

**MINUTES
OF THE MEETING OF THE
STANDARDS COMMITTEE
WEDNESDAY 7 MARCH 2012**

Held at 5.30 in Committee Room 1, Civic Centre, Pavilion Road, West Bridgford

PRESENT:

Chairman: N Waterson
Borough Councillors: L J Abbey, R A Adair, J E Greenwood, K A Khan,
A MacInnes, B A Nicholls
Parish Members: G Norbury, K White, W A Wood

OFFICERS PRESENT:

P Cox Senior Solicitor
L Reid Jones Democratic Services Manager
D Swaine Head of Corporate Services (Monitoring Officer)

APOLOGIES FOR ABSENCE:

R A Brooks, P Joyce QC

In the absence of Mr P Joyce, QC the Committee voted Mr N Waterson as Chairman for this meeting.

1. Declarations of Interest

There were none declared.

2. Notes of the Previous Meeting

The notes of the meeting held on Wednesday 30 June 2010 were accepted as a true record.

3. Review of Complaints 2008 – 2012

The Senior Solicitor reported on an analysis of complaints that had been referred to the Borough Council since the introduction of local assessment in 2008. By referring to the report he explained that the Borough Council had dealt with 19 formal complaints: eight against Borough Councillors and 11 against Parish or Town Councillors. All of the cases had been considered by an Assessment Sub-Committee and six of these were also considered by a Review Sub-Committee following appeals.

Commenting further the Senior Solicitor stated that 11 of the cases resulted in 'no action' decisions with six being referred for investigation and two with 'other action' directions. Of the six referred two were investigated by the Council's Senior Solicitor and four by external solicitors. He informed the Committee that of the six, five were found to have no breach and one found a breach of the Code of Conduct.

The Monitoring Officer stated that since the implementation of the existing arrangements there had only been eight complaints against Borough Councillors and 11 against Parish or Town Councillors, with only resulting in a finding of a breach of the Code of Conduct. On this basis he stated that, in his view, the process in Rushcliffe worked well to ensure high standards of conduct were in place. Furthermore it evidenced how the arrangements put in place, such as the Councillor Complaint Procedure agreed by Council, had helped to prevent many of the issues faced by other local authorities which had undermined and devalued the regime through repeat, vexatious and malicious complaints. Commenting further he added that the majority of Parish complaints had related to one area, however overall the figures indicated that the Council had an established process for dealing with complaints which worked well.

In response to questions from Members, the Monitoring Officer commented that there appeared to be number of reasons why the current standards regime was to be replaced, which clearly included instances when the process had been misused in other authorities.

Commenting on the report Members of the Committee felt that it had been positive working with parish, borough and independent Members of the Committee. They added that process had set out a clear criteria for the assessment of initial complaints and it was important that, if appropriate, this principle followed through to any new arrangements. Some Members felt that training was an issue and that it was important that all Councillors, both Borough and Town or Parish, were trained sufficiently in the requirements of any new Code of Conduct. This would help increase understanding and ensure Councillors were aware of their responsibilities and obligations.

Further comments made by the Committee indicated that its Members agreed that it was important to move forward in order to establish if and how the standards regime and the committee would operate in future. In response to comments about the decision making process the Senior Solicitor clarified the proposed arrangements and how it was proposed to take recommendations to Council at the right time in order to ensure new arrangements were in place when necessary. He added that under Section 28 (13) of the Localism Act the code of conduct had to be approved by full Council.

The Monitoring Officer explained that there was a significant amount of work to be considered prior to any decisions being made and that it was important that the expertise of this Committee was utilised in developing the way forward.

RESOLVED that the report be noted.

4. Localism Act 2011 – The Revised Ethical Framework

The Monitoring Officer and Senior Solicitor gave a presentation outlining the potential effects of the Localism Act in revising the Standards regime. The presentation also highlighted the issues that would require decisions to be made by the Council to implement the new framework by 1 July 2012.

The Committee were informed that the Localism Act contained provisions which would make significant changes to the standards regime which included the removal of:

- The general principles (to be replaced by fewer principles) and the Model Code of Conduct
- Standards for England
- The jurisdiction of the First Tier Tribunal
- The statutory requirement for a Standards Committee
- Standards Committee Regulations 2008 (composition, assessment, review and hearings panels, and sanctions).

The Monitoring Officer explained that under the new arrangements each authority must have in place a code of conduct, however they were not required to adopt a model code. Any code adopted had to be consistent with the seven principles of public life, and had to include appropriate provisions for the registration and disclosure of pecuniary and non-pecuniary interests. The code would have to be adopted by Full Council.

Commenting further on the changes to the regime the Monitoring Officer stated that legislation also covered the issue of dealing with complaints of misconduct. In relation to the Standards Committee, he stated that the formal requirement to have one had been removed. Therefore in future any such Committee would be formed by way of a different piece of legislation and as such political proportionality rules would apply. Consequently consideration would have to be given to Parish representation on the committee and there would no longer be a requirement for independent members. There would also be no statutory powers for the Standards Committee and therefore Council would have to delegate powers to it if it believed this as necessary. Under the new arrangements it would also be the case that Parish Councils would not be required to respond to Standards Committee findings.

The Monitoring officer stated that legislation indicated that a relevant authority, but not a Parish Council, had to appoint at least one 'independent person' who would have to be consulted before a decision was taken to investigate any allegation of misconduct. This person could not be or have been in the last five years a member, co-opted member or officer of the authority. Therefore this had implications for existing independent members of the committee should they consider this role.

The Committee were informed that under the new legislation there were criminal offences associated with failure to comply with the statutory requirements relating to the registration or disclosure of a disclosable pecuniary interest. The maximum penalty for these offences was set at a level 5 fine (£5,000) and/or disqualification from office for up to five years. It was anticipated that the investigation of any such allegations would be within the remit of the police.

The Senior Solicitor informed Members that templates for codes of conduct were being developed on a national basis, by the Local Government Association. These aimed to act as a guide not a prescriptive model and a presented a minimum standard for Councils to consider and adapt.

Furthermore the Association of Council Secretaries and Solicitors were also involved in drafting a version and it was also important to look at what other local authorities were doing before recommending any proposed Code for the Council to adopt.

Members discussed the issues raised in the presentation and made the following comments:-

- There were significant differences between the new arrangements and previous arrangements, particularly in relation to criminal offences
- In other professions such as legal and medical there was a prescriptive way of dealing with non-compliance of codes of conduct
- Everyone would have different interpretations of the seven principles of public life therefore it would be helpful to have an explanation with examples of what was included illustrating the types of behaviour expected
- There appeared a lack of clarity over the role of the independent person and whether this could be a current independent member of the Standards Committee
- It was not clear if independent Members from Rushcliffe's Standards Committee could be the independent person for other Nottinghamshire authorities
- The criminal offence for non-compliance with the statutory requirements relating to the registration or disclosure of disclosable pecuniary interests was a new requirement with which Members would have to become familiar.

The Senior Solicitor reminded Members it was for the Council to decide whether to have a Standards Committee and if so how many seats. It was also for Parishes to decide whether they wanted to apply the code in their area.

In relation to the report's recommendation to establish a small sub-committee to consider and report back to the Standards Committee on the issues identified in the report, Members agreed that this was an appropriate way forward. There followed a further discussion in during which Members raised the following points:

- The process for reporting and agreeing the new regime in line with the Council's established policy framework
- The distinction that the standards regime was not a function of the Council's executive
- The need to ensure that the Council agrees a way forward as the code relates to all Councillors and was an integral part of the public having confidence in the integrity of its elected

In conclusion the Monitoring Officer explained that it was intended that the sub-committee would draft proposals for consideration by the full Committee and then ultimately the issue would be referred to full Council for agreement. He added that presently the Standards Committee was a statutory committee of the Council and as such was separate from the executive.

The Monitoring Officer stated that the report set out proposed terms of reference for the sub-committee and its establishment would provide flexibility in order to meet the timeframe for the introduction of new arrangements. Its proposed composition would also help to ensure the expertise of the independent members and parish representatives was not lost. The Monitoring Officer also stated that it was important for Members of the sub-committee to ensure their peers were aware of the changes required to the existing regime and any proposed ways forward. This was pivotal in helping to ensure support and increase understanding and was also an essential part of identifying any trading that might be required within the new regime.

RESOLVED that:

- (a) the report be noted, and
- (b) a small sub-committee comprising Councillors R Adair, K Khan, A MacInnes, Mr W Wood and Ms K White be established, with the terms of reference as set out below, to consider and report back with recommendations on the issues identified in the report.

Terms of Reference for Proposed Standards Sub-Committee

To consider and report back to the Standards Committee with recommendations on the following issues:

- What should be included in the new Code of Conduct
- Whether any other types of interest should be included in the Council's new Register of Members' Interests, ie in addition to the minimum statutory requirements
- Whether Members should be required to withdraw from a meeting when they have a disclosable pecuniary interest
- How the Independent Person should be recruited and remunerated
- The process for dealing with Member complaints about Member conduct under the new regime
- Whether there should continue to be a Standards Committee and, if so, its composition and terms of reference
- What arrangements should be made for granting dispensations.

The meeting closed at 6.45 pm.

**Action Sheet
STANDARDS COMMITTEE - WEDNESDAY 7 MARCH 2012**

Minute Number	Actions	Officer Responsible
4	Standards Sub-Committee to be established	Monitoring Officer

