

Committee:	Standards Committee	Date:	2 February 2012
Place:	Committee Room 1, Civic Offices, High Street, Epping	Time:	7.30 - 9.12 pm
Members Present:	R Crone (Independent Member)(Chairman), J Guth (Independent Member), M Wright (Independent Member), Councillor Mrs A Grigg (EFDC Appointee), Councillor Mrs J H Whitehouse (EFDC Appointee), Councillor Mrs D Borton (Parish or Town Council Representative), Councillor C Pond (Parish or Town Council Representative) and Councillor B Surtees (Parish or Town Council Representative)		
Other Councillors:			
Apologies:	Councillor A Mitchell MBE		
Officers Present:	C O'Boyle (Monitoring Officer), I Willett (Deputy Monitoring Officer), G Lunnun (Allegations Determination Manager and S G Hill (Local Assessments Officer)		

The Chairman welcomed Councillor Chris Pond (Parish/Town Council representative nominated by the Essex Association of Local Councils – Epping Forest Branch) to his first meeting of the Standards Committee.

The Chairman advised that the District Council had appointed Councillor Ann Mitchell MBE as a new member to the Committee but she was unable to be present at this meeting.

Pursuant to the Council's Code of Member Conduct, Town Councillor Chris Pond declared a personal interest in agenda item 5 (Localism Act 2011 – New Standards Regime) by virtue of being a member of the Essex County Council and Essex Fire Authority Joint Standards Committee and in agenda item 8 (Allegations made about the conduct of District and Parish/Town Councillors) by virtue of being a member of Loughton Town Council. The Councillor advised that he had determined that his interests were not prejudicial and that he would remain in the meeting for the consideration of the matters.

The Committee considered a report describing the changes and actions required for the Council to implement the regulation of standards of conduct for elected and co-opted members introduced in the Localism Act 2011. Members noted that the date

for implementation of the required changes would be 1 July 2012 but that from 31 January 2012 Standards for England had ceased to operate its regulatory functions and would be abolished no later than 31 March 2012.

The Committee was advised that Chapter 7 of the Localism Act 2011 (Sections 26-37) dealt with standards issues. Members noted that the Act repealed Section 55 of the Local Government Act 2000 which provided for the current statutory Standards Committee. As a result in future there would be no requirement for a Standards Committee but the District Council would have to decide whether to deal with standards issues and casework through a discretionary local Standards Committee or some other forum. If a Standards Committee was established it would be a normal Committee of the Council and as a result would comprise members of the District Council only with the composition governed by proportionality.

The Deputy Monitoring Officer reported that a new category of Independent Person had been created under the Act who had to be consulted at various stages of a complaints process. The Independent Person could be invited to attend meetings of the Standards Committee but could not be co-opted onto the Committee. The current co-opted Independent members of the Committee would cease to hold office and would be unable to serve as new Independent Persons for the District Council for five years.

The Deputy Monitoring Officer advised that the District Council would continue to have responsibility for dealing with standards complaints against elected and co-opted members of Parish Councils but the current Parish Council representatives on the Committee would cease to hold office. The District Council could choose whether to involve Parish Council representatives and, if so, it would need to determine how many Parish Council representatives there should be.

The Committee noted that in summary there was a choice between:

- (a) establishing a Standards Committee as a Committee of the District Council with co-opted but non voting Parish Council representatives (who could then make recommendations in respect of Parish Council members); or
- (b) establishing a Standards Committee as a Joint Committee with some or all Parish Councils which would have a set number of Parish Council representatives as voting members on the Committee (thus being able to take decisions in respect of Parish Council members and subject to Parish Councils having delegated such powers to the Joint Committee); and
- (c) arranging for standards issues to be dealt with by the Monitoring Officer or in some other forum, eg. the existing Audit and Governance Committee.

The Committee also discussed the possibility of Parish Councils or a group of Parish Councils having their own Standards Committee.

The Deputy Monitoring Officer advised that many of the discretionary features of the new standards arrangements were thought likely to benefit from a consistent approach across local authorities such as the Code of Conduct, complaints procedures, Independent Persons. He advised that the Public Law Partnership (a partnership of the Legal Services of all the Essex Councils, Suffolk County Council, Hertfordshire County, District and Borough Councils, Essex Fire and Rescue Service and Lee Valley Regional Park Authority) had been undertaking work to prepare common arrangements with a view to relevant Councils formally adopting those

models. The Committee considered the latest drafts of the following documents being developed by the Partnership:

- (a) Terms of Reference of Standards Committee;
- (b) Code of Conduct;
- (c) Complaints Procedure;
- (d) Complaints Procedure – Flowchart;
- (e) Standards Committee – Hearing procedure; and
- (f) Complaint Form.

The Deputy Monitoring Officer informed the Committee that the Council had to adopt a new Code of Conduct governing elected and co-opted members when acting in that capacity. The new Code of Conduct had to be consistent with the following seven principles:

Selflessness;
Integrity;
Objectivity;
Accountability;
Openness;
Honesty; and
Leadership.

The Committee noted the model Code being worked up by the Public Law Partnership and the suggestion that the Council should adopt a separate Standing Order requiring any member who had registered a disclosable pecuniary interest to withdraw from the meeting during the consideration of that item.

The Committee noted that the Act required the Council to adopt “arrangements” for dealing with complaints of breaches of the Code of Conduct both by District Council and Parish Council members. The Deputy Monitoring Officer reported that the Localism Act had repealed the requirements for separate Referrals, Reviews and Hearings of Sub-Committees and enabled the Council to establish its own processes, including delegation of decision-making. The Committee noted the need for processes to cover:

- (a) whether to investigate a complaint;
- (b) no breach of code finding on investigation;
- (c) breach of code finding on investigation;
- (d) action in response to a finding of a failure to comply with the Code; and
- (e) appeals.

In relation to the new Independent Person, the Committee discussed the role, the term of office, the process of appointing, those who could not be considered for this position, and the remuneration for the position. The Monitoring Officer advised that the Public Law Partnership were investigating the possibility of setting up a register of

existing Standards Committee Independent Members with a view to them being approached by authorities other than their current one to act as an Independent Person across the area of the Partnership.

Members were advised that the Act required the Monitoring Officer to maintain a register of disclosable personal interests not only for the District Council but also for all Parish/Town Councils in the District. Members noted that registers had to be available for inspection at the District Council Offices and also on its website. The Committee discussed the workload required to compile and maintain the registers of the District Council and the current 24 Parish/Town Councils. Members noted that some preliminary work had already been commenced with Parish/Town Councils in order to ensure that officers were in the best position possible to compile the registers when the necessary regulations had been made. The Deputy Monitoring Officer advised that failure to register a disclosable pecuniary interest had been made a criminal offence.

The Committee discussed the new provisions in relation to dispensations.

RESOLVED:

That the officers (a) consult Parish and Town Councils about their future involvement in the new Standards regime; (b) consult with the Leaders of Political Groups of the District Council on future arrangements; (c) continue to work with the Public Law Partnership with a view to achieving a consistent approach as far as possible by all authorities in the Partnership and (d) submit a report to the District Council meeting on 27 March 2012 to enable decisions to be taken on the following matters:

Proper Officer

(1) That the Monitoring Officer be appointed as proper officer for the purposes of Sections 26 – 37 of the Localism Act 2011 with the Deputy Monitoring Officer authorised to act in the Monitoring Officer's absence.

Standards Committee

(2) That the Council determine whether to appoint a Standards Committee to assume responsibility for the new standards arrangements which will come into operation on 1 July 2012;

(3) That the Monitoring Officer submit proposals to the Council before 1 July 2012 on the following:

(a) the terms of reference and Constitution for a Standards Committee including the number of councillors to serve on this Committee and the number of executive members to be appointed;

(b) that, in principle, the Council approves the adoption of a model form of Standards Committee constitution currently being developed by the Essex Public Legal Partnership (PLP); and

(c) the results of consultation with parish and town councils in the District on whether those councils are to participate in any Standards Committee established by this Council.

Code of Conduct

- (4) That the Council agrees, in principle, to adopt the Model Code of Conduct being developed by the PLP so as to ensure that there is a uniform Code across the region, which takes account of the statutory definition of disclosable pecuniary interests and any other interests which Councils jointly agree should be included in the Code of Conduct;
- (5) That the Monitoring Officer be authorised to carry out further consultation with parish and town councils as to their wishes in regard to a uniform Code of Conduct within the District and to report back to the Council before 1 July 2012.

Arrangements for Dealing with Complaints

- (6) That the Council agrees, in principle, to adopt model complaints procedures under Section 28 of the Act currently being developed by the PLP;
- (7) That the Monitoring Officer report back on the details of the complaints procedure before 1 July 2012;
- (8) That the Monitoring Officer be authorised under the proposed complaints arrangements when adopted to:
- (a) determine whether a complaint merits formal investigation after consultation with the independent person;
 - (b) to arrange any such investigation;
 - (c) to seek resolution of complaints without formal investigations wherever practicable;
 - (d) to submit regular reports to the Standards Committee on the exercise of this delegated authority under (a), (b) and (c) above;
 - (e) to refer decisions on whether to investigate any complaint to the Standards Committee, if it is considered that this is appropriate;
 - (f) to close any complaint where an investigation finds no breach of the Code of Conduct, subject to the report and the findings from the investigation being provided to the subject councillor, the independent person and to the Standards Committee;
 - (g) to seek local resolution of any complaint where an investigation finds evidence of a failure to comply subject to the following:
 - (i) consultation with the independent person and the complainant;
 - (ii) a summary report being made to the Standards Committee on the action taken; and
 - (h) to refer any investigation report where local resolution is not possible to a hearing Sub-Committee of the Standards Committee for consideration.

The Independent person(s)

(9) That the Council agrees in principle to support the creation of a register of independent persons in the event that the existing independent members of the present Standards Committee are precluded from carrying out this role;

(10) That, in the event that the Localism Act 2011 is amended by Government regulations so as to permit existing independent members to become independent persons, the Council authorises the Monitoring Officer to place a public advertisement inviting applicants for these positions from among the existing independent members of the Standards Committee and other suitably qualified members of the public;

(11) That the Council determine at this meeting how many independent persons are to be recruited;

(12) That an appointments panel be created in order to interview applicants for the position of independent person, this panel to have five members appointed on a cross-party basis (i.e. Conservative: 3, LRA: 1 and Liberal Democrat: 1);

(13) That the Council determine whether the positions of independent persons should be remunerated on the same basis as the existing independent members of the Standards Committee (i.e. £ 500 + travel/subsistence);

Register of Members' Interests

(14) That the Monitoring Officer be authorised to prepare, maintain and publish registers of members' interests in respect of this Council and all Parish and Town Councils in the District and to make these available for public inspection at the Civic Offices, Epping, on the District Council's website and (where appropriate) on the websites of parish and town councils;

(15) That, in principle, the format for the registration of members' interests be adopted on the basis of proposals being developed by the PLP on which the Monitoring Officer will submit a further report before 1 July 2012;

Standing Order Requiring Members of Councils to Leave Meetings in respect of Disclosable Pecuniary Interests

(16) That the following new Council Procedure Rule (to be numbered (3)) be included in the Constitution:

"(3) Any member of the Council who has registered a disclosable pecuniary interest or has a pending notification of such interest in any items of business to be considered by the authority, must withdraw from the Council Chamber (or other meeting room) including the public gallery during the whole consideration of that item except if he or she is permitted to remain as a result of a dispensation.

Such requirements shall also apply to any Cabinet members with a disclosable pecuniary interest (including a pending notification) who shall be debarred from determining any matter which they would otherwise have dealt with as a portfolio holder under delegated authority.

Where a member of the Council has not registered such an interest or does not have appending notification, they shall declare the existence and nature of that interest and withdraw from the meeting during discussion of any relevant item of business."

- (17) That Council Procedure Rule 25 be amended so as to apply the new rule (3) above to all meetings of the Council.
- (18) That the Monitoring Officer report back on any further amendments to the proposed Council procedure rule changes which arise from the adoption of a Code of Conduct dealing with other pecuniary and non-pecuniary interests;

Dispensations

- (19) That the Monitoring Officer be authorised to determine all applications for dispensations from the effect of Section 31(4) of the Localism Act 2011 (exclusion as a result of a disclosable interest) unless it is the decision of this Council to appoint a Standards Committee;
- (20) That, in the event that the Council decides at this meeting to appoint a Standards Committee, the Monitoring Officer report back on those dispensations which would be more appropriate for consideration by a Standards Committee and those which could be dealt with by the Monitoring Officer under delegated authority.

Final Agreement of New Standards Proposals

- (21) That the Council give consideration to holding an additional Council meeting in June 2012 in order to receive further reports on the new Standards regime so as to enable the arrangements to come into operation on 1 July 2012 as required by the Localism Act 2011.

4. LOCALISM ACT 2011 - BRIEFING ON NEW STANDARDS REGIME - 11 FEBRUARY 2012

The attention of the Committee was drawn to a course being held in the Council Chamber on 11 February 2012 from 10.00 a.m. until 12.00 noon. Members noted that the course was suitable for District Councillors, Parish/Town Councillors and Independent members of the Standards Committee. The Deputy Monitoring Officer advised that the course would provide an outline of the statutory provisions and highlight those matters on which the District Council and Parish/Town Councils would have to address in the coming months. Reference would also be made to the provisions in the Localism Act 2011 regarding "pre-determination" of decisions by members in decision-making.

5. INVESTIGATIONS UNDERTAKEN BY THE MONITORING OFFICER AND DEPUTY MONITORING OFFICER FOR OTHER AUTHORITIES

The Committee was advised that as part of reciprocal arrangements in Essex to avoid the expense of external investigations, the Monitoring Officer and the Deputy Monitoring Officer had undertaken investigations for other authorities. The Monitoring Officer reported that she had undertaken an investigation in relation to a Harlow District councillor which had resulted in no further action.

being taken. The Deputy Monitoring Officer advised that he had undertaken an investigation for Basildon District Council and was currently awaiting to hear from that authority following the submission of his report.

6. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS

The Committee received a schedule regarding current allegations made about the conduct of District and Parish/Town Councillors.

7. DATES OF FUTURE MEETINGS

The Committee noted that the District Council's calendar for 2011/12 provided for a meeting of the Committee on 19 April 2012.

Members also noted that the calendar for 2012/13 provided for meetings of the Committee on 28 June 2012, 2 October 2012, 13 December 2012 and 28 March 2013 but these dates might have to be revised in view of the new regime to be introduced from 1 July 2012.

8. EXCLUSION OF PUBLIC AND PRESS

RESOLVED:

That, in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the item of business set out below as it would involve the likely disclosure of exempt information as defined in the paragraph of Part 1 of Schedule 12A of the Act indicated and the exemption is considered to outweigh the potential public interest in disclosing the information:

<u>Agenda Item No.</u>	<u>Subject</u>	<u>Exempt Information Paragraph Number</u>
11	Allegations made about the Conduct of District and Parish/Town Councillors – Issues Arising.	1

9. ALLEGATIONS MADE ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - ISSUES ARISING

The Committee considered the schedule regarding current allegations made about the conduct of District and Parish/Town Councillors. Members discussed the possible outcome of those cases under the proposed new regime.

CHAIRMAN