



STANDARDS COMMITTEE

YOU ARE REQUESTED TO ATTEND A MEETING OF THE STANDARDS COMMITTEE TO BE HELD IN THE JOHN MEIKLE ROOM, THE DEANE HOUSE, BELVEDERE ROAD, TAUNTON ON WEDNESDAY 11TH FEBRUARY 2009 AT 14:15.

AGENDA

1. Apologies.
2. Minutes of the meeting of the Standards Committee held on 3 December 2008 (attached).
3. Public Question Time.
4. Declaration of Interests. To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
5. Feedback from the 5th Somerset Standards Committees' Annual Forum held at County Hall, Taunton on 28 January 2009. Issues for particular consideration include "Consideration as to how the Standards Committee could become more proactive" and "How to raise the Committees "status" within Taunton Deane's structure".
6. The Standards Committee's Annual Report. Consideration as to what should be included in the 2008 Report which will be submitted to the Council's Corporate Governance Committee. A copy of last year's Annual Report is attached for information.
7. Parish Council Visits since the last meeting. Reports back from the Independent Members.
8. Future items for discussion.
9. Date of the next meeting.

Tonya Meers
Legal and Democratic Services Manager
03 February 2009

Standards Committee Members:-

Anne Elder (Chairman)
Maurice Stanbury (Vice-Chairman)
Councillor Mrs Allgrove
Alan Cottrell*
Councillor House
Jenny Hoyle
Dick Macey
Peter Malim*
Mike Marshall
Lynn Rogers
Councillor Slattery
Robert Symons*
Bryn Wilson

* Please note that until their appointments as Independent Members of the Standards Committee are confirmed by Full Council, Messrs Cottrell, Malim and Symons can only attend the meeting as observers.



Members of the public are welcome to attend the meeting and listen to the discussion. Lift access to the main committee room on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is a time set aside at the beginning of the meeting to allow the public to ask questions



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact Greg Dyke on:



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Website: www.tauntondeane.gov.uk (Council, Executive, Review Board & Review Panel Agenda, Reports and Minutes are available on the Website)

Standards Committee – 3 December 2008

Minutes of a meeting of the Standards Committee held in Committee Room 1, The Deane House, Belvedere Road, Taunton on Wednesday, 3 December 2008 at 10.30 a.m.

Present: Mrs A Elder (Chairman)
Councillors Mrs Allgrove and House
Mrs J Hoyle, Mr R Macey, Mr L Rogers and Mr B Wilson

Officers: Mrs T Meers (Monitoring Officer) and Mr R Bryant (Democratic Services Manager)

50. Apologies

Mr M Stanbury (Vice-Chairman), Councillor Slattery and Mr M Marshall.

51. Minutes

The minutes of the previous meeting of the Committee held on 21 October 2008 were taken as read and were signed.

52. Declaration of Interest

Councillor Mrs Allgrove declared a personal interest as Chairman of the Somerset Association of Local Councils.

53. Consultation Paper - “Communities in control : Real people, real power. Codes of conduct for local authority members and officers”

Reference Minute No 48/2008, submitted for information and discussion a Consultation Paper that had been received from the Department of Communities and Local Government (DCLG) titled “Communities in control : Real people, real power. Codes of conduct for local authority members and officers”.

Councillor Mrs Allgrove commented as to the length of time it had taken the DCLG to come forward with this long promised revised Code of Conduct. She hoped the Code this time would include Clerks to Parish Councils.

The Consultation Paper which had been sent to all Local Authorities contained a number of questions the DCLG wished to receive responses upon.

To assist the Committee, the Monitoring Officer Mrs Tonya Meers, had drafted replies to most of the questions and these were submitted for consideration.

Whilst Members felt that most of the draft responses were acceptable, it was felt that:-

- In respect of Question 4, it was agreed that the wording of this response should be tightened to define the types of crimes committed abroad where the Members Code of Conduct would be breached. The Members also felt that the definition of ‘criminal offence’ should be tighter;
- It was agreed that the response to Question 5 should be modified to say that before a Standards investigation proceeded, close liaison with the Police would be necessary to ensure that any parallel Police case would not be prejudiced. Each instance would need to be considered on a case by case basis and if it was decided the Standards investigation could not proceed, the complainant would have to be informed;
- With regard to Question 9, there was discussion around the timescales and it was agreed that there should be a timescale for the Code to be adopted as there was in 2007.
- With regard to Question 20, Members felt the response should be strengthened to request that the same provisions relating to prejudicial interests should apply to both Members and officers; and
- In the reply to Question 22 it was felt that the reference to “employees of Parish Councils” should refer to the Clerks.

During the discussion of this item clarification was sought as to what would happen if a Local Authority did not voluntarily adopt the new Code of Conduct. Mrs Meers confirmed that mandatory adoption would ensure that the provisions of any new Code were implemented.

The responses to the 22 questions contained in the DCLG Consultation Paper, together with those from the other five main Local Authorities in Somerset would now be considered by the Monitoring Officers before a joint response was sent to the Government to meet the 24 December 2008 deadline.

(For the information of Members of the Committee, a revised copy of the questions and the agreed responses is attached as an appendix to these Minutes.)

54. Visits to Parish Councils

Mr Rodgers reported on a recent “goodwill” visit he had made to one of the Parish Councils. He had not been well received, had been given no opportunity to say why he was in attendance at the meeting and had detected quite a strong mood against the whole concept of maintaining proper standards in public life.

The Chairman considered this to be quite worrying particularly as it also

appeared that over half of the Parish Councillors had not benefited from the Code of Conduct training David Greig, the Parish Liaison Officer, had delivered to this particular Parish Council last year.

Mrs Meers confirmed that she would speak to Mr Greig on his return from holiday to see how best this serious matter should be addressed.

55. Date of the next meeting

Members felt that the next scheduled meeting on 13 January 2009 would be too close to this current meeting. It was therefore agreed that the next meeting should be re-arranged for early February instead. Tuesday, 10 February 2009 at 2.15 p.m. was suggested as a possible date but this would be confirmed in due course.

(The meeting ended at 11.52 a.m.)

Communities in Control: Real People, real power

Codes of conduct for local authority members and employees

A consultation

List of consultation questions

Chapter 2: Code of Conduct for Local Authority Members

No	<u>Question</u>	No Comment	Agree	Disagree	Comment
1.	Do you agree that the Members' Code should apply to a Member's conduct when acting in their non-official capacity?		Agree		Agree that the code should apply to Members conduct in their private life as the public expects their elected Members to be upstanding members of the community. Obviously there are degrees of behaviour that the public would accept and this should be reflected in the code, for example one minor speeding ticket would not be sufficient to be a breach of the Code but a flagrant disregard of the parking restrictions such as failing to pay and display and therefore accruing tickets in the Borough could be seen as a blatant disregard for the authority they represent.

2.	Do you agree with this definition of 'criminal offence' for the purpose of the Members' Code? If not, what other definition would you support, for instance should it include police cautions? Please give details.			Disagree	<p>The current definition in the Local Government and Public Involvement in Health Act 2007 means that it is conduct which would constitute a criminal offence and this suggests that there does not have to be a conviction but the behaviour would be a criminal offence. This would conflict with the proposals of the issue of fixed penalty notices (FPNs) not being a breach of the code, for example fly-tipping would be behaviour which would constitute a criminal offence but a FPN can be given therefore is there a breach of the Code or not? Also there would be the issue of the reputation of the Member to consider as a Member caught fly-tipping would not be deemed to be appropriate behaviour by the public.</p> <p>Should the test therefore be 'does the behaviour of the Councillor impact on their work or image as a Councillor?'</p>
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3.	Do you agree with this definition of 'official capacity' for the purpose of the Members' Code? If not, what other definition would you support? Please give details.		Agree		<p>There could be some confusion here given the intention to make some behaviour a breach of the Code when a Member is not acting in his/her 'official capacity'. It might be easier just to say that the whole Code applies to a Member full stop and not differentiate between acting in official capacity or not. However the definition is fairly clear.</p>
4.	Do you agree that the Member's Code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?			Disagree	<p>There are some offences which could easily be committed abroad which would make that Councillor unsuitable to be a Councillor, for example child related crimes. In addition, with the advance of the internet an offence could be committed in this country but tried abroad, for example internet hackers.</p> <p>It is felt that the Code should be applied even if the offences are committed abroad. In addition it is also felt that the definition of what is a criminal offence should be tighter.</p>

5.	Do you agree that an ethical investigation should not proceed until the criminal process has been completed?			Disagree	<p>There is very often a delay between the offence being committed and the conviction and therefore there may be times when it would not be appropriate for that Councillor to remain in office or not be dealt with under the Standards process. Obviously no Standards Investigation should interfere with a criminal investigation but it should be recognised that the burden of proof is different in civil proceedings and therefore the conduct of the Member may or may not amount to a criminal offence but should still be dealt with under the Standards Regime. In addition, it is possible that a Member could be subject to an injunction for harassment in the civil court but may not have been convicted of a criminal offence. Therefore it is felt this should be dealt with on a case by case basis in order to assess whether the Standards Process can proceed.</p>
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6.	Do you think that the amendments to the Members' Code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?		Agree		<p>Agree with the suggestions made in the consultation document at paragraphs 2.28 and 2.29.</p> <p>With regard to the registration of interests, this Council would agree with this approach although we do as a matter of course ask Members to update their register every May in any event.</p>
7.	Are there any aspects of conduct currently included in the Members' Code that are not required? If so, please could you specify which aspects and the reason why you hold this view?		Agree		<p>The issue of Executive Members having a prejudicial interest at overview and scrutiny is unnecessary. These are public meetings and the Executive Members are not involved in the decision making process. They may be there to give evidence or comment but sometimes they find it useful to attend to hear the debate which helps when the item comes back to the Executive for a decision as they get the full flavour of the debate and in some cases public opinion. Therefore would suggest that paragraph 11 is deleted completely.</p>

8.	Are there any aspects of conduct in a Members' official capacity not specified in the Members' Code that should be included? Please give details.		Agree		Some clarity for Members when they are making representations in their private capacity. Members are currently in a dilemma if they make neighbour representations, for example in a planning matter because they could be accused of improper use of their position to influence but if they do not declare they are a Member they could be accused of acting in an underhand manner. This could be resolved simply by providing that the Member discloses a personal interest.
9.	Does the proposed timescale of two months, during which a Member must give an undertaking to observe the Members' Code, starting from the date the authority adopts the Code, provide Members with sufficient time to undertake to observe the Code?		Agree		This is a new Code of Conduct with a slightly different emphasis as it now covers Members' private lives and therefore it is only right that they agree to continue to sign a new Code as was the case in 2007. In addition the wording in the 2000 Act requires Members to observe the Code of Conduct "for the time being" and therefore it is possible that interpretation of that could mean that it is an undertaking to observe the Code that is in force at that time.

10.	Do you agree with the addition of this new general principle, applied specifically to conduct in a Member's non-official capacity?			Disagree	It is felt that this is unnecessary as it is already covered under the principles of honesty and integrity and duty to uphold the law.
11.	Do you agree with this broad definition of 'criminal offence' for the purpose of the General Principles Order? Or do you consider that 'criminal offence' should be defined differently?			Disagree	As above, it is felt that a change is not necessary but if it is then it should be defined as criminal conduct "which compromises the reputation of the Member's office or authority, or their ability to perform their functions as a Member".
12.	Do you agree with this definition of 'official capacity' for the purpose of the General Principles Order?			Disagree	It is not clear why this is needed as there is now an emphasis on a Member's private life as well as them acting in their official capacity.

Chapter 3: Code of Conduct for Local Government Employees

13.	Do you agree that a mandatory model Code of Conduct for Local Government Employees, which would be incorporated into employees' terms and conditions of employment, is needed?		Agree		<p>This would allow for a consistent minimum approach for local government which employees and the public could understand. However most authorities, including this one does have a comprehensive Code of Conduct already therefore would suggest that a Mandatory Code should be the minimum that an Authority should have in place but it should not prevent them having one which goes further than the Mandatory Code if that is felt appropriate. It would be enforced through the Council's disciplinary process.</p>
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14.	Should we apply the Employees' Code to fire fighters, teachers, community support officers, and solicitors?		Agree		<p>The Code should apply to all employees in Local Government Employment.</p> <p>The Code of Conduct for employees is different to the professional codes of conduct however they should be compatible. In addition, if there was not a Code of Conduct for these professions this would cause some confusion and inequality amongst staff. This would be because they would be covered by different Codes but an employer would always want their staff to be covered by one code but would acknowledge that they are also covered by the professional codes at the same time.</p>
15.	Are there any other categories of employee in respect of whom it is not necessary to apply the Code?			Disagree	No consistency is the key.

16.	Does the Employees' Code for all employees correctly reflect the core values that should be enshrined in the Code? If not, what has been included that should be omitted, or what has been omitted that should be included?		Agree		
17.	Should the selection of 'qualifying employees' be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?				The selection of 'qualifying employees' should be selected using the delegation model which would mean only employees exercising delegated functions from elected Members would be included.
18.	Should the code contain a requirement for qualifying employees to publicly register any interests?		Agree		
19.	Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?		Agree		<p>There should be greater clarity on the declarations of interest.</p> <p>The first two bullet points should only apply where there is a potential conflict of interest (within the same geographical area, where there is a relationship or where there may reasonably be expected to be a relationship).</p>

20.	Does the section of Employees' Code which will apply to qualifying employees capture all pertinent aspects of the Members' Code? Have any been omitted?			Disagree	<p>The Code fails to recognise the provisions of Section 117 of the Local Government Act 1972 and therefore this should be incorporated to avoid employees have to check both the code and Section 117 which will avoid confusion.</p> <p>The Employees' Code is at odds with the Members Code on prejudicial interests as Members with a prejudicial interest have to leave the room altogether but for officers it says that "wherever possible ...take steps to avoid influential involvement in a matter". Therefore it is felt that employees should also leave the room if a matter is being debated.</p>
21.	Does the section of the Employees' Code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the Code that are not necessary?			Disagree	

22.	Should the Employees' Code extend to employees of Parish Councils?		Agree		It is felt that this needs to be tightened up and a tighter definition given. This Council feels that Clerks to Parish Councils as a minimum should be covered but that all permanent staff should also be subject to the Code.
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TAUNTON DEANE BOROUGH COUNCIL

STANDARDS COMMITTEE – ANNUAL REPORT 2007

Introduction

The Council's Standards Committee has been in operation since 2000. Although our meetings are open to the public, the minutes available on the web site and we publish regular updates in the Weekly Bulletin, we feel it good practice to produce an annual report so that members of the Council and the public are aware of our activities.

2008 will be an eventful year for us. New legislation will place responsibility for the standards agenda right at the heart of local government. It introduces a locally managed framework of compliance with the Code of Conduct and a new strategic role for the Standards Board for England.

Local Standards Committees will, in future, be responsible for making initial assessments of allegations of misconduct and will handle most cases locally. The Standards Board for England will provide, support, supervision and guidance and aim to ensure a degree of consistency.

Membership

The Committee has always ensured that it has a majority of independent members who are not connected with the Council. We have also always ensured that Chair is chosen from those independent members. This will now become a requirement of all Standards Committees but is something we have been practising since the Committee's inception.

We also have two Parish Council representatives and one councillor from each of the political groups.

The last year has seen a number of changes in our membership. John Dewdney and David Gollin both left as independent members. They were replaced, following public advertisement and circulation of the vacancies amongst charitable and voluntary bodies and we are pleased to welcome Jenny Hoyle and Dick Macey to the Committee. Councillors Colin Croad and Mary Whitmarsh also stepped down and we are equally please to welcome Councillor David House. Both parish representatives came to the end of their term of office and the parishes are now represented by Mike Marshall and David Wilson.

The full membership of the Committee is as follows:-

David Baker OBE (Chair)
Anne Elder (Vice Chair)

Dick Macey JP
Jenny Hoyle JP
W Lynn Rogers
Harold Inder
Maurice Stanbury

Parish representatives:
Mike Marshall
David Wilson

Council representatives:
Councillor Mrs Allgrove
Councillor Slattery
Councillor House

We are supported at our meetings by the following officers:- Jeremy Thornberry (Monitoring Officer), David Greig (Parish Liaison Officer), Greg Dyke (Democratic Services Manager) and Donna Durham (Review Support Officer)

Terms of Reference

Our terms of reference remain unchanged but this is something we will be giving some detailed attention following the introduction of local regulation. Our current terms of reference are:

- (a) To advise on the adoption and monitoring of the new local Code of Conduct for members
- (b) To be responsible for training of councillors on ethical conduct
- (c) To promote and maintain high standards of conduct in the Authority and assist the Authority's members to observe the Code of Conduct

Functions of the Committee

In accordance with Section 54 of the Local Government Act 2000, the Committee is responsible for:-

- (a) promoting and maintaining high standards of conduct by the members and co-opted members of the Authority; and
- (b) assisting members to observe the Code of Conduct;
- (c) advising on the adoption of the Code of Conduct;
- (d) monitoring its operation; and
- (e) advising, training or arranging to train members on matter relating to the Code.

Review of the Year

We have developed and strengthened our links with Parish Councils during the year. This is something we have aspired to for a while and we consider we have made great progress in this area. A separate section of this report gives more detail of this topic.

We are conscious of the need for members of the Committee to be as well trained and up to date with developments as possible. With this end in mind we have been represented at the Annual Assembly of Standards Committees, attended Standards Board for England Roadshows and maintained a presence at meetings of the South West Independent members Group. Indeed, Taunton Deane hosted one such meeting in September. Joint training with Sedgemoor District Council has been provided on the operation of a new filtering regime to be introduced in April 2008 and in January the entire Committee will be taking part in a training event where the new local arrangements will be the theme. All these things have allowed us to hear from officers of the Standards Board for England, the appropriate Government Minister and to share good practice with our colleagues.

Members of the Committee have also attended meetings of TDBC on occasions. The purpose of this was to familiarise ourselves with the operation of the Council and to provide us with a broader, more balanced view of a councillors work.

The Chair of the Committee was pleased to meet the new Leader of the Council and to be given the opportunity to emphasise the value of the Committee and its work. It is hoped that these meetings will continue and that in addition there will be an opportunity to meet all Group Leaders together with the Chief Executive

We have been able to monitor the operation of ethics and probity through regular reports to us from the Monitoring Officer. By doing this we are kept up to date with all those matters that come to his attention. We have been particularly pleased to see how quickly the new councillors have realised the benefits of high ethical standards and are reassured by the level of advice generally sought by all councillors on all matters of ethics and probity.

During the year a new Model Code of Local Government Conduct was produced by the Government. We are pleased that the Council reacted so quickly to our recommendation to adopt the new Code in its entirety. By adopting the Code in April (much earlier than many local authorities) it was possible to deliver training to new councillors which included the new Code rather than having to do it twice - with the old Code and then again when the new one was adopted. It also meant that the Parish Councils could adopt the new Code immediately after the local government elections.

With the elections taking place during the year we were keen to include the work of the Standards Committee in the election process so that candidates

were aware of the standards required of councillors. The guide for prospective candidates, both Borough and Parish, included details of ethics and probity, a letter was sent to all new members from the Chair and he also attended the new members' Welcome Day to talk more about the role of the Committee. In addition, the Chief Executive and Monitoring Officer were able to explain the basics of the Code of Conduct when new members signed their declarations of acceptance of office.

We have worked hard to maintain a high profile with Borough and Parish Councils so that all are aware of the support, advice and guidance we are able to give.

Work with Parish Councils

As mentioned earlier in the report, this was an area where we were keen to raise our profile and offer advice and support. We wanted to dispel any lingering myth that standards and the ethics and probity regime was a bad thing and to emphasise that it was there for the protection of parish councils and their councillors. We also wanted to make all parish councils aware of the advice and support we were able to give.

We decided that rather than invite representatives of parishes into The Deane House for training sessions we would go to them instead. Taunton Deane has 41 Parish Councils, 39 Parish Clerks and 343 Parish Councillors. We felt that it was essential that Parish Councils received training on the new Code of Conduct. The training has been delivered by David Greig, Parish Liaison Officer and members of the Standards Committee have been present at a number of the training sessions. By delivering the training in this manner, over 30 Parish Councils have so far been visited with a total of approximately 250 parish councillors and clerks being trained in the process. This has proved a worthwhile exercise and has been an excellent way of ensuring as many parish councillors and clerks as possible receive first hand training in the standards and the Code of Conduct. All 41 Parish Councils have adopted the revised Code of Conduct.

On a specific issue, we have dealt with a situation where a large number of allegations had been made to the Standards Board for England in respect of one particular Parish Council. None of the allegations had been found to be worthy of investigation and it was apparent from the issues involved that an inappropriate use of the Code was being made. The Chair of this Committee together with the Parish Liaison Officer therefore visited the Parish Council to re-emphasise the requirements of the Code.

We have generally been well received by the parishes and we intend to continue to develop and strengthen this particular link.

Training

With the introduction of the new Code training was equally important in relation to our Borough Councillors. An ethics and probity training session therefore took place on 11 July 2007 and we were pleased to see 30 Borough Councillors attend that session.

This training complemented the other ethics and probity training delivered at the new members' Welcome Day and when the newly elected members met with the Chief Executive and Monitoring Officer.

The success of the training has been illustrated by the number of enquiries that have been forthcoming from Members. There has also been an upsurge in declarations of interest made at meetings.

The Committee feel that the training should be repeated annually, in order to keep Members well informed. We have also asked that a list of attendees be submitted to us so that we can attempt to achieve 100% training for all members.

The Future

As mentioned at the beginning of this report, the Local Government and Public Involvement in Health Bill is expected to come into force by April 2008. The Bill includes a number of important changes in the way the current Standards regime operates. It will involve us in the biggest change we have had to deal with since Standards Committees were set up..

Complaints about Borough and Parish Councillors have hitherto been made directly to the Standards Board for England. The Board then carry out an initial filter and decide what action should be taken. The intention of the Bill is for this procedure to change and for all complaints to be made directly to the local Standards Committee.

Once the complaint has been made we will have three distinct roles:

- exercising the local filter
- reviewing the local filter if necessary (appeal)
- holding a hearing following an independent investigation

Despite the absence so far of any central guidance we are working towards being ready for the challenge when the new regime comes into effect. We have given some consideration to how these roles will operate in practice and have drawn up a policy and procedure for dealing with allegations.

We have had some brief, informal training already by dealing with a number of case studies. There will also be an opportunity for us to receive further, more detailed training when we attend the training event at County Hall in January.

In addition to this change in procedure there are other areas of our remit that we intend to develop over the coming year.

We feel that it is important that some meaningful and measurable performance targets and indicators are in place in order that the work of the Committee can be measured. The Committee has built up a number of years' successful experience in its various roles in advancing ethical standards across Taunton Deane. We have decided that the time has now been reached when its own performance should be judged. We hope to introduce these indicators/measurements in the forthcoming year,

We also want to improve communications even further. We feel there is scope to develop our presence on the Taunton Deane web site. We want to see a regular supply of information to councillors, press and the public through the availability of our minutes and reports in the Weekly Bulletin. We will also be looking at the possible development of a share point site.

Conclusion

Taunton Deane has a Standards Committee that is committed to promoting good standards amongst councillors. We have come a long way from our early days and we will continue to look at ways in which we, as a Committee, can improve and serve the Council and the community.

David Baker OBE
Chair, Taunton Deane Standards Committee