

MINUTES of the meeting of the **STANDARDS COMMITTEE** held at 10.00am on 17 February 2012 at County Hall, Kingston upon Thames.

These minutes are subject to confirmation by the Committee at its next meeting.

Members:

- *+ Mr Simon Edge (Chairman)
- A+ Mrs Marion Roberts (Vice Chairman)
- A+ Mrs Sally De La Bedoyere
- *+ Ms Karen Heenan
- * Eber Kington
- * Mr Geoff Marlow
- *A Mr David Munro
- * Mrs Dorothy Ross-Tomlin
- Mrs Lavinia Sealy
- * Mr Colin Taylor

- * = Present for all of the meeting
- A = Apologies
- + = Independent Representative

In attendance:

Ann Charlton, Monitoring Officer
Rachel Crossley, Deputy Monitoring Officer
Helen Rankin, Committee Manager

Mr W D Barker OBE, Vice Chairman of the Audit & Governance Committee
Mr John Butcher, County Councillor

PART 1
IN PUBLIC

01/12 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS [Item 1]

Apologies for absence were received from David Munro, Sally De La Bedoyere and Marion Roberts. The Chairman welcomed Bill Barker, and John Butcher.

02/12 MINUTES OF THE PREVIOUS MEETING: 12 December 2011[Item 2]

The minutes were agreed as an accurate record of the meeting.

03/12 DECLARATIONS OF INTERESTS [Item 3]

None.

04/12 QUESTIONS AND PETITIONS [Item 4]

A question was received from Colin Taylor and an officer response was tabled. (see Annex A to these minutes).

Colin Taylor introduced his question. There had been an incident since the last Standards Committee, where paragraph 42 of the Member/Officer Protocol had needed to be quoted. This raised the question as to whether it was appropriate for the paragraph to be removed from the updated protocol.

Mr Taylor suggested an amendment to paragraph 42 to distinguish between spam and legitimate correspondence. It was agreed that paragraph 42 of the Member/Officer Protocol, as amended in Mr Taylor's question, should be included in the final version of the revised Member/Officer Protocol, approved by the Committee in December 2011.

05/12 RECOMMENDATION TRACKER AND FORWARD WORK PROGRAMME [Item 5]

The Chairman requested that a new action be added to the tracker. It was suggested that a handover report be produced to ensure that there is a smooth transition from the current standards regime to the successor arrangements the Council decides it will operate after June 2011. It was agreed that the document should highlight lessons learnt and previous actions of the Committee, while noting that it will be for the Council to determine the extent of the new arrangement's agenda. The development of a handover report was agreed by the Committee.

06/12 ELECTED MEMBERS' INTERESTS [Item 6]

Declarations of Interest:

None.

Officers:

David John, Audit Performance Manager

Key Points Raised During the Discussion:

1. The Audit Performance Manager introduced the item. The internal audit was a review of elected members interests and the related party disclosures system. The overall opinion was 'some improvement needed'. There were two key elements to the findings: administration/procedural issues that should be easily addressed and operational issues around how members approach their declarations. The auditor assured the Committee that there was no evidence of wilful misuse of the system and that his findings related to issues such as unexplained acronyms and unclear entries.
2. The Committee queried whether Internal Audit was satisfied with the responses they had received from officers to the audit recommendations and whether they were confident that the issues would be resolved. The Audit Performance Manager advised that the Monitoring Officer wanted the same level of transparency regarding interests as recommended by Internal Audit. However, as the Council was still determining its arrangements regarding the new local code of conduct, some clarity was still required on how this would happen.
3. The Monitoring Officer advised that when the law changed, Members would not be asked to declare interests at meetings unless that interest is not recorded on the register.
4. The Monitoring Officer explained that newly elected Members are offered the opportunity to sit down with Democratic Services to complete their register of interests. If the register is not completed within the 28 day limit, it is chased by officers and eventually escalated to Group Leaders. An annual reminder is sent to Members, which includes an offer to talk through their responsibility to declare.
5. Members felt that there would be a number of advantages to recording interests online, including a clear record of what had been declared and where (particularly important for twin-hatted members – serving at County and District level). The Monitoring Officer advised that under the new regime, an online register would be required. Democratic Services would be introducing a new committee management system, which would include an online declaration of interests feature.
6. The Committee were concerned that the 28 day period in which Members must declare their interests after election was not strictly enforced. It was suggested that interest forms should state that it is a legal requirement, so that Members understood the consequences of not completing it on time.
7. The Monitoring Officer felt that there was clearly a role for the Standards Committee (and its successor) in scrutinising the register. Members suggested that a sample of registers were picked at random each year, for the Committee to scrutinise. It was agreed that the

action tracker be updated to reflect this point; the handover report to the next regime would include a recommendation for a more active role in scrutinising the Member register of interests.

8. Before concluding the item, one Member summarised the following key points from the discussion:
 - a. The interests form should indicate the legal status of a request for information (e.g. that request is there because it's in the code of conduct or because it is law).
 - b. Democratic Services should enforce completion deadlines.
 - c. The committee recommended checks on random samples of Members registers of interests under the new regime.
 - d. The detail that needs to be included on the form needs to be clarified.

Actions/Further Information to be Provided:

None.

Recommendations:

1. Officers in Democratic Services consider the declaration of interests form including the legal status of the request and the guidance as to what should be included on the form.
2. That the Committee include a recommendation in the handover report to the successor standards regime to encourage an active role in scrutinising Members' interests.

Committee Next Steps:

None.

07/12 LOCALISM ACT – IMPLICATIONS FOR STANDARDS [Item 7]

Declarations of Interest:

None.

Key Points Raised During the Discussion:

1. The Chairman reminded the Committee this item was to inform Members of developments and to encourage discussion, rather than for the Committee to determine what Surrey's future arrangements might be.
2. The Monitoring Officer introduced the report. The Localism Act 2011 made significant changes to the Standards regime which was highlighted in paragraph 2 of the report. The Committee were asked for their views on how to ensure that there would still be democratic oversight of standards issues under any new arrangements. It was noted that there was no longer a requirement to adopt a model code of conduct; however, the Council must agree a local code that is consistent with the Nolan Principles of Public Life. Under the new arrangements, there would still

need to be procedures for dealing with allegations of a breach of the Code.

3. It was reported that the draft code of conduct, at Annex 2, had been shared with colleagues in the District and Borough Councils. The Monitoring Officer had taken a different approach when drafting the code by using the Officer Code of Conduct as a model. As there would be very few sanctions that could be imposed if a Member breached the code, the new code had been drafted with a focus on advising Members of the Council's expectations regarding their conduct, instead of restricting what they could do. It was noted that a single core code was considered beneficial for the whole of Surrey, particularly as there were a number of twin-hatted Members who would otherwise have to adhere to two potentially quite different local codes.
4. It was noted that there was no requirement to have a standards committee with independent members under the Localism Act. Members were asked to consider their view on what options there were for democratic oversight of standards, if a standards committee no longer existed. Options to consider included whether it would have independent members or whether it could be combined with another, existing committee.
5. The new arrangements would require an 'Independent Person', who would not take on the same role as the current independent members. The independent person would be consulted by the Monitoring Officer in cases where a Member had breached the code of conduct. They must also be available to the person who had an accusation made against them. The Monitoring Officer was recommending that a pool of independent persons across the County and Districts and Boroughs be recruited to avoid situations where the independent person may have a conflict of interest.
6. Before opening up the Committee for debate, the Chairman invited Mr John Butcher to address the Committee. Mr Butcher had circulated a paper containing his views to the Committee. He thanked the Committee for allowing him to speak and summarised his views, making points that included:
 - e. Mr Butcher agreed that there should be one core code of conduct and a pool of independent people.
 - f. One important consideration would be to avoid any sort of clash, as far as possible, between officers and Members. A Surrey-wide approach would greatly reduce the risk.
 - g. There must be the fullest public confidence in the process and a sanction to withdraw from the process if it is not working properly.
7. Members had some reservations about paragraph 3.1 of the revised code of conduct. Their concerns were around the use of the word 'respect', which Members considered to be at risk of overly subjective interpretation. It was felt that paragraph 3.2 covered the point made by 3.1, without using language that had been purposely removed from standards legislation by the government.
8. Members queried the use of the work 'impartial' in paragraph 3.2, and were concerned that it was not possible to always be impartial when acting as an elected representative.

9. Not all Members agreed that paragraph 4.1, which related to personal use of the Council's property, should be included in the revised code of conduct. It was felt that this paragraph could cause particular problems if there was a joint code across Surrey. It was suggested, as an alternative, that the paragraph be amended to refer to 'inappropriate use' as defined in other Council policies that could be cross referred to in the Code.
10. The Committee asked that the wording be considered in paragraph 3 (should it refer to 'in promoting' or 'by promoting').
11. Members asked that if paragraph 3.1 was to remain in the revised code, it should ask for 'due respect'.
12. Members agreed that the new regime offered the opportunity to make guidance as simple as possible. It was agreed that the code should be a high level document. In cases where more information was needed, the document could refer to other Council policies.
13. The Monitoring Officer advised that there were several options for the democratic oversight of ethical standards and conduct, including a dedicated standards committee, combining standards terms of reference with another committee (for example People, Performance & Development or Audit & Governance Committee) or no committee at all. Another option was a Surrey-wide Committee that acted as a custodial guardian of the code of conduct. During the discussion, one Member raised concern that a wider Committee with complex terms of reference would risk recreating something that the government has abolished. He suggested that a committee should be set up specifically for the Council, with Members nominated by their peers and should only meet if there was something for the agenda. It was noted that there had previously not been a large number of cases for the Standards sub committees to consider and Members agreed it was important to have a simple standards system.
14. There was some discussion around whether a future committee with responsibility for standards should include independent members. Some Members felt that for public credibility, independent members were necessary. It was considered that an independent element might improve the public's confidence in the arrangements. On the other hand, one Member pointed out that a significant element of the new legislation had been around the removal of the requirement for a standards committee with independent members on it.
15. The Chairman asked Mr Butcher if he had any final remarks to make. Mr Butcher had noted that the decision on the new arrangements would ultimately be made by full Council. He hoped that Council would recognise the points about simplicity and felt that gaining public confidence was crucial.
16. Members discussed how hearings had previously been conducted and the lessons they had learnt. Members felt that the previous process had included too many levels, resulting in Members considering the same thing several times. It was agreed that the process needed to be simpler. The Chairman summarised a simple solution which would include four steps: a filter, review, decision and appeal stage.
17. The Monitoring Officer requested that the Committee speak with their colleagues and political groups about the options and the future of standards arrangements.

Actions/Further Information to be Provided:

None.

Recommendations:

1. Officers to note and consider the Committee's comments with regards the draft local code of conduct.

Committee Next Steps:

The Committee is encouraged to speak with their colleagues and political groups about the options and the future of standards arrangements at the Council.

08/12 DATE OF NEXT MEETING [Item 8]

The next scheduled meeting is 30 March 2012. It will be determined whether this meeting is necessary, subject to there being sufficient business for the Committee to attend to.

It was noted that this was Independent Member Karen Heenan's last meeting, having completed two consecutive terms of office. The Chairman thanked her for her contributions.

Meeting closed: 11.39am

Chairman

QUESTION:

The previous meeting of this Committee commented on the revised Member/Officer protocol, which was recommended for adoption by Council.

This was a shortened re-sequenced version.

One of the paragraphs from the previous version that was omitted read:

42 Information and correspondence will be sent to Members by post either directly or through the pigeon holes at Members' Reception, by email or by fax as appropriate and its delivery will not be delayed or interfered with by officers or Members.

Because I did not do a clause by clause comparison, I did not notice at the time that this had been omitted. I suspect that other members may not have noticed either.

My question therefore is:

What is the Standards Committee's view of the omission of this paragraph?

As some members will be aware, in the interim this paragraph was quoted in a complaint that officers had directed e-mails from a local campaign group to "spam" boxes.

It has also been pointed out that it is necessary for officers to be able to deal with genuine "spam".

The Members Code of Conduct requires members not to prevent people receiving information to which they are entitled, but there does not seem to be any other mention of a similar rule applying to officers.

A possible solution might be to reinstate the paragraph, but edit it to distinguish between spam and legitimate information and correspondence, thus:

Information and correspondence to Members legitimately pertaining to their role, whether by electronic means or post, will not be delayed or interfered with by officers or Members.

ANSWER:

The revised version of the Member/Officer Protocol considered by the Standards Committee on 12 December 2012 came out of a wish to shorten and simplify the Protocol and was updated based on feedback from both the Standards Committee and senior council staff.

Over time, the code had increased in length, mainly due to various events prompting additions.

The paragraph in question was introduced into the Code in 2006 after a particular incident involving a delay in mail reaching the Members' pigeonholes. At the time of the redraft, it seemed obsolete since the Members Code of Conduct requires Members not to prevent people receiving information to which they are entitled. Also, if taken literally, IMT would not be able to apply the SPAM filters to Members' email accounts that are used to protect the system.

If the Committee wishes the alternative sentence suggested by Mr Taylor be added to the Protocol, this can be inserted in the version being recommended to Council.