

Cherwell District Council

Standards Committee

Minutes of a meeting of the Standards Committee held at Bodicote House,
Bodicote, Banbury, OX15 4AA, on 7 March 2012 at 6.30 pm

Present: Dr Sadie Reynolds (Chairman)
Derek Bacon (Vice-Chairman)

Councillor Andrew Beere
Councillor Fred Blackwell
Councillor Chris Heath
Councillor Russell Hurle
Councillor James Macnamara
Kenneth Hawtin
Councillor David Carr

Substitute Members: Councillor Ken Atack (In place of Councillor Timothy Hallchurch MBE)

Apologies for absence: Councillor Timothy Hallchurch MBE
Councillor Rose Stratford
Councillor Douglas Williamson
Councillor John Coley

Officers: Kevin Lane, Head of Law and Governance / Monitoring Officer
Natasha Clark, Team Leader, Democratic and Elections

1 Appointment of Chairman

Resolved

That Dr Sadie Reynolds be appointed Chairman for the remainder of the municipal year 2011/12.

2 Appointment of Vice-Chairman

Resolved

That Derek Bacon be appointed Vice-Chairman for the remainder of the municipal year 2011/12.

3 Declarations of Interest

There were no declarations of interest.

4 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

5 **Urgent Business**

There was no urgent business.

6 **Minutes**

The minutes of the meeting held on 21 March 2011 were agreed as a correct record and signed by the Chairman.

7 **Localism Act 2011 - The New Standards Regime**

The Head of Law and Governance submitted a report which enabled the Committee to receive a summary of the provisions of the Localism Act 2011 in so far as they affect the standards regime, consider a number of issues with a view to formulating appropriate future recommendations to Council and agree to receive a further report at a future meeting when both a model code of conduct and details of the proposed legislation on Disclosable Pecuniary Interests were known in order to formulate a set of final recommendations to Council.

In introducing the report, the Head of Law and Governance explained that the Localism Act 2011 had received royal assent on 1 November 2011 and the changes to the standards regime were due to come into force on 1 July 2012. Under the Act the Council would remain under a statutory duty to promote and maintain high standards of conduct for elected and co-opted members and would continue to have responsibility for town/parish councils with regards to standards conduct and complaints.

The Committee was advised that all authorities would be required to have a Code of Conduct although they would have discretion about what was included within the Code. As yet no model codes were available although the Local Government Association was drafting one.

In response to Members' comments about the possibility of adopting a similar Code of Conduct across Oxfordshire at all tiers of government, the Head of Law and Governance reported that Oxfordshire Monitoring Officers were seeking to develop a cross-county code. This would be particularly helpful for Councillors who were elected to serve on more than one authority.

The Head of Law and Governance advised the Committee that legislation on Member interests relating to pecuniary, non-pecuniary and Disclosable pecuniary interests had not yet been published. The Committee was therefore being asked to consider and form a preliminary view on seven key issues at this stage and agree final recommendations to Council at a future meeting once the legislation was available.

Issue 1 – Nature and Composition of Member Body

The Head of Law and Governance advised the Committee that whilst the Localism Act repealed the provisions of the Local Government Act 2000 which provided for the existing mandatory Standards Committee, there would still be a need to deal with standards issues and case-work but local authorities had flexibility to determine their own arrangements.

The Committee recalled that at their meeting in March 2011, they had considered the proposals in the Localism Bill, and, in light of the information at that time, had taken the view that the Standards Committee should be abolished and the responsibilities transferred to the Accounts, Audit and Risk Committee.

In considering the options, the Committee noted that the provisions in the Act pertaining to Standards differed from the proposals in the Bill. In particular it would be mandatory to have a Code of Conduct and the district would retain responsibility for town and parish councils. Some Members of the Committee commented that at the time of the 2011 Standards Committee and with the proposals at that time, it was deemed appropriate for standards matters to pass to the Accounts, Audit and Risk Committee, however it was no longer clear if this was still appropriate. Some Members expressed the view that the remit could still transfer to the Accounts, Audit and Risk Committee and highlighted that the Council had received no complaints about District Councillors during its existence and few about Parish Councillors.

The Committee noted that the legislation no longer required town/parish council representatives to be involved in standards matters. Whilst it would be possible to co-opt, the representatives would not have voting rights. Additionally, should the standards remit be transferred to the Accounts, Audit and Risk Committee, the majority of the remit of that Committee was not relevant to any co-opted Parish Councillor.

The Committee agreed that it was difficult to determine what kind of Standards Committee/arrangements to recommend without having sight of the Code of Conduct although the prevailing view was that a free standing Committee was probably most appropriate. Notwithstanding, whatever form it took, the purpose should be to promote and maintain high standards and consider complaints as appropriate.

Issue 2 – Content of New Code of Conduct

The Committee was advised that the existing Model Code of Conduct would be repealed and Councils would be required to adopt a new Code which complied with seven principles (selflessness, integrity, objectivity, accountability, openness, honesty and leadership) and contained requirements for interests.

The Committee agreed that a recommended form of Code should be considered at their next meeting when the proposed LGA model code was available. In the meantime, the Committee endorsed the approach of the Monitoring Officer, in liaison where possible with his Oxfordshire counterparts, to seek to achieve a common code of conduct in the district, and if possible the county, at all levels of local authority.

Issue 3 – Nature of “Arrangements”

The Head of Law and Governance explained that the Localism Act required that the Council adopt “arrangements” for dealing with complaints of breach of the Code of Conduct by both District and Town/Parish Councillors.

The Committee agreed that this should be considered in detail at the next meeting but in the meantime the following broad principles should be included in the draft arrangements that would be submitted for consideration:

- That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
- That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation or not and to arrange such investigation. He be instructed to seek resolution of complaints without formal investigation as the severity of the complaint requires wherever practicable, and that he be given discretion to refer decisions of investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to the Standards Committee on the discharge of this function;
- Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be instructed to close the matter, providing a copy of the report and findings to the Independent Person, and reporting the findings to the Standards Committee for information;
- Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report or information to the Standards Committee. Where such local resolution is not appropriate or not possible, he is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing.
- That Council delegate to the Standards Committee (or a Hearings Panel Sub Committee) such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include –
 - Reporting its findings to Council [*or to the Town/Parish Council*] for information;
 - Recommending to the Member’s Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
 - Recommending to the Leader of the Council that the Member be removed from Cabinet, or removed from particular portfolio responsibilities;
 - Instructing the Monitoring Officer to [*or recommending that the Town/Parish Council*] arrange training for the Member;
 - Removing the Member [*or recommending to the Town/Parish Council that the Member be removed*] from all outside body appointments to which he/she has been appointed or nominated by the authority [*or by the Town/Parish Council*];

- *Withdrawing [or recommending to the Town/Parish Council that it withdraws]* facilities provided to the Member by the Council, such as a computer, website and/or email and Internet access; or
- *Excluding [or recommending that the Town/Parish Council exclude]* the Member from the Council's officers or other premises with the exception of meeting rooms necessary for attending Council, Committee and Sub-Committee meetings.

Issue 4 – Appointment of Independent Person(s) and Nature of Role

The Committee was advised that the "arrangements" adopted by the Council must include provision for the appointment by the Council of at least one independent person. This person must be appointed through a public advertisement, application and appointment by a positive vote of a majority of all members of the District Council. Additionally, there would be specific requirements for the Independent Person not to have not been involved with the Council (e.g. as an employee, elected Member or co-opted member) for five years prior to appointment although it was anticipated that transitional arrangements might be put in place that would permit the appointment of a current independent member of the Standards Committee for a limited period of time.

The Committee agreed that the final recommendations on this issue should be determined at the next meeting of the Committee but took the preliminary view that it would be appropriate to seek to appoint two Independent Persons to ensure resilience and to avoid potential conflicts of interest. Additionally, the Monitoring Officer, in consultation with the Head of Finance and Procurement, should be authorised to set the initial allowance and expenses for the Independent Persons and the function subsequently delegated to the Standards Committee. Furthermore, the Monitoring Officer should advertise a vacancy for two Independent Persons and a Panel comprising two current Standards Committee members and the Monitoring Officer should be set up to short list and interview candidates and to make a recommendation to Council for appointment. Subject to the proposed transitional provision being confirmed, any current member of the Standards Committee who resigns that membership by 30 June 2012 should be permitted to apply to be the Independent Person for such interim period as is permitted.

Issue 5 – Register of Members' Interests

The Head of Law and Governance advised the Committee that the Localism Act abolished the concepts of personal and prejudicial interests. Regulations would define Disclosable Pecuniary Interests and the Monitoring Officer would be required to maintain a register of interests for both District and Town/Parish Councillors and they should all be available for inspection and on the District Council's website.

The Committee noted that the provisions of the Act relating to Members' Interests and the fact that Regulations covering the nature of Disclosable Pecuniary Interests were still awaited and agreed to consider the detailed arrangements that will be required for the necessary register, including the identification of any non-disclosable pecuniary interests and pecuniary interests that it is recommended should be registered pursuant to the new code, at their next meeting.

Issue 6 – Disclosure of Interests and Withdrawal from Meetings

The Committee noted the proposed arrangements regarding disclosure of interests and withdrawal from meetings and agreed that the inclusion of a provision in the Council's Constitution requiring a Member, in the absence of any dispensation being granted otherwise, to withdraw from the meeting when he/she has a Disclosable Pecuniary Interest in any item of business at a relevant meeting should be supported and included as part of the final recommendations to Council in due course.

Issue 7 – Determination of Applications for Dispensation

The Head of Law and Governance advised the Committee that the Localism Act significantly changed the provisions on dispensations. In considering this issue, the Committee agreed that the final recommendations to Council should include that the determination of dispensation applications under the grounds "that so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would impede the transaction of the business (be inquorate as a result)" and "that, without a dispensation, no member of the Cabinet would be able to participate on a matter" be delegated to the Monitoring Officer in consultation with the Independent Person with a right of appeal against refusal to the Standards Committee; and, that the determination of applications on all other grounds be delegated to the Standards Committee. The Monitoring Officer/Standards Committee should only apply dispensations to District Councillors and Town/Parish Councils should agree their own arrangements for granting dispensations.

Members commented that it would important to raise of awareness of the changes for all district and parish councillors.

Resolved

- (1) That the summary of the provisions of the Localism Act 2011 ("the Act") that relate to the new standards regime be noted.
- (2) That having considered the specific issues identified the following preliminary views on likely future recommendations to Council be agreed:
 - a. **Issue 1 – Nature and Composition of Member Body:** That consideration of the type of Standards Committee be deferred until the proposed model Code of Conduct is available.
 - b. **Issue 2 – Content of New Code of Conduct:** That this be considered at the next meeting of the Committee when the proposed LGA model code was available but in the meantime, the approach of the Monitoring Officer, in liaison where possible with his Oxfordshire counterparts, to seek to achieve a common code of conduct in the District, and if possible the County, at all levels of local authority be endorsed.
 - c. **Issue 3 – Nature of "Arrangements":** That this be considered in detail at the next meeting but in the meantime the following broad principles should be included:

- That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;
 - That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation or not and to arrange such investigation.
 - That the Monitoring Officer be instructed to seek resolution of complaints without formal investigation as the severity of the complaint requires wherever practicable, and that he be given discretion to refer decisions of investigation to the Standards Committee where he feels that it is inappropriate for him to take the decision, and to report quarterly to the Standards Committee on the discharge of this function;
 - That where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be instructed to close the matter, providing a copy of the report and findings to the Independent Person, and reporting the findings to the Standards Committee for information;
 - That where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer, in consultation with the Independent Person, be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report or information to the Standards Committee.
 - That where such local resolution is not appropriate or not possible, the Monitoring Officer is to report the investigation findings to a Hearings Panel of the Standards Committee for local hearing;
 - That Council delegate to the Standards Committee (or a Hearings Panel Sub Committee) such of its powers as can be delegated to take decisions in respect of a member who is found on hearing to have failed to comply with the Code of Conduct, such actions to include those listed under Issue 3 above.
- d. **Issue 4 – Appointment of Independent Person(s) and Nature of Role:** That the final recommendations on this issue be determined at the next meeting of the Committee but the preliminary view be that:
- the Monitoring Officer, in consultation with the Head of Finance and Procurement, be authorised to set the initial allowance and expenses for the Independent Person(s) and that this function be subsequently delegated to the Standards Committee;
 - the Monitoring Officer advertise a vacancy for two Independent Persons;
 - a Panel comprising two current Standards Committee members and the Monitoring Officer be set up to short list and interview candidates and to make a recommendation to Council or appointment; and, that, subject to the proposed transitional provision being confirmed, any current member of the Standards Committee who resigns that membership by 30 June 2012 be

permitted to apply to be the Independent Person for such interim period as is permitted.

- e. **Issue 5 – Register of Members’ Interests:** That the provisions of the Act relating to Members’ Interests and the fact that Regulations covering the nature of Disclosable Pecuniary Interests were still awaited be noted; and that it be agreed to consider at the next Standards Committee meeting the detailed arrangements that will be required for the necessary register, including the identification of any non-disclosable pecuniary interests and pecuniary interests that it is recommended should be registered pursuant to the new code.
 - f. **Issue 6 – Disclosure of Interests and Withdrawal from Meetings:** That the inclusion of a provision in the Council’s Constitution requiring a Member, in the absence of any dispensation being granted otherwise, to withdraw from the meeting when he/she has a Disclosable Pecuniary Interest on any item of business at a relevant meeting be supported and that this be included as part of the final recommendations to Council in due course.
 - g. **Issue 7 – Determination of Applications for Dispensation:** That the final recommendations to Council include that the determination of dispensation applications for District Councillors under the grounds referred to under Issue 7 above be delegated to the Monitoring Officer in consultation with the Independent Person with a right of appeal against refusal to the Standards Committee; and, that the determination of applications on all other grounds be delegated to the Standards Committee; and, that Town/Parish Councils should apply their own dispensations.
- (3) That it be agreed to receive a further report at a subsequent meeting to consider and formulate a set of full and final recommendations to Council once a mode code of conduct and the legislation relating to Disclosable Pecuniary Interests were available.

8 Exclusion of Public and Press

Resolved

That, in accordance with Section 100A(4) of Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of that Act.

9 Minutes of meeting Thursday 15 September 2011 of Standards Assessment Sub-Committee

The Minutes of the meeting of the Standards Assessment Sub-Committee held on 15 September 2011 were noted.

10 **Minutes of meeting Thursday 10 November 2011 of Standards Assessment Sub-Committee**

The Minutes of the meeting of the Standards Assessment Sub-Committee held on 10 November 2011 were noted.

11 **Minutes of meeting Wednesday 21 December 2011 of Standards Assessment Sub-Committee**

The Minutes of the meeting of the Standards Assessment Sub-Committee held on 21 December 2011 were noted.

The meeting ended at 8.00 pm

Chairman:

Date: