

**THE STANDARDS COMMITTEE:  
(ANNUAL REPORT: MAY 2010 – APRIL 2011)**

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Annual Report (May 2010 – April 2011)**

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### Foreword by the Chairman



Welcome to this, the second Annual Report on the work of the Standards Committee of Surrey County Council. The report comes at a time of unprecedented constraint and change across the public sector. Indeed, one of those changes is the Government's decision to abolish Standards for England, the body responsible for promoting and monitoring standards of conduct in local government, and with it the requirement for local standards committees.

Members may welcome the freedom that local accountability will provide to fully regulate their own conduct. The abolition of detailed requirements relating to matters such as investigations, hearings and reports will also ease the pressure on resources. However, the Council will still need to find ways of ensuring that it complies with its duty to promote and maintain a high standard of conduct, and it will also need to deal with the implications of the proposed new criminal offences relating to members' interests.

The work of Surrey County Council's Standards Committee remains central to the Council's governance arrangements. As this report shows, the Council's performance in relation to conduct is generally good, and the Standards Committee has continued to provide guidance and support to members. But that does not mean that there is no further scope for improvement.

The Standards Committee will continue to provide assurance to the public about the conduct of members and co-opted members of Surrey County Council, and we will continue to support members with training and guidance, until the legislation abolishing the current arrangements is enacted. We will also be pleased to contribute to establishing what the future of standards at Surrey County Council will look like.

In closing, I should like to thank my Vice-Chairman, Karen Heenan and members of the Committee for their hard work and support during the year. I would particularly like to welcome our new independent members Marion Roberts and Sally De La Bedoyere to the committee.

*Simon Edge*  
*Chairman of the Standards Committee*

**The future of the local standards framework**

In May 2010 the government set out its intention to abolish the 'Standards Board Regime' in the coalition agreement: 'Our programme for government'. The Localism Bill, introduced to Parliament on 13 December 2010, aimed to devolve greater powers to individuals, communities and councils. A key provision highlighted in the Bill was the intention to abolish the Standards Board regime and the model code of conduct, and to introduce local accountability. The Bill also introduced a criminal offence of deliberate failure to declare a personal interest in a matter. The latest information at the time of producing this report is that we expect Standards for England to cease to investigate complaints in late 2011 and to be formally abolished in early 2012.

Until a date is set for the formal abolition of the regime, Standards for England will continue to operate in its usual manner. Surrey County Council will also be obliged to continue with its statutory duties including the assessment of allegations through its Standards Committee.

The Government has stated its commitment to maintaining high standards of conduct in office and its aim to ensure that, in the absence of a statutory code of conduct, Members do not abuse their office for personal gain by putting their personal interests before those of the general community or local area that they represent. Members will still have a statutory obligation to register and declare personal interests, and will not be allowed to use their position improperly for personal gain. The Government state that failure to comply with these requirements will constitute a criminal offence.

It will no longer be a statutory requirement for local authorities to adopt a model code of conduct, however, local authorities will still be able to adopt their own code of conduct should they wish.

It will no longer be a requirement of the Council to have a standards committee. However, local authorities will be free to establish a voluntary standards committee to consider complaints about conduct. If a voluntary standards committee is set up, it would have the power to censure, but not suspend or disqualify members from council membership (a sanction that it has never been necessary to apply in Surrey).

## **Background**

### ***The Standards Committee's role is changing but remains highly relevant to the good governance of Surrey County Council***

The main role of the Standards Committee is to promote and maintain high standards of member conduct. To enable it to do this it has the following roles and functions:

- Assisting Members and co-opted Members in observing the Members' Code of Conduct.
- Advising the Council on the adoption or revision of the Members' Code of Conduct.
- Monitoring the operation of the Members' Code of Conduct.
- Promoting advice, guidance and training for Members and co-opted Members on matters relating to the Code of Conduct.
- Assessing any written allegation that a Member or co-opted member of the Council has failed or may have failed to comply with the Code of Conduct and determining what (if any) further action needs to be taken.
- Considering matters referred to it by the Monitoring Officer or an ethical standards officer of Standards for England (formally Standards Board).
- Granting dispensations to Members (including co-opted Members) from requirements relating to interests set out in the Members' Code of Conduct.

The Committee has two other statutory functions and one function added by the Council. These are:

- Considering whether any council post should be exempt from political restriction (on the application of the post-holder).
- Considering applications that the Council be directed to include any post in the list of politically restricted posts maintained by the Council.
- Ensuring that the Council's complaints procedures operate effectively, and receiving any findings of maladministration by the Local Government Ombudsman.

The Committee has two Sub-Committees, each consisting of five members of Standards Committee. They alternate meeting dates, allowing each to meet approximately bi-monthly.

***We have continued to engage with the Leadership and Council, and more widely***

The Chairman of the Standards Committee continues to meet with the Council Leadership to discuss the standards and ethics agenda. In addition the Chairman held meetings with Members who had expressed concerns about the merits of the Standards Regime.

In September 2010, the Audit & Governance and Standards Committees received a presentation from the Audit Commission on their review of the Council's governance arrangements. The Chairman of the Standards Committee was invited by the Chairman of the Audit & Governance Committee to join the Deputy Leader and the Cabinet Member for Change & Efficiency in discussion of the Audit Commission's findings. The Members then responded with their comments to the Audit Commission.

The Chairman was also invited to sit on the Audit & Governance Committee Task Group, charged with investigating the effectiveness of statutory officer reporting lines. Between September 2010 and November 2010, the Task Group undertook the following programme of work:

- a) Interviewed representatives from the Audit Commission
- b) Interviewed the statutory officers and the Chief Internal Auditor
- c) Interviewed a number of senior officers and Members
- d) Carried out research and gathered evidence of statutory officer reporting lines in fourteen other county councils
- e) Considered the CIPFA/SOLACE 'Application note to delivering good governance in local government: a framework' document which sets out recent developments with regards to best practice for the Chief Finance Officer.

The Task Group presented their findings to the Audit & Governance Committee and the County Council and made recommendations to the Chief Executive. Subsequently, Members of the Task Group have met with the Chief Executive who has responded to their recommendations.

The Standards Committee reports to the Council on items including the outcomes of their meetings and legislative changes. The Standards Committee reported to the Council in May, July and October 2010.

More widely, Marion Roberts, as a Standards Committee delegate, attended a meeting for independent representatives on Standards Committees. The meeting was an opportunity to hear what other Councils were doing with regards to standards. Discussions had taken place around what might replace the standards regime and whether Councils would be comfortable with a new standards/ethics monitoring body. It was emphasised that authorities would need to wait for legislation to be available before realistically considering the role of standards/ethics committees post-abolition of the standards regime, but the general consensus was in favour of maintaining a local body to monitor conduct.

### ***Surrey's track record on complaints remains good***

Since May 2010, the Standards Committee has received five new complaints against Members of the Council. This is one more than in the previous year, but continues to compare well with other similar bodies.

A Sub Committee acting as an assessment sub committee of the Standards Committee decided to take no further action on three of the complaints that it received in 2010/11. In one of these cases the complainant appealed against the decision and a review sub committee of the Standards Committee decided to uphold the original decision to take no further action. During 2010/11, one complaint was referred to the Monitoring Officer for investigation, however, the complaint was subsequently withdrawn and no further action was taken. A further complaint was referred to the Monitoring Officer for investigation in part. On appeal, a review sub committee of the Standards Committee met in May 2011 and concluded that all elements of the complaint should be referred to the Monitoring Officer for investigation: this case is ongoing.

As of May 2010, there was one ongoing case that continued into 2010/11 – the details of which are a matter of public record and are briefly summarised below.

In July 2010 a Determination Committee of the Standards Committee concluded there had been a breach of the paragraph 3 (1) of the Code of Conduct and the Determination-Committee required that the Member write a letter of apology to the complainant. That decision concluded the matter from the Standards Committee's perspective, subject to the Member complying with the Determination Committee's requirement.

In August 2010 the subject Member exercised their right to appeal the decision of the Determination Committee to the First Tier Tribunal. The judge refused the application to appeal and the Member subsequently challenged that refusal. At the time of writing this report those proceedings are still ongoing.

At the point the appeal was lodged, the regime introducing First-Tier and Upper Tribunals was relatively new and a number of difficulties came to light including that the appeal highlighted an uncertainty about the proper procedure and forum for further appeal/review from the First-Tier Tribunal. The question for the courts was which route the member's challenge to the First-Tier Tribunal should follow, either:

- An appeal against the decision of the Upper Tribunal; or
- Review of the decision through Judicial Review in the Administrative Court.

The Administrative Court remitted the decision on which route the member's challenge should take to the Upper Tribunal and on 1 April 2011, an Upper Tribunal Judge decided that the subject member should be given permission to appeal to the Upper Tribunal to challenge the decision of the First-Tier Tribunal. In May 2011 the Standards Committee were advised that the Upper Tribunal would make a decision on whether or not the subject member had the right to appeal; the case would be treated by the Upper Tribunal as a test case.

At the time of writing this report, the appeal process had still not got to the point of looking at the merits of the Determination Committee decision. At its meeting in May 2011, the Standards Committee noted that the Council would be obliged to incur expenditure in submitting papers required by the Court in response to the subject member's appeal and agreed to endorse a minimalist approach to doing so in order to keep that expenditure as low as possible. As noted above, the full process relating to this case has been reported, in the public domain, through the Standards Committee.

***We have continued to monitor the effectiveness of the Council's corporate complaints procedures***

The Committee has continued to monitor the effectiveness of the Council's corporate complaints procedures. The process by which the Committee monitored complaints changed throughout the year. In October 2010, the Committee agreed that they should maintain an 'overview' role in relation to complaints and would receive an annual report on the complaints process. The Committee would continue to review the process of complaints handling, but specific issues would be referred to Select Committees to ensure that the relevant individuals were held to account.

Changes to complaints handling had been noted throughout the year, with one significant example being the development of a new toolkit to help manage complaints handling in the Adult Social Care Directorate (the Directorate). From 1 January 2011 the complaints handling process for Adult Social Care transferred back to the Directorate from the Families Customer Relations Team. Significant resources were allocated to review, revise and implement a new outcome focused complaints handling procedure with customer care and learning as its core elements to ensure continuous development and improvements.

The Corporate Complaints procedure had changed during the year, with the removal of Stage 3 of the procedure. This came as a result of a noted improvement to Stage 2 investigations and experience had shown that that Stage 3 rarely added any value to the process. The use of 'mediation' had also increased. The overall Surrey County Council complaint performance figure for 2010/11 was "82%" against a target of 90% of Stage 1 complaints responded to within 10 working days. Members had challenged officers during the year on whether the complaints target figure would remain the same for all directorates moving forward. It was agreed, upon member recommendation, that a detailed analysis of targets would be completed by directorates to ensure that target setting was realistic. The Committee had been particularly concerned that existing targets had made teams more target driven than service driven.



### ***We have provided guidance and support to help members***

An important part of the Standards Committee's role is to assist Members understanding, and help them through what can appear to be a complex process. The guidance and support provided this year has covered the following:

#### New Councillors

In 2010/11 there were two new elected County Councillors. The Standards Committee remained keen to ensure that incoming Councillors were aware of their responsibilities to register interests, gifts and hospitality and understood the conduct expected of them.

The Chairman of the Standards Committee wrote to each new member and this letter was included in member induction packs. In addition, new members were offered training with the Monitoring Officer on code of conduct issues. Training was also offered to existing members as a 'refresher course'.

#### Other training in 2010/11

One of the themes arising from the Chairman of the Standards Committee's conversations with Group Leaders and other Members throughout 2009/10, was the need for guidance on use of social networking sites. In response to this, the Standards Committee Brief in June 2010, published bitesize information on code of conduct issues including blogging, as well as refresher guidance on gifts and hospitalities.

#### Guide to Sub Committee meetings and hearings

Guidance was produced by the Standards Committee to help clarify the processes relating to the different types of sub committee meetings that can take place when dealing with allegations that a Member has breached the Surrey County Council Members' Code of Conduct. In conjunction with this, a guide to the investigation of allegations that a member has breached the code of conduct was also produced.

#### Website

The Surrey County Council public website includes information about the Standards Committee. The webpages explain the role of the Standards Committee and contain information about the independent representatives. The site is constantly updated with guidance and important information for all County Councillors and anyone who is interested in the Standards Committee.

#### Granting Dispensations

Guidance was published on the process via which the Standards Committee can grant a dispensation to Members, so that they can speak and vote at a meeting where they have a prejudicial interest. In addition, a form was produced to help Members when applying for dispensations.

### ***We have granted dispensations***

A Standards Committee may grant dispensations for Members allowing them to speak and vote at a meeting when they have a prejudicial interest. During 2009, the Committee agreed a standard process for making requests for dispensations and adopted criteria against which requests for dispensations will be considered. Further information can be found on the Standards Committee web pages.

During 2010, seven dispensations to speak and vote were applied for, and granted to Spelthorne Borough Councillors in relation Airtrack and the Heathrow Airtrack Order.

### ***There have been changes in legislation relating to politically restricted posts***

The Local Democracy, Economic Development & Construction Act 2009 changed the approach for identifying politically restricted posts. The new requirements removed the duty to maintain a list of posts earning above a nominated salary and split politically restricted posts into two categories:

- Specified posts (where post-holders do not have the right to appeal their political restriction)
- Sensitive posts

In the case of sensitive posts, these post-holders can still appeal to the Standards Committee to be exempted from the list of politically restricted posts.

There were no requests for exemption from the list of politically restricted posts for 2010/11.

### ***The Audit Commission's report on ethical governance showed that there is still work to be done***

Following the qualification of the Council's Value for Money conclusion and the score of 1 for governance within the Use of Resources assessment during 2008/09, the Audit Commission undertook a review of the Council's governance arrangements.

During March and April 2010, the Audit Commission reviewed key governance documents, sent a survey to all 80 members and 197 senior officers and also interviewed a number of members and senior officers. Part of the focus of the survey was to find out how the way councillors conducted themselves in their day-to-day functions was perceived by colleagues.

#### Survey findings - Highlights:

- 79.3% felt that Members always or usually performed their duties with honesty, integrity, impartiality and objectivity
- 64.5% felt that Members always or usually abided by the Members' code of conduct
- 74.2% of officers felt that they were always or usually treated with respect by Cabinet Members
- 63.4% felt that Members were provided with appropriate advice on ethics and standards
- 82.3% of Members felt that the importance of high ethical standards is always or usually communicated to them
- 95.5% of Members felt that guidance on ethics and conduct is always or usually included in the induction of new Members
- 58.1% of officers felt that the process to report inappropriate Member behaviour was clear
- 88.9% of Members usually or always understood the role of the Standards Committee
- 64.5% of Members felt that the Standards Committee always or usually added value to the Council

While these results are encouraging, they indicate that significant work is still needed to address the implied negatives – such as 20.7% of Members not feeling that Members always or usually performed their duties with honesty, integrity, impartiality and objectivity; or the 41.9% of officers who felt that the process to report inappropriate Member behaviour was not clear. The challenge for the Council is how it will address these matters. Within its remit, the Standards Committee agreed that issues arising from the survey and general behaviour issues would be considered as part of a consultation on the Member/Officer Protocol which is planned for late 2011, in line with the timeframe for the formal legislation regarding the abolition of the standards regime. The Standards Committee was responsible for prompting the redraft of the Member/Officer Protocol.

### ***Membership is balanced and includes independent representatives***

The Standards Committee is composed of four Independent Representatives and six elected Members from across the political spectrum appointed to the Standards Committee.

Since May 2010, three new members of the Standards Committee have been appointed. The Standards Committee recommendation that Mrs Sally De La Bedoyere and Mrs Marion Roberts be appointed as Independent Representatives of the Committee was approved by County Council on 11 May 2010. Mrs Dorothy Ross-Tomlin, a member of the Conservative Group was appointed to Committee at the Council's annual meeting on 11 May 2010.

The full membership of the Committee as at April 2010 is as follows:

#### Independent Representatives:

- Simon Edge – (Simon has been a member of the Standards Committee since May 2008 and he has been Chairman of the Committee since July 2009)
- Karen Heenan – (Karen has been a member of the Standards Committee since May 2005, having been reappointed in May 2008. She was the Vice-Chairman of the Committee from July 2009 – April 2010).
- Sally De La Bedoyere – (Sally was appointed to the Standards Committee in May 2010).
- Marion Roberts – (Marion was appointed to the Standards Committee in May 2010. Marion was appointed Vice-Chairman of the Standards Committee in May 2011).

#### Elected Members:

- Geoff Marlow – (Chairman of the Council from May 2009 – May 2011 and a member of the Standards Committee since May 2007)
- Lavinia Sealy – (Vice Chairman of the Council from May 2009 – May 2011, and a member of the Standards Committee since June 2009. Mrs Sealy was elected Chairman of the Council May 2011).
- Eber Kington – (a member of the Residents' Association Group and a member of Standards Committee since June 2009).
- David Munro – (a member of the Conservative Group and a member of the Standards Committee since June 2009).
- Dorothy Ross-Tomlin – (a member of the Conservative Group and a member of the Standards Committee since June 2010).
- Colin Taylor – (a member of the Liberal Democrat Group and a member of the Standards Committee since June 2009).

### ***Officers have continued to provide highly effective support to the Committee***

The Standards Committee and its Sub-Committees are advised and supported by the Monitoring Officer, Ann Charlton and the Deputy Monitoring Officer, Rachel Crossley. In the period May 2010 – April 2011 a Democratic Services Officer has serviced the Committee and its sub committees and made arrangements for the distribution of agendas, reports and minutes. On 1 April 2011 the Chief Executive's Office moved into a new structure. In the new structure there is a dedicated post within Democratic Services to manage regulatory committees which includes the Planning & Regulatory, Audit & Governance, People, Performance & Development, as well as the Standards Committee. The Regulatory Committee Manager will provide support in terms of servicing the Committee, distributing agendas, reports and minutes moving forward.

### ***The Monitoring Officer***

The Monitoring Officer provides key support to the Committee. Under the provisions of the Local Government and Housing Act 1989, councils have a duty to appoint a Monitoring Officer to ensure the lawfulness and fairness of Council decision-making. The Monitoring Officer effectively serves as the guardian of the Council's Constitution and the decision-making process.

The Monitoring Officer and Deputy Monitoring Officer work closely with the Standards Committee to assist it in its role of promoting and maintaining high standards of conduct amongst members and co-opted members of the Council. They are responsible for ensuring that decisions of the Committee are implemented. If the Standards Committee refers an allegation for investigation the Monitoring Officer must arrange for it to be investigated and for the investigator's report to be brought back to the Committee. She is the main point of contact with Standards for England and submits quarterly returns on the complaints received and dealt with by Standards Committee.

In addition to advising the Committee the Monitoring Officer is keen to assist members in understanding and interpreting the Code of Conduct and has a dedicated email address for queries on Code of Conduct or Standards issues: [askthemo@surreycc.gov.uk](mailto:askthemo@surreycc.gov.uk)

### ***New Independent Representatives have been recruited***

Two new independent representatives were appointed for the period 2010/11. Six shortlisted candidates were interviewed out of a total number of 65 applications. Marion Roberts and Sally De La Bedoyere were recruited in May 2010.

### **Next Year's Focus**

Until the legislation regarding the Localism Bill and the abolition of Standards Committee is available, the Committee is bound to continue to operate as required by statute. During the winding down of the Standards Regime, officers will continue to work with Members to establish what the future of standards at Surrey County Council will look like; this would coincide with a full consultation on the Member/Officer Protocol. Members of the current Standards Committee have expressed their interest in continued involvement in promoting and maintaining high standards of conduct.

Forthcoming Standards Committee meetings are currently scheduled for the following dates:

- 4 July 2011
- 2 September 2011
- 28 October 2011
- 19 December 2011
- 17 February 2012
- 30 March 2012
- 18 May 2012
- 2 July 2012

### Appendix

#### Meeting Statistics

Between May 2010 and April 2011, the following numbers of meetings were held:

Standards Committee	5
Standards Sub-Committee	6

#### Members Attendance

Members attendance at meetings of the Standards Committee out of a possible 5 meetings were as follows:

Simon Edge	5
Karen Heenan	1
Eber Kington	4
Sally De la Bedoyere	3
Geoff Marlow	3*
David Munro	5
Marion Roberts	5
Dorothy Ross-Tomlin	4
Lavinia Sealy	3*
Colin Taylor	4

\* During the period 2010/11 Geoff Marlow was Chairman of the Council and Lavinia Sealy was Vice-Chairman of the Council.

**Complaints Statistics – Surrey County Council**

Since 8 May 2008, the Standards Committee has been responsible for receiving all complaints about alleged breaches of the Code of Conduct made against members and co-opted members of Surrey County Council

This is how we dealt with complaints received this council year:

**Complaints**

Total number of complaints	Referred for Other action	Referred for investigation	No further action
5	0	2	3

The Committee continue to monitor and respond to developments with regards to the ongoing case outlined on page 7 of the report.

**Contacts**

For further information about the role of the Standards Committee or standards issues in general, please contact one of the following:

Ann Charlton (Monitoring Officer)  
 Tel: 020 8541 9001  
 Email: [ann.charlton@surreycc.gov.uk](mailto:ann.charlton@surreycc.gov.uk)

Rachel Crossley (Deputy Monitoring Officer)  
 Tel: 02085419993  
 Email [rachel.crossley@surreycc.gov.uk](mailto:rachel.crossley@surreycc.gov.uk)

Helen Rankin (Regulatory Committee Manager)  
 Tel: 0208541 9126  
 Email: [Helen.rankin@surreycc.gov.uk](mailto:Helen.rankin@surreycc.gov.uk)

**Further Sources of Information**

**Standards Board for England**

Fourth Floor  
 Griffin House  
 40 Lever Street  
 Manchester  
 M1 1BB  
 United Kingdom

Tel: 0161 817 5300  
 Email: [enquiries@standardsforengland.gov.uk](mailto:enquiries@standardsforengland.gov.uk)  
<http://www.standardsforengland.gov.uk/>

- **The Audit Commission:** <http://www.audit-commission.gov.uk/>
- **Department for Communities and Local Government:** <http://www.communities.gov.uk/>

Information can also be found on the Council's website: [www.surreycc.gov.uk](http://www.surreycc.gov.uk)