

Council

Standards Committee Annual Report 2010/11 and the Future of the Standards Regime

18 May 2011

Report of Team Leader – Planning and Litigation / Interim Monitoring Officer

PURPOSE OF REPORT

The report presents the Standards Committee Annual Report 2010/11, which was approved by the Standards Committee on 21 March 2011. The report also advises Council of the recommendations agreed by the Standards Committee on the approach Cherwell District Council should take in the light of the proposals in the Localism Bill relating to the Standards Board regime.

This report is public

Recommendations

Council is recommended:

- (1) To note the contents of the Standards Committee Annual Report 2010/11.
- (2) To delegate to the Interim Monitoring Officer authority to update the Standards Committee Annual Report 2010/11 in light of any further announcements about the Standards Board regime by the Government prior to the publication of the Annual Report.
- (3) To note the recommendations agreed by the Standards Committee on the approach Cherwell District Council should take in light of the proposals in the Localism Bill relating to the Standards Board regime, namely that the Standards Committee be abolished and responsibilities transferred to the Accounts Audit and Risk Committee, that a voluntary code of conduct be adopted and limited support continue to be given to the parish councils.

Executive Summary

Standards Committee Annual Report 2010/11

- 1.1 The Standards Committee Annual Report 2010/11 is attached (Appendix 1). The Annual Report contains information relating to the work of the Standards Committee in monitoring the ethical framework.

- 1.2 The Standards Committee considered and approved the Annual Report 2010/11 at its meeting on 21 March 2011.
- 1.3 Once the content of the report is noted, it will be formatted into the corporate style for distribution. The Standards Committee agreed the publicity arrangements for the Annual Report: there will be a press release, it will be published on the Council's website and it will be emailed to every Parish Council.

The Future of the Standards Regime

- 1.4 The Localism Bill was published on 13 December 2010, as the vehicle to provide the legislative framework required to achieve many of the ambitions which were set out in the government's 'Big Society' agenda.
- 1.5 The Standards Regime, Standards Board and National Code of conduct fall within the principle 'lifting the burden of democracy' in the Localism Bill.
- 1.6 The Bill proposes to retain and introduce new mechanisms for upholding standards for councillors:
 - Monitoring Officers will be required to continue to maintain a register of interests for elected and co-opted members.
 - Elected members will be required to continue to declare personal interests and will not be allowed to use their position improperly for personal gain.
 - Wilful failure to comply with these requirements and declare interests will become a criminal offence. Prosecutions may only be brought by the Director of Public Prosecutions. The offence will be punishable by a fine of up to £5000 and potentially disqualification for up to five years.
 - In terms of Parish Councils, conduct becomes a matter for the Parish Council in question and no longer a matter for the district council or the district council's Monitoring Officer to investigate.
- 1.7 Additionally the Bill narrows the scope of predetermination as a basis of alleging bias. A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind just because they had previously done anything that directly or indirectly indicated what view the decision-maker took, or might take.

This essentially seems to replicate the existing common law position. A councillor is not to be taken to have had or to have appeared to have had a closed mind when making the decision just because that decision-maker had previously directly or indirectly indicated what view they might take. The 'just because' is significant since this effectively maintains the current common law position that there needs to be particular evidence of predetermination at the point of making the decision. However, whilst the law on bias remains unaffected, in that local authority decisions must be and be seen to be taken fairly and without bias, the proposed provisions in the Bill effectively enshrine in statute the common law position on predetermination. The key point is that councillors have a primarily democratic, rather than a judicial, role and their actions should be judged in that context.

- 1.8 It is anticipated that the Bill will receive Royal Assent in late 2011. The present conduct regime will continue to function in a normal manner, considering, investigating and determining allegations of misconduct until a fixed date (“the appointed date”), which is likely to be around two months after the Bill receives Royal Assent. This means that until the appointed day, an allegation of misconduct can be made but after the appointed day, no further allegations of misconduct can be made under the Standards for England regime. It also means that at the appointed day, allegations will be in the process of investigation and appeals against sanctions will be pending. Transitional measures will be put in place to address this.
- 1.9 The Localism Bill provides for significant changes to maintaining and monitoring standards in local government. It is important the council considers the implications and agrees the approach it will wish to take as early as possible to ensure a smooth transition.
- 1.10 In light of the proposals in the Bill, the Standards Committee considered the proposals at its meeting of 21 March 2011 and agreed the following recommendations to Council, of the approach Cherwell District Council may wish to take in light of the proposals in the Localism Bill relating to the Standards Board regime: That the Standards Committee be abolished and the responsibilities be transferred to the Accounts Audit and Risk Committee (the terms of reference of the Standards Committee and an annotated Standards Committee Terms of Reference in light of the Localism Bill proposals are attached as appendices 2 and 3 respectively), that a voluntary code of conduct be adopted and that limited support continue to be given to the parish councils.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The Standards Committee has an important role in seeking to ensure high standards of behaviour amongst Councillors in the District. It is important for their role to be understood by the public. The Committees Annual Report is part of that engagement process.
- 3.2 The Localism Bill includes proposals which will transform the ethical framework in local government, notably through the abolition of Standards for England, the removal of the requirement for local authorities to have a Code of Conduct and local Standards Committees and conduct becoming a matter for parish councils to determine. Councils will still however have a duty to promote and maintain high standards of conduct and may choose to adopt a voluntary Code of Conduct and maintain a Standards Committee.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- Option One** To agree the recommendations as set out in the report.
- Option Two** To amend the recommendations.
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Implications

- Financial:** The cost of printing and distributing the Annual Report will be met from existing budgets.
Until the Localism Bill passes into legislation there are no direct implications. It should be noted however that the Value for Money Review Corporate and Democratic Core approved by Executive in December 2010 included savings of £25,451 in 2011/12 for the deletion of the Standards Committee and the Standards Committee investigation budget.
The cost of all investigations to date have related to parish councils so a reduced role, at least in the current climate, is welcomed.
Comments checked by Karen Muir, Corporate System Accountant 01295 221559
- Legal:** There are no legal implications relating to the Standards Committee Annual report.
The current standards regime must continue until the Localism bill becomes law. Whilst there will be no requirement to have a code there will be a duty to uphold high standards of conduct and having a voluntary code of conduct will help to satisfy that duty.
Comments checked by Nigel Bell, Team Leader – Planning and Litigation / Interim Monitoring Officer, 01295 22 1687
- Risk Management:** There are no risk implications relating to the Standards Committee annual report.
Until the Localism Bill passes into legislation there are no direct implications
Comments checked by James Doble, Democratic, Scrutiny and Elections Manager, 01295 221587

Wards Affected

All

Document Information

Appendix No	Title
Appendix 1	Standards Committee Annual Report 2010/11
Appendix 2	Standards Committee Terms of Reference
Appendix 3	Annotated Standards Committee Terms of Reference in light of the Localism Bill proposals
Background Papers	
None	
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