

The Report of the Standards Committee

The Standards Committee met at County Hall, Northallerton on 16 May 2011.

Present:- Henry Cronin (Chairman) (Independent Member); County Councillors Philip Barrett, J W Marshall, Peter Popple, Peter Sowray and Geoff Webber; together with Independent Members Hilary Bainbridge, Hilary Gilbertson and Dr Janet Holt.

1. The Standards Committee Annual Report: The Standard's Committee agreed to present the Annual Report for 2010/11 to the full Council, appraising the Authority of the work of the Committee, as it assists in raising the profile and awareness of the Committee and ethical standards generally. The report is attached at Appendix 1 and highlights work undertaken by the Committee over the past year and potential future work. The terms of reference of the Standards Committee are appended to the report for information.

The Standards Committee RECOMMENDS:-

That the Annual Report of the Standards Committee 2010/11 be noted.

HENRY CRONIN
Chairman of Standards Committee

County Hall,
NORTHALLERTON.

12 July 2011

APPENDIX 1

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

16 May 2011

Annual Report of the Standards Committee

1.0 PURPOSE OF THE REPORT

- 1.1 To present Members with the draft Annual Report of the work of the Standards Committee.

2.0 BACKGROUND

- 2.1 The Standards Committee presents an annual report about its work to the full Council. It is good practice to apprise the Authority of the work of the Committee, as it assists in raising the profile and awareness of the Committee and ethical standards generally.
- 2.2 A draft report for the period 1 May 2010 to 30 April 2011 is attached for Members' consideration and approval at Appendix 1. The report, if approved by the Committee, will be presented to the next meeting of the Council.

3.0 RECOMMENDATION

- 3.1 The Committee is asked to approve the draft annual report for presentation to the next meeting of North Yorkshire County Council.

CAROLE DUNN
Monitoring Officer

Background Documents:

Minutes of the meetings of the Standards Committee in 2010/2011.

County Hall
NORTHALLERTON

5 May 2011

NORTH YORKSHIRE COUNTY COUNCIL

20 July 2011

Annual Report of the Standards Committee 2010/11

1.0 PURPOSE OF REPORT

- 1.1 To provide Members of the County Council with an annual report on the work of the Standards Committee. This report covers the period from 1 May 2010 to 30 April 2011.

2.0 BACKGROUND

- 2.1 The Standards Committee was established in 2001 as part of the ethical framework for local government flowing from the Local Government Act 2000. The ethical framework is well established and also includes the Code of Conduct for local authority Members and Standards for England (SFE) which oversees the ethical framework, monitors the local standards regime and provides advice and support to local authorities on ethical standards issues. However, via the Localism Bill, the Government now intends to abolish the national regulator of the ethical framework, Standards for England, and the current standards regime, with more limited legislative provisions to be introduced.
- 2.2 The current terms of reference of the Standards Committee are set out at Appendix 1.
- 2.3 The Members of the Standards Committee are:

Ms Hilary Bainbridge *
County Councillor Philip Barrett
Mr Henry Cronin * (Chairman)
Mrs Hilary Gilbertson MBE *
Dr Janet Holt *
County Councillor David Jeffels
County Councillor John Marshall
County Councillor Peter Popple
County Councillor Peter Sowray
County Councillor Geoffrey Webber

* Independent non-elected Members.

Mr James Daglish was Independent Member and Chairman of the Committee until 19 May 2010.

Full Council, at its February 2010 meeting and on the recommendations of the Standards Committee, appointed Ms Hilary Bainbridge and Mrs Hilary Gilbertson MBE to the independent Member positions previously held by Ms Gillian Fleming and Mr Daglish. Ms Bainbridge's term of office commenced on 19 May 2010 and will run until the annual Council meeting in 2014. Mrs Gilbertson's term of office commenced on 1

March 2010 and will run until the annual Council meeting in 2014. Full Council also agreed at a subsequent meeting that Dr Holt be re-appointed to the Committee, upon the expiry of her current term of office at the annual Council meeting in May 2011, for a further period of two years.

- 2.4 During the relevant period, Mr Cronin was appointed to the Standards Committee Independent Member external Member seat on the Council's Audit Committee.
- 2.5 The Monitoring Officer supports the Committee in its work in promoting and maintaining high standards of conduct within the Council, including the establishment and maintenance of the Register of Members' Interests (hard copy and electronic versions) and dealing with complaints against Members under the local standards regime.
- 2.6 The Standards Committee presents an annual report of its activities to the Council. Section 3 of this report presents an account of the work which has been undertaken by the Standards Committee during the period 1 May 2010 to 30 April 2011.

3.0 WORK UNDERTAKEN

- 3.1 The work undertaken by the Standards Committee between the period 1 May 2010 to 30 April 2011 is set out below:
- 3.2 During this period the Committee met on 10 May 2010, 13 September 2010, 8 November 2010 (training session), and 24 January 2011.
- 3.3 The Standards Committee's Complaint Assessment and Determination Sub-Committees met on 6 August 2010, 6 October 2010, and 18 March 2011.
- 3.4 The work undertaken is as follows:
 - a) On 10 May 2010, the Leader of the County Council and the Group Leaders for the Liberal Democrats and Independent Members Groups attended the Committee's meeting to discuss issues relevant to the Standards Committee and the standards regime. The discussion looked at the main areas of the standards regime and raised some interesting and key issues. The outcomes from the discussion with Group Leaders were factored into the Standards Committee's Work Programme for 2011 and part of the Committee's training session in November 2010 was used as an opportunity for Members to consider how they would like the Standards Committee to be conducted in the future.
 - b) Further Implementation of the Local Standards Regime: During the course of this year there has been further development of the Committee's processes for complaint handling, including:
 - the development and agreement of a Complaint Feedback Questionnaire, which is sent to the relevant parties at the conclusion of a complaint. This will enable the Authority to refine its complaint handling processes over time;
 - the arrangement of increased support to Members who are the subject of a complaint to the Standards Committee during the complaints process. Subject Members are made aware that a nominated officer is available to guide and support them through the complaints process.

The Committee's procedures comply with statutory guidance and have been followed in the conduct of a number of complaints. The Standards Committee comprises ten members of which four are independent members. Sub-Committees are now well established and their terms of reference determined enabling the proper handling of the assessment, review and determination of complaints.

- c) Local Ethical Framework Developments: The Committee has received reports highlighting key developments in the national ethical framework. The main such development has been the arrival of the Localism Bill, which was published in December 2010 and brings with it the Government's proposals to abolish Standards for England and substantially change the national standards regime. It is anticipated that the Bill will receive Royal Assent late 2011 and the standards provisions commence two months later. Standards for England has confirmed, on its website, that it is likely that it will cease to investigate complaints in late 2011 and will be formally abolished in early 2012. However, until such time as the relevant legislation is passed, the current statutory standards regime remains operative.

The key proposed changes to the standards regime under the Bill are as follows:

- The introduction of a statutory duty to 'promote and maintain high standards of conduct' by Members and voting co-opted Members;
- Abolition of Standards for England (on a date appointed by the Secretary of State) and its functions;
- Removal of the First-tier Tribunal (Local Government Standards in England)'s jurisdiction over member conduct;
- Revocation of the statutory General Principles of conduct;
- Abolition of the *requirement* for relevant authorities to have a Members' Code of Conduct;
- Abolition of the *requirement* for relevant authorities to have standards committees;
- Revocation of relevant authorities' power to suspend Members.

New regulations will set out a statutory interests regime for Members, including the registration of, declaration of, and participation in relation to, certain interests and the granting of dispensations and the sanctions which may be imposed by the authority for breach of the regulations. Failure to comply with these requirements without reasonable excuse will constitute a criminal offence (maximum penalty of a £5,000 fine). The court may also order the disqualification of the person from being a member/co-opted member of a relevant authority (the authority in question or any other relevant authority) for up to five years.

The Bill, once in force, will also provide statutory clarification of the common law rules on predetermination and bias: it states that that a relevant authority Member/co-opted member decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter and the matter was relevant to the decision. This reflects the current common law position that such matters would amount to predisposition.

The Standards Committee has given initial consideration to the provisions in the Bill affecting the standards regime and is currently in the process of determining its preliminary views in light of national developments.

- d) Review of Standards Developments: The Committee continues to consider developments in relation to the ethical framework and to provide guidance to Members through training and the standards bulletin which is circulated periodically. Particularly helpful this year were:
- various Standards for England corporate publications;
 - online guides published by Standards for England in relation to the following:
 - Blogging and social networking;
- The guides can be accessed on the Standards for England website and provide useful guidance for Members. Two topic guides have also been released in relation to charitable trustees and declarations of interest under the Code, and pre-disposition pre-determination or bias and the Code Conduct.
- Further advice on social networking was also been given in Standards for England's Bulletin 47;
 - Standards for England Case Review 2010 (available to download from the SFE website): it supersedes The Case Review 2007 and The Case Review: 2008 Digest previously published and provides an up to date, paragraph by paragraph, analysis of the Code of Conduct;
 - Standards for England Protocol for Partnership Working: partners involved in local authority decision-making, who are not members of an authority, are not subject to the same rules governing their behaviour as elected or co-opted members on the same bodies. To help address this, Standards for England has developed a Partnership Behaviour Protocol which may be used by authorities.
- e) The Committee on Standards in Public Life Annual Review and Report 2008-09: The Standards Committee considered The Committee on Standards in Public Life's Annual Review and Report for 2008-09, which gave an overview of its work re ethical standards, which the Committee stated had been dominated by its inquiry on MPs' expenses. In relation to the standards framework, the Report noted that Standards for England had reported that standards of behaviour of local councillors in England remained high, with no significant changes in the volume of complaints being received. 15 councillors (out of an estimated 21,000, excluding parish councillors) were suspended or disqualified during 2008-09 and in a further ten cases members were suspended pending some action on their part. Standards for England public perception survey results showed that these statistics had not translated into improved public perceptions: in fact, there had been a small increase in the number of people who rate councillor behaviour as low and who think it has deteriorated over the last two years.
- f) Review of the local standards framework - Local Standards 2.0 – the proportionality upgrade: This report set out the results of Standards for England's review of the local standards framework and reported on the framework's operation nearly two years after its inception. It aimed to highlight where the framework was working as planned, where improvements were needed and whether the system was proving cost-effective to run and set out detailed recommendations, including:

- more streamlined local assessment of complaints - arrangements to more easily dismiss trivial and less serious complaints where appropriate, saving on time, money and process;
 - a new power for local standards committees to be able to halt investigations, if they have good reasons;
 - a commitment to greater transparency - always informing members that they have been the subject of a complaint, unless there are compelling circumstances not to;
 - the need to develop an approach which allows better management of the costs of operating the framework, working with local authorities to identify and promote ways of ensuring those costs are reasonable.
- g) Independent Remuneration Panel: The Committee considered issues raised by the Independent Panel on the Remuneration of Members for the County Council in relation to guidance on attendance at meetings and participation in training, and guidance on the use of ICT.
- h) Communications Strategy: The aim of the current ethical framework is to raise public confidence in councillors and Council officers. It is important that awareness of the ethical standards to which the Council operates is known throughout the Council, and understood by the public. The Standards Committee has a Communications Strategy to assist with achieving this objective, but any future actions will be dependent on the revisions to the standards regime.
- i) Officers' Code of Conduct: The Monitoring Officer reviewed the Officers' Standards of Conduct Procedure and reported to the Committee that the document was sound and covered all key areas. Certain legislative references in sections 11 (Corruption) and 12 (Gifts and Hospitality) to the Prevention of Corruption Acts 1889 to 1916 will shortly be out of date, when the Bribery Act 2010 comes into force later this year. The purpose of the Act is to reform the criminal law of bribery to provide for a new consolidated scheme of bribery offences. The necessary amendments can be picked up at the relevant time and included in the next refresh of the Standards of Conduct Procedure. The Committee agreed that the Standards of Conduct Procedure be more substantially reviewed in the future, when the situation is clearer regarding the proposed changes to the standards regime.
- j) Protocol for Employees' Gifts and Hospitality: Following a consultation process, the Committee agreed a Protocol in relation to Employees' Gifts and Hospitality. The offer and receipt of gifts and hospitality to Members is regulated by the Code of Conduct, but in relation to officers the authority must determine its own local rules.
- k) Dispensations: No applications for dispensations were made to the Committee during the relevant period. The Standards Committee continues to monitor the number and nature of applications for dispensations and their subsequent use in relevant meetings.
- l) Review of Online Standards Information: the Committee reviewed the material currently published on the Council's website and intranet regarding standards issues and the ethical framework generally and was pleased to note that all key information is published, although some requires updating. On comparison with certain other authorities' websites, the Council does appear to publish more, and wider, standards information on its website.

- m) Monitoring of Corporate Complaints: During the course of the year the Committee received reports in relation to corporate compliments and complaints received by the Council, complaints referred to the Local Government Ombudsman, the incidence of whistle-blowing and Freedom of Information Act requests. This report aims to assist the monitoring of ethical governance within the authority. The incidence of complaints can be an indicator of the ethical health of an authority and its governance arrangements.
- n) Complaints in relation to alleged breaches of the Code of Conduct: During the relevant period, the Standards Committee received six complaints in relation to alleged breaches of the Code of Conduct.
- A complaint (NYCC/SC/07) was received on 16 July 2010 alleging a failure to register an interest and was referred to the Monitoring Officer for investigation. On 18 March 2011 the Determination Sub-Committee accepted the Investigating Officer's conclusion that there had been no breach of Code.
 - Two further complaints (NYCC/SC/08 and NYCC/SC/09) were received on 23 July 2010 from the same complainant about one elected Member and one co-opted Committee Member in relation to essentially the same issue: one (NYCC/SC/08) was referred to the Monitoring Officer for investigation, and the other was considered to be outside the jurisdiction of the Sub-Committee and consequently no further action was taken.. The Determination Sub-Committee found that there had been a breach of paragraphs 10 and 12 of the Code of Conduct, as the subject Member had failed to declare a prejudicial interest and to withdraw from the relevant Committee meeting. The Sub-Committee imposed a sanction that the subject Member be censured by the Sub- Committee.
 - In respect of an earlier complaint (NYCC/SC/06), received in January 2010, the Complaints Determination Sub-Committee, concluded that there had been a breach of paragraph 3(1) of the Code (to treat others with respect) and imposed two sanctions upon the subject member; namely, to write a letter of apology to the complainant (in a form agreed by the Sub-Committee) and to undertake training with the Council's Monitoring Officer on the Code of Conduct and the Council's Use of IT Policy.
 - Three further complaints have been received and are at various stages on handling. Two have been referred for investigation and the third is yet to be assessed. They relate to the following Code provisions:
 - The requirements to treat others with respect, not do anything which may cause the authority to breach any of the equality enactments, not bully or intimidate anyone, and not to do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
 - The requirement to treat others with respect.
 - The requirements not to use position as a member improperly to confer an advantage or disadvantage and, when using authority resources, to act in accordance with the authority's reasonable requirements, ensure that such resources are not used improperly for political purposes and have regard to any applicable Local Authority Code of Publicity.

Yet again, the level of County Council complaints is very low compared to other authorities, but it is increasing and it is an important role of the Committee to

continuously review the position on an ongoing basis, and also to review the means by which the public can be made aware of how complaints are going to be raised.

- o) Training: Training to Members on the Localism Bill and the proposed changes to the standards regime was offered at a Members' Seminar on 2 March 2011. Standards Committee Members are also given training prior to every Sub-Committee for the assessment, review or consideration and determination of complaints. The Committee continues to maintain an ongoing Standards Training Plan to ensure that appropriate training in relation to standards issues is being provided to Members and Officers of the Council.
- p) Standards Bulletin: The Committee issued 3 Standards Bulletins during the course of 2010/11 to assist Members in keeping up-to-date with standards issues.
- q) 2010 Annual Assembly: The 2010 Annual Assembly of Standards Committees due to take place at the ICC in Birmingham on 18 and 19 October 2010 was cancelled in light of the Government's intention to abolish Standards for England and the standards regime.
- r) Annual Review of Ethical Audit Action Plan 2010: In 2005/6, the Authority undertook a comprehensive Ethical Audit resulting in an extensive, proactive Action Plan, which still informs the work of the Committee to date, via its Work Programme and Communications Strategy Action Plan. The Ethical Audit Action Plan is considered by the Committee each year, for an annual check of issues contained within it. The majority of the Action Plan items have been actioned.
- s) Standards Committee Forward Work Programme: The Standards Committee maintains a work programme which is reviewed at every meeting. Given the intended abolition of the current standards regime, the Work Programme has been kept deliberately light, so that work arising due to the changes in the regime can be accommodated over the year.
- t) SFE Monitoring: Monitoring returns in relation to the local handling of complaints have been completed and submitted to Standards for England at the end of each quarter since July 2008, along with detailed Annual Returns dealing with the performance and achievement of the Standards Committee itself (which were taken into account in the Council's use of resources assessment). The last Annual Return was prepared in April 2010 and was appended to last year's Annual Report of the Standards Committee. It was also circulated to officers and Members and published on the Council website. Owing to the proposals for the abolition of Standards for England and the current standards regime, Standards for England is no longer collecting such monitoring information.

4.0 FUTURE WORK

- 4.1 Work will be ongoing throughout the year in relation to the proposed changes to the standards regime put forward in the Localism Bill.
- 4.2 It is anticipated that the Committee will be further involved in the coming year in the local filtering and handling of complaints. Whilst the Council's incidence of complaints remains low, their handling is resource intensive.

- 4.3 The Committee will continue its work in the promotion of high ethical standards, including delivering its Communications Strategy and further involvement in training of officers and Members at an appropriate stage.

5.0 RECOMMENDATION

- 5.1 The Council is recommended to receive and note the report of the Standards Committee.

HENRY CRONIN
Chairman of the Standards Committee

County Hall
NORTHALLERTON

5 May 2011

Terms of Reference of the Standards Committee

9.03 Roles, Terms of Reference and Functions

The Standards Committee will have as its terms of reference, exercising the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;
- (b) assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation and effectiveness of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to private and personal interests set out in the Members' Code of Conduct;
- (g) receiving and assessing complaints that Councillors, co-opted members and church and parent governor representatives may have breached the Code of Conduct for Members;
- (h) reviewing Standards Committee decisions to take no action on a complaint that the Code has been breached, where such review is requested by the complainant;
- (i) determining complaints (other than those being determined by the Standards Board/Adjudication Panel) that Councillors, co-opted members and church and parent governor representatives may have breached the Code of Conduct for Members;
- (j) dealing with any reports from a case tribunal or interim case tribunal, any reports to the Committee by an Ethical Standards Officer, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer (see 12.03 (d)) to the Monitoring Officer;
- (k) a general overview of ethical issues in relation to the Authority, including in particular any investigations undertaken, and reports issued, by the Local Government Ombudsman;
- (l) advising the Council on any amendments to its Constitution which might be desirable in the light of issues concerned with ethics and conduct;

- (m) dealing with any other complaints about Councillors' conduct, unrelated to the Code of Conduct, referred by the Chief Executive Officer. In such circumstances the Standards Committee may investigate, afford the Member a hearing, and may then advise the Member as to what action they should take. Should the member subsequently fail to take such action, they may be censured by the Standards Committee;
- (n) granting exemptions to officers in politically restricted posts to allow them to engage in political activities;
- (o) exercising all functions in respect of the publication of Standards Committee independent Member vacancies;
- (p) assisting in the recruitment of independent members to the Standards Committee (but not approving individual appointments).
- (q) taking decisions on withholding Members' allowances or requesting repayment of allowances in relation to Members suspended under Part III of the Local Government Act 2000, in the circumstances indicated below:
 - i. The Standards Committee shall have the ability to withhold any part of a Member's basic allowance, special responsibility allowance, co-optees' allowance or travel and subsistence allowance payable for any period where, or in respect of duties from which, s/he is suspended or partially suspended under Part III of the Local Government Act 2000;
 - ii. The Standards Committee shall have the ability to require repayment of any allowance (or part thereof) already paid in respect of any period during which the Member concerned is suspended or partially suspended under Part III, ceases to be a Member of the authority or is in any other way not entitled to receive the allowance in respect of that period; and
 - iii. That the withholding of the specified allowances or the requirement to repay any allowance in the circumstances set out above should continue during any period of appeal by the Member concerned under Part III of the Local Government Act 2000 and associated legislation. In the event of any appeal being successful in removing the suspension or partial suspension, then any withheld or repaid amount may be reimbursed to the Member where appropriate.