption or Revision of the Member's Code of Conduct***

25. The Government's expected revision to the model code of conduct was contained in the Localism Bill. No actual changes have therefore taken place in the past year. Preparation has been made however toward the formation of a training programme based on the Localism Bill which will equip councillors with awareness of the changes and their own responsibilities under any new regime.

***To Monitor the Operation of the Members' Code***

**(a) Register of Interests**

26. Members receive reminders as to what should be registered as part of a six-monthly review of register entries. Discrepancies between Members' registered interests and their interests as declared in meetings are being monitored and followed up with individual members. Councillors and co-opted members are reminded of the need to register Gifts and Hospitality received that are of the value of £25 or over, in conjunction with the review of the register of interests. Members are referred to the Policy for Members, agreed by this Committee in 2005, and are given a summary of the main points of the Policy.
27. The form for the notification of changes to the Register of Interests, including Gifts and Hospitality is available in the Members' accommodation area and on the Members' section of the intranet. The Monitoring Officer has personally scrutinised the Register and can confirm that for the municipal year 2010/11 there are no significant concerns with regard to the declarations that have been made.

**(b) Declarations of Interest**

28. There have been 158 declarations of interest recorded at meetings over the last year. This compares with 95 declarations in 2009/10. However, 60 of the declarations for 2010/1 related directly to a single meeting at which Full Council considered a major review of the Council's allowances scheme. In other respects, therefore, the number of declarations is consistent with the previous year.
29. The usual safeguards are in place, including a reminder to members of the need to declare interests at all meetings, and all agenda contain a standard

item headed "Declarations of Interest". The item refers to detailed guidance attached to the agenda setting out how and when to declare an interest.

**(c) Number and Outcome of Applications for Dispensations**

30. There have been no applications for dispensation.

**(d) The Number and Nature of Complaints of Breaches of the Code**

31. There has been one formal complaint against a member. This was properly considered by an Initial Assessment panel but no breach of the code was found.

**(e) Informal resolution**

32. Issues of concern raised by Members and the public can be discussed and dealt with on an informal basis subject to the complainant's right to demand the matter is formally considered by the Standards Committee. The Monitoring Officer and Deputy Monitoring Officers, therefore, can and do play an active part in trying to mediate and deal with issues when they arise without necessarily engaging the formal process.

***To Advise, Train or Arrange Training for Councillors and Co-Opted Members on Matters Relating to the Members' Code of Conduct***

33. Standards for England cancelled their annual conference, scheduled for October 2010 following announcement by the Coalition Government of the intended abolition of the standards regime.
34. The council has continued its requirement that all members of the Planning & Regulation Committee and any substitutes should have training in the Planning Code of Practice before serving in a decision –making capacity. All members serving or substituting on the committee throughout the year have attended this training prior to attending the committee. An event took place in April 2010.

**Members' Allowances**

35. A comprehensive review of members' allowances was undertaken by the Independent Remuneration Panel between September and December 2010. This produced recommendations to full Council in January 2011 which were accepted.
36. Members' claims continue to be the subject of scrutiny for audit purposes and a process exists whereby 10% of each month's claims are checked in detail in addition to the calculation checks that take place each month. A process of appeal also exists to Democratic Services and then to the Monitoring Officer if a member disagrees with a decision to exclude a payment.

## **Political Assistants**

37. In January 2011, the Council agreed to the cessation (from April 2011) of posts which provide support directly to the three largest political groups on the council. This process was managed by the Monitoring Officer and Group Leaders and group members were aware of the reasons and practical implications. The Council's non-political democratic support staff continue to provide advice and support to all councillors and therefore the cessation of the posts of political assistant is not expected to have any impact on standards issues.

## **Bribery Act**

38. The government announced that the Bribery Act will come into force on 1 July 2011. The Act is important to businesses because it not only prohibits giving and accepting bribes, but also creates a new offence under which companies have criminal liability for bribery undertaken by their employees, agents or other representatives. The only defence is to show that they had put in place adequate procedures to prevent bribery.

The council already has in place governance policies and procedures for both councillors and officer covering the issue of giving or receiving bribes, and the Monitoring Officer will continue to review and report should any incidents on this matter arise.

## **Summary**

39. This annual review highlights the progress that has been made in implementing the code of conduct for members and in promoting and maintaining high standards of conduct and public accountability.

## **RECOMMENDATION**

40. **The Committee is RECOMMENDED to consider and endorse the report.**

P G CLARK  
Monitoring Officer & County Solicitor

Background Papers: Nil

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May 2011

**Closed sessions - Exempt reports**

<b>Committee/Cabinet Member</b>	<b>Date</b>	<b>Provision (see note)</b>
Delegated Decision of the Cabinet Member for Safer & Stronger Communities	10 May 2010	3 Annex
Pension Benefits Sub-Committee	13 May 2010	1,2,3
Delegated Decision of the Cabinet Member for Adult Services	1 June 2010	3
Appointment Sub-Committee (Chief Fire Officer)	8 June 2010	2,3
Pension Fund Committee	25 June 2010	3
Cabinet	27 July 2010	3 Annexes
Pension Fund Committee	3 September 2010	3
Pension Benefits Sub-Committee	28 October 2010	1,2,3
Appeals Sub-Committee	15 July 2010	1,2,3
Appeals Sub-Committee	14 October 2010	1,2,3
Pension Fund Committee	3 December 2010	3
Appeals Sub-Committee	9 December 2010	1,2,3
Pension Benefits Sub-Committee	11 November 2010	1,2,3
Delegated Decision of the Cabinet Member for Adult Services	16 November 2010	3 Annex
Pension Benefits Sub-Committee	22 December 2010	1,2,3
Delegated Decision of the Cabinet Member for Children, Young people & Families	4 January 2011	3 Annex
Pension Benefits Sub-Committee	6 January 2011	1,2,3
Pension Fund Committee	18 March 2011	3
Pension Benefits Sub-Committee	17 March 2011	1,2,3
Appeals Sub-Committee	24 March 2011	1,2,3
Pension Benefits Sub-Committee	31 March 2011	1,2,3

**Provisions**

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or officer



## **General Exceptions to the Forward Plan**

### **Cabinet 18 May 2010**

#### **S106 Contribution - Request for Write Off**

The decision to approve write off a S106 contribution needed to be taken at Cabinet on 18 May 2010 because of the urgent need to address a local community concern, the financial risk to the Council if further house sales fall through and to meet a Council commitment that the matter would be dealt with by the end of May.

#### **Service & Resource Planning 2011/12 to 2015/16 and the Council's Business Strategy**

The process for 2011/12 could not follow the normal practice of reporting in September 2010, with significant changes being made for both Revenue and Capital in-year in 2010/11 so a report was required to Cabinet on 20 July 2011

#### **Revised Carers Commissioning Intentions within Oxfordshire**

The decision on this matter needed to be taken at the meeting of Cabinet on 20 July 2010 so that the award of contract could take place no later than December 2010 and services put in place by April 2011. To delay the decision would have resulted in a delay in service provision which could seriously have prejudiced the Council's and the public's interest.

#### **Early Years Free Entitlement – Revised Provider Agreement**

The decision to approve the new agreement and the circumstances and process for removing providers from the early years register needed to be taken at the delegated decision session of the Cabinet Member for Children, Young People & Families on 10 August 2010 to enable the new early years Provider Agreement, which is a binding agreement with over 320 private and voluntary providers of the free entitlement of early education for 3 and 4 year olds, to be published by 1<sup>st</sup> September 2010. To delay the decision could have resulted in a risk to the service provision which could have seriously prejudiced the Council's and the public's interest.

#### **ICT Overspend 2009/10**

The Audit Committee at its meeting on 17 November 2010 required the report of the Audit Working Group to be referred to Cabinet together with an update by the Acting Head of ICT of how the matters raised in the report have been addressed. It was necessary that the matter be considered at the meeting of Cabinet on 21 December 2010 so that the findings and response could be taken into account as part of the budget process.

#### **Proposed Change to Support for Members**

The decision on a proposal for changes to the support provided to members needed to be taken at the full Cabinet meeting on 21 December 2010 in order to achieve budgetary savings and delay would reduce the efficiency savings that could be achieved.

**Exemption from Contract Procedure Rules**

The decision to exempt a number of contracts held with voluntary sector organisations that come to an end on 31 March 2011 so that services can continue to be supplied for up to twelve months needed to be taken at the delegated decision session of the Cabinet Member for Adult Services on 23 March 2011 as delay would endanger the continuation of services which would be prejudicial to the interests of the Council and to those members of the public who rely on the services provided.

**Approval for Capital Grant for The Shotover View Extra Care Housing Development**

The decision to agree the allocation of £1.16million from the County's Capital Programme needed to be taken at the full Cabinet meeting on 15 March 2011 in order to secure the grant subsidy from the Homes and Communities Agency. Failure to take the decision would have resulted in the loss of funding which would have been detrimental to the Council's financial interest and to the strategy for the development of services for older people.

**Authority to Extend Changes to Terms and Conditions to Employment Groups Where Agreement Has Not Been Possible**

The decision to take appropriate steps to extend changes to terms and conditions of employment to those groups of employees, so far as this is possible, where agreement had not proved to be possible needed to be taken at the full Cabinet meeting on 15 March 2011 in order to achieve budgetary savings and delay would reduce the efficiency savings that could be achieved

## Exemptions from call-in

Meeting	Date	Decision	Reason for Urgency
Cabinet	25 January 2011	Concessionary Fares Scheme	Since the County Council's duty to provide a concessionary fares scheme will come into effect on 1 April 2011, and existing District Council contracts to meet that duty will end on that date, the effect of any call-in would be to prevent introduction of any replacement contracts, thus resulting in cessation of any concessionary fares scheme in Oxfordshire and a consequent service discontinuity
Cabinet	15 March 2011	Culham Parochial Primary School )	Any delay would seriously prejudice the Council's interests, due to additional financial costs, and the interests of the public in that the publication of any necessary statutory notice would be delayed leading to significant disadvantage to parents with children at the School.
Cabinet	15 March 2011	Urgent Business - Approval for Capital Grant for The Shotover View Extra Care Housing Development	Any delay would be detrimental to the Council's financial interest and to the strategy for the development of services for older people.
Delegated Decision by Cabinet member for Transport	31 March 2011	Bus Services Subsidies	Since existing subsidy contracts will inevitably end on 5 June 2010, the effect of any call-in would be to prevent introduction of any replacement contracts, thus resulting in complete withdrawal of the services concerned and a consequent service discontinuity.
Delegated Decision	9 September	Bus Services Subsidies	The decisions in relation to subsidised bus services in the

<b>by Cabinet member for Transport</b>	<b>2010</b>		Witney and Eynsham area were urgent in that any delay likely to be caused by the call in process would result in service discontinuity
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