

MINUTES of the meeting of Standards Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 22 October 2010 at 3.00 pm

Present: Robert Rogers (Chairman) (Independent Member)
David Stevens (Vice Chairman) (Independent Member)
Jake Bharier (Independent Member)
Richard Gething (Parish and Town Council Representative)
John Hardwick (Parish and Town Council Representative)
Beris Williams (Local Authority Representative)

24. APOLOGIES FOR ABSENCE

Apologies were received from Ursula Attfield (Substitute Parish and Town Council Representative), Isabel Fox (Independent Member) and John Stone (Local Authority representative).

25. INTERIM ASSISTANT CHIEF EXECUTIVE (LEGAL AND DEMOCRATIC)

The Committee noted that Ms C Adan, Interim Assistant Chief Executive (Legal and Democratic), would be leaving Herefordshire Council on 26 November 2010, and received information about the arrangements in place until the arrival of the newly appointed Assistant Director of Law and Governance and Monitoring Officer, Mr Chris Chapman. Members thanked Ms Adan for the effective support that she had provided to the standards framework and to the Committee.

26. DECLARATIONS OF INTEREST

There were no declarations of interest made.

27. MINUTES

RESOLVED: (unanimously) that the minutes of the meeting held on 02 July 2010 be approved as a correct record and signed by the Chairman.

28. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS

There were no applications for dispensations received.

29. ANNUAL GOVERNANCE REPORT 2009/10

The Committee considered the external auditors' Annual Governance Report for 2009/10, which outlined their opinions and recommendations about the Council's financial statements for 2009/10, arrangements for securing value for money, and further improvements to the Council's governance arrangements arising from their audit work.

Members noted that there was an obligation in the Council's Code of Governance that the Standards Committee would receive an annual report on the effectiveness of the Code. This was because ethical governance formed part of the review. The report indicated that the Council was following the Code of Governance correctly, and had continued to demonstrate improvements in this area and in the use of resources.

RESOLVED: (unanimously) that the report be noted.

30. STANDARDS FOR ENGLAND BULLETIN 48

The Committee considered the latest Bulletin from Standards for England (SfE). Matters relating to the proposals for Standards for England and the Standards Framework were taken together with the next agenda item (The Future of the Local Government Standards Framework) due to their common content.

Members noted the SfE guidance on the re-appointment of independent members, given the current uncertainty regarding the future of the Standards Regime. The SfE advised that it might be preferable to retain members who had been trained and understood their role rather than seek to recruit and appoint new members at this time.

RESOLVED: (unanimously) that the report be noted.

31. THE FUTURE OF THE LOCAL GOVERNMENT STANDARDS FRAMEWORK

The Committee considered a report in respect of proposed changes to Standards for England (SfE) and the local Standards framework, through the proposed Decentralisation and Localism Bill due to be published later in 2010. The Bill included proposals to 'abolish the Standards Board regime'. The budget for Standards for England (SfE) had also been reduced for the current year by £1.45m (18%). The SfE was of the view that the process was likely to lead to its final closure sometime between 31 December 2011 and 31 March 2012, but as yet there was no indication of any transitional arrangements. Since the initial announcement in the "Programme for Government" on 20 May 2010, some further information had emerged about how the local Standards framework would be dealt with, as follows:

- Communities Minister Andrew Stunell had announced that serious misconduct for personal gain would become a criminal act and that the SfE regime would cease. Mr Stunell's view was that the standards regime had become a vehicle for malicious and frivolous complaints and had resulted in considerable costs having to be met by Councils to deal with them. He said that local standards committees had investigated some 6,000 complaints in the first two years of the regime and that over half of these had been judged not to be worthy of any further action. His aim was to introduce legislation so that all serious misconduct by councillors would become a criminal offence dealt with by the courts, instead of the current arrangements where some matters were dealt with by the Monitoring Officer and the Standards Committee.
- Greater importance would be attached to councillors registering personal interests in a public register, and sanctions would be imposed against those failing to register or declare an interest or deliberately misleading the public. The Minister believed that this would help to instil confidence in voters, and give assurance to councillors that investigations over petty allegations would cease. He added that the public should address unsatisfactory performance of councillors via the ballot box. Greater powers would be given to the Local Government Ombudsman, compelling local authorities to implement any Ombudsman recommendations.
- The Government also intended introducing legislation to make it clear that councillors would be able to campaign and vote freely on local ward issues. Councillors who had previously been prevented from speaking about the issues they had been elected on, such as planning matters, would have greater freedom to express their views.

During the ensuing discussion, the Committee raised the following key points and questions:

- It was recognised that the present system had numerous shortcomings. For example, the regime had at times become a vehicle for trivial complaints and vendettas, and the standards process could be unnecessarily lengthy and bureaucratic. The Committee had sought by its methods of operation to minimise this. Members felt, however, that if the present proposals were carried through, it was unlikely that there would be an effective local government ethical code, which may be a matter of concern to the public. The Committee broadly supported the retention of a local standards framework, but with a streamlined and less onerous process.
- The proposals for Councillors to register their interests - with non-registration becoming a criminal offence - raised questions about how best to establish what interests Councillors would have, and who would be responsible for whistleblowing.
- There was merit in empowering Monitoring Officers to intervene in the early stages of a complaint as a means of reducing bureaucracy. Monitoring Officers had been considerably less proactive under the current legalistic regime, due to the potential for conflicts of interest as complaints progressed through the system. A process which gave Monitoring Officers more freedom to deal with complaints would be welcomed.
- Any new proposals would need to take account of the political process and – particularly at local authority level - the role of party whips in encouraging good member behaviour. The political structure of a local authority and its relationship to the standards framework was a significant issue which could differ widely from a strong single party political structure, to a narrowly hung council. The new regime would need to be responsive to this.
- The Committee expressed concern that it would be difficult to use the ballot box as a method of regulating councillors' behaviour, because elections only took place approximately every three years. There was a real risk of diminishing public engagement in local democracy, and of a general loss of public confidence in the democratic process.
- How would complaints about parish and town councillors be dealt with? The Herefordshire Association of Local Councils (HALC) had expressed a view at its recent AGM, that there was a prevailing need to retain some form of code of conduct, and have access to guidance on standards matters after the abolition of SfE. Local feedback from parish and town councils had indicated strong support for continuing with the local regulation of standards matters, and HALC had suggested establishing a voluntary code of conduct which local councils could agree to abide by, as one possible solution. The local filter had been extremely effective in enabling the Committee to identify at an early stage, those complaints which were political or vexatious in nature, through the benefit of local knowledge.
- A significant proportion of Herefordshire complaints cases had arisen out of failings in good governance rather than in standards and ethics. There was merit, therefore, in seeking to prevent such complaints through being clear about good governance, providing appropriate training, assisting with chairing skills, providing support to local clerks and offering mediation where necessary. The Committee had worked with HALC to provide some of these services, and the Quality Parish Scheme was an additional mechanism which could encourage good governance. It might be possible to build on this as a way to regulate standards in the future.
- The Committee questioned whether criminalising the failure to declare interests would be more effective than regulation through a code of conduct, given the current structure and application of criminal law. Further information was needed

on how complaints about matters other than members' interests would be dealt with. This was particularly important given that many Herefordshire complaints cases were about bullying and misuse of office.

- More clarity was required on the role of independence in dealing with standards complaints.
- How would complaints that fall between being trivial and being serious but which did not warrant criminal investigation be dealt with? These may be picked up by the Local Government Ombudsman (LGO) as maladministration complaints, but would the LGO have the resources to deal with them, and what powers would it have?
- The costs involved in the new proposals had not been set out, and might prove to be higher than the costs of the current local standards framework. At present, the complaints system was free to the public.

The Communities Secretary, Eric Pickles, had recently stated that discussions had been held with the Local Government Association (LGA) about some of the concerns which has been raised nationally. The Committee agreed to forward its comments to the LGA, and other organisations which would be part of the national discussion. It also emphasised that until legislation was passed, the statutory framework remained and the Committee would continue to deal with complaints in the same way.

RESOLVED: (unanimously) that

- (i) **the report be noted;**
- (ii) **the Committee's views, as expressed above, be circulated to the Committee by email and finalised, and then forwarded to all organisations involved in consultation with Central Government about the Localism and Decentralisation Bill, including the Local Government Association, the Local Government Improvement and Development Agency, the Association of Independent Members, the National Association of Local Councils, the Association of Council Secretaries and Solicitors; and**
- (iii) **the Committee's submission be considered by Council.**

32. LOCAL FILTER CASES AND DETERMINATIONS

Members reviewed progress made on complaints about local authority, town and parish councillors since the introduction of the local filter on 08 May 2008. To date, the assessment and review sub-committees had dealt with eighteen complaints in 2008, fifty in 2009, and so far in 2010, twenty-eight. The Committee thanked officers for their hard work in ensuring that cases were up-to-date.

RESOLVED: (unanimously) that:

- (i) **the report be noted; and**
- (ii) **a further report be presented at the next Standards Committee meeting outlining progress made with cases.**

33. PROGRESS REPORT ON A STANDARDS FOR ENGLAND INVESTIGATION

The Interim Assistant Chief Executive (Legal and Democratic) apprised members of progress made with a Standards for England Direction issued in respect of a particular parish or town council.

RESOLVED: (unanimously) that the report be noted.

34. RECOMMENDATION TO THE MONITORING OFFICER IN RESPECT OF A STANDARDS COMMITTEE HEARING DECISION

The Interim Assistant Chief Executive (Legal and Democratic) sought advice from the Committee in respect of a recommendation to her arising from a Standards Committee Hearing Decision.

The meeting ended at 5.25 pm

CHAIRMAN