



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, TA1 1HE ON WEDNESDAY 15TH APRIL 2009 AT 14:15.

AGENDA

1. Apologies.
2. Minutes of the meeting of the Standards Committee held on 11 February 2009 (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. Visit by Dr Michael Macaulay, Reader in Governance and Public Ethics, University of Teeside, in connection with a research project he is undertaking into good practice in Standards.
6. Proposed guidance for Councillors appointed to represent the Council on outside bodies. A first draft of this guidance is attached for consideration and comment by Members of the Committee. Tonya Meers
7. Update on complaints made against Councillors under the Local Standards Framework and the proposed introduction of performance indicators. Tonya Meers
8. Performance Indicators for the Standards Committee (excluding those proposed in connection with the Local Standards Framework). A draft set of performance indicators will follow for consideration. Richard Bryant
9. The Standards Committee's Annual Report. A copy of the report looking back over 2008 is attached for the information of Members. Richard Bryant
10. Parish Council Visits since the last meeting. Reports back from the Independent Members. David Greig
11. Future items for discussion.
12. Date of next meeting.

Tonya Meers
Legal and Democratic Services Manager

08 April 2009

Standards Committee Members:-

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



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 – 11 February 2009

Minutes of a meeting of the Standards Committee held in the John Meikle Room, The Deane House, Belvedere Road, Taunton on Wednesday, 11 February 2009 at 2.15 p.m.

Present: Mrs A Elder (Chairman)
Mr M Stanbury (Vice-Chairman)
Councillors Mrs Allgrove and House
Mr R Macey, Mr M Marshall, Mr L Rogers and Mr B Wilson

Officers: Mrs T Meers (Monitoring Officer), Mr D Greig (Parish Liaison Officer) and Mr R Bryant (Democratic Services Manager)

Also present as observers: Mr A Cottrell, Mr P Malim and Mr R Symons.

1. Welcome

The Chairman welcomed Messrs Cottrell, Malim and Symons to the meeting. She explained that the three had been selected to fill the Independent Member vacancies on the Standards Committee. Their appointments had still to be formally confirmed by Full Council. In the meantime, they were in attendance as observers.

2. Apologies

Councillor Slattery and Mrs J Hoyle.

3. Minutes

The minutes of the previous meeting of the Committee held on 3 December 2008 were taken as read and were signed.

4. Feedback from the 5th Somerset Standards Committees' Annual Forum

The 5th Somerset Standards Committees' Annual Forum had been held at County Hall, Taunton on Wednesday, 28 January 2009 and Members were given the opportunity to provide feedback on the Forum.

The general feeling expressed was that the arrangements at the start of the day had been very poor with delegates turning up at the wrong time, the meeting room not being prepared and audio aids for those hard of hearing being less than efficient.

The content of the Forum was considered to have been acceptable but not as good as previous years. The emphasis during the morning on Sedgemoor District Council's problems with the Local Assessment Scheme was thought to have been too laboured whilst the Workshop on Sanctions had been interesting.

The presentation made by Dr Michael Macaulay from the University of Teesside on “What makes a Standards Committee effective?” had been particularly well received.

This prompted a discussion between Members as to how Taunton Deane’s Standards Committee could become more proactive and how the Committee’s “status” could be raised within the Council’s structure.

Amongst ideas which were suggested to achieve a higher profile were:-

- Regular contact with the Political Group Leaders and Senior Officers to re-establish formal contact with the Council. (Richard Bryant reported that it was already intended to request both the Chief Executive, Penny James, and the Section 151 Officer, Shirlene Adam, to attend a future meeting of the Standards Committee);
- Consideration of the Committee’s functions to see whether these should be widened. For example, changes to the Council’s Constitution could be considered by the Committee;
- Further appearances by the Independent Members at formal meetings of the Council in a similar way to the visits already made to Parish Councils; and
- Greater publicity and promotion of the work of the Committee.

The Chairman felt that as the Committee was part of the Council, a far closer relationship was required than the rather remote standing the Committee currently had. Inclusion in certain events was suggested and a greater knowledge of the work of the Council.

It was felt that initially to help provide this knowledge, the Members of the Standards Committee should receive copies of the Weekly Bulletin and the quarterly Budget and Performance Reports. Richard Bryant confirmed that this would be arranged.

5. The Standards Committee’s Annual Report 2008

The Chairman reported that it was a requirement for the Standards Committee to prepare an Annual Report. A copy of the 2007 Report had been circulated for information and to provide a basis for the 2008 edition.

Once the draft report was agreed, it would be submitted to the Council’s Corporate Governance Committee for comment/acceptance. Thereafter, it would be made available to all Members of the Council and would be published on the Website.

Members felt that the theme of the report should be to “raise the Committee’s profile” and should contain reference to the Local Assessment Scheme, the continuation of the very good work being undertaken by David Greig and the Independent Members with the Parish Councils and updates of work and topics referred to in the 2007 Report.

One of the matters previously mentioned concerned the introduction of performance targets. This was thought to have been in connection with the length of time complaints against Taunton Deane or Parish Councillors were dealt with by the Standards Board for England.

Discussion of this item led to a number of questions relating to the complaints received since May last year under the new Local Assessment Scheme.

The Committee felt it would be very worthwhile to set up measurable performance targets to ensure complaints received were dealt with as quickly and efficiently as possible. The targets could be used to show whether the various stages were being completed within reasonable timescales. Regular publication of this information, which would exclude any specific details of the complaints being released during the assessment stage, would be welcomed.

The Committee would be able to see at an early stage if certain cases were the subject of delay, why this was and, if this became a frequent problem, identify whether further resources were needed to ensure the investigation of complaints proceeded at a faster pace.

As far as the Annual Report was concerned, a draft would be circulated to Members within the next couple of weeks for comment before being circulated to the Corporate Governance Committee on Monday, 16 March 2009. It was usual for the Chairman to attend this meeting to introduce the Annual Report.

6. Visits to Parish Councils

Reference Minute No 54/2008, Mr Rodgers reported that he had since returned to the Parish Council where he had not been well received, this time with no problem. The Chairman of the Parish Council concerned had made him welcome and had permitted him to address the meeting.

David Greig circulated information to the Independent Members as to the Parish Councils which were due to be visited. He said he would co-ordinate the visits and would be more than happy to include the three new Independent Members, once they had been formally appointed to the Committee.

7. Business requiring to be dealt with as a matter of urgency

The Chairman reported that she had agreed that the item covered by Minute No. 8 below should be dealt with as an urgent matter.

8. Dispensation to Members of the Norton Fitzwarren Parish Council

Reported that Members of the Norton Fitzwarren Parish Council had previously been granted a dispensation in order to be able to participate in the planning process in respect of land at Ford Farm, Norton Fitzwarren.

The land would shortly be coming up for discussion again through the Local Development Framework and the Parish Council's views would be sought during the formal consultation process.

As more than 50% of the Members of the Parish Council had a prejudicial interest in the land as they lived near or within view of the site, the Standards Committee was able to grant a dispensation to the affected Members to enable them to participate in the planning process.

Resolved that a dispensation be granted to the Members of Norton Fitzwarren Parish Council in order to allow them to participate in the consultation process of the Local Development Framework in respect of land at Ford Farm and any subsequent planning application that should arise from that process.

9. Date of the next meeting

The next meeting would be on Wednesday, 15 April 2009 at 2.15 p.m in Committee Room No. 1 at The Deane House.

(The meeting ended at 3.50 p.m.)

GUIDANCE FOR COUNCILLORS APPOINTED TO REPRESENT THE COUNCIL ON OUTSIDE BODIES

INTRODUCTION

This guidance is produced to assist members with their roles and responsibilities when they sit on outside bodies. In addition there is guidance attached relating to the code of conduct on personal and prejudicial interests.

The fundamental principals of this guidance are as follows:-

- Members will act according to the rules, constitutions and frameworks set by the relevant outside body and where, possible, with those of the Council.
- Members will make independent and personal judgements based on their duty of care to the outside body
- Members will report back, on their involvement with the outside body, at least annually to the Council
- Members will comply with their obligations as far as they are applicable pursuant to the code of conduct
- Members will take an active and informed role in the management of the outside body's affairs unless they are placed as an observer
- Membership of an outside body does not include representing a political party.

GENERAL PROVISIONS

There are some general provisions which apply to members who act in the role of company director, charity trustee or member of an unincorporated body.

Members are under a duty to exercise independent judgment in the interests of the organisation in which they are involved. Whilst it is recognised that members may have a commitment to representing the Council on the Outside Body, they must be aware that it is their responsibility to decide on what view to take on any question before that organisation. For example, an instruction from the Council to vote one way

or the other would put the member in breach of his/her duty to the organisation. It is permissible to take account of the Council's wishes, but not to vote simply in accordance with them without applying one's own judgment.

Where a member is involved in an outside organisation as a representative of the Council, he/she must declare that fact to the organisation.

Members must also ensure that avoidable loss is not incurred in managing the organisation concerned. They cannot avoid this responsibility by not reading the papers or failing to ask for the appropriate report. They will be expected to seek professional advice as appropriate.

Members who represent the Council in such circumstances need to familiarise themselves with the duties they will assume and any potential liabilities they may face. It is essential that they are aware of how to deal with any conflicts of interest that may arise and they need to be sure that the proper procedures have been followed in respect of appointments to the relevant organisation.

COMPANIES

Companies can be:-

- ❖ Limited by shares, usually operating a trade or business. They have shareholders and distribute profits to shareholders as dividends.
- ❖ Limited by guarantee – or so called “not for profit” organisations, which have members rather than shareholders. This type of company may also be a charity.

Companies are separate legal entities which employ staff, enter into contracts and own land/property. The day to day business of a company is managed by its board of directors.

Companies offer limited liability. This means that the members or shareholders are usually not personally liable for the company's debts and liabilities, subject to limited exceptions.

The powers of the directors are usually set out in the company's Articles of Association. These are the rules that govern the internal management of the company.

Duties of a Company Director

- **To act in good faith and in the best interests of the company when making decisions as a director.**

This means exercising your own, independent judgment on matters and whilst factors such as the views and wishes of the Council or your political group, may be taken into account, one should avoid slavishly following the council or party group line without considering all other relevant considerations. When making decisions about the company the law also requires you to consider the interests of employees as well as the interests of members/shareholders. In certain cases you may find that the best interests of the company and the Council conflict. Guidance on conflicts of interest is included in this guidance.

- **To exercise reasonable care and skill when making decisions as a director.**

A director requires no greater skill than might reasonably be expected of someone of that individual's particular knowledge and experience. Directors are not deemed to be experts but they are expected to use due diligence and to obtain expert advice if necessary. This is very similar to the Member/Officer relationship in terms of decision making and the provision and consideration of professional advice.

- **A fiduciary duty to act honestly and in good faith and in the best interests of the company as a whole.**
- **To act in accordance with the company's memorandum and articles of association, plus any other rules, regulations or bylaws that the company may operate pursuant to. Members/Officers should ensure that they have an up to date copy of these documents and are aware of their contents.**
- **To inform the board of a company if you have any direct or indirect interest in a contract the company is considering, proposing or entering.**

For example, this will include contracts between the company and the Council. These requirements are similar to those contained in the Code of Conduct governing the declaration of personal/prejudicial interests. In other words members must notify the other directors before the company makes a decision on the matter concerned and the member should not take part in any board discussions about the contract.

- **Not to make a profit from their positions within the company.**

You must therefore declare any interests you have (or those of your family/close associates) in relation to the company's contracts. Permission to vote on a particular matter would depend on the articles of association.

- **To comply with company law.**

Directors must ensure that the Companies Acts are complied with particularly in respect of the maintenance of accounts and the submission of statutory returns to the register of companies. Failure to do so incurs fines and persistent default can lead to disqualification as a director.

LIABILITIES OF A DIRECTOR

What are the potential liabilities when acting as a director?

Generally, in the absence of misconduct, directors have no personal liability for the debts they build up on the company's behalf. However, directors can be held responsible for certain types of activities they are involved in on behalf of the company, which could lead to a personal liability to other people or criminal liability. Some of the more serious wrongdoings that can arise are set out below:-

Wrongful trading

- This is where a director knows or is expected to know that the company is likely to go into liquidation and he or she fails to take action to reduce the amount the company owes to their creditors.
- In other words, the directors continue trading where there appears to be no possibility of the company being able to settle its debts with its creditors within a reasonable period of time of them becoming due. It is not an option for the director to do nothing; the director must take action to protect creditors as soon as he or she becomes aware, or should have been aware, of the risk of insolvency.
- When judging whether a director should have been aware of the risk, the court will expect every director to have at least the general knowledge, skill and experience which could be expected of someone in their position.

- If a director is found to have been wrongfully trading, a court can order him or her to personally contribute to the assets of the company when it goes into liquidation.

Fraudulent trading

- This arises where there is a deliberate attempt to defraud creditors and the company then fails. There needs to be evidence that the director intended to defraud; mere omissions to act are not sufficient.
- This will involve the fraudulent trader deceiving his or her creditors into believing they will be paid on an agreed date. As well as having to personally contribute to the assets of the company when it is liquidated, fraudulent trading is also a criminal offence and may lead to fines and imprisonment.

Breach of a warrant of authority

- This is where a director gives someone else the impression that he or she has authority to act on behalf of the company when in fact he or she hasn't.
- An example here would be entering into a contract for supplying goods or services.
- In these circumstances, because the director held him/herself out to have authority to sign a contract and commit the company (when s/he didn't have such authority), the other person involved can claim from the director personally any loss he or she has suffered as a result of the lack of such authority.

Personal guarantees

- If directors have personally guaranteed a loan to the company and the company cannot meet the conditions of the loan, the lender may choose to enforce the guarantee against the personal assets of the directors who have given the guarantee.
- In extreme cases, directors may have to sell their homes to repay the company's debt or be declared bankrupt.

Acting as a director whilst disqualified

- Any director who is guilty of acting as a company director whilst disqualified from acting as a company director will be liable for the company's debts that built up during that period.

Failing to maintain company records

- All directors and officers of the company must maintain up-to-date records, both at Companies House and as part of the book-keeping arrangements for the company. If they do not do this, they will have to pay a fine.

The environment and health and safety issues

- By law, civil or criminal proceedings may be taken against a director for the actions of the company in relation to environmental or health and safety matters. For example, acts of pollution.

PROTECTION AGAINST PERSONAL LIABILITY

Can nominee directors protect themselves against personal liability?

- Generally speaking, insurance cover can be put in place to protect directors in the proper and lawful conduct of their duties. However, it may not always be the most effective protection considering that the risks which are commonly regarded as the most serious (for example criminal liability and wrongful trading) are often excluded from insurance cover.
- The **Companies Act** gives companies the right to put in place liability insurance cover for their directors and officers, and the companies may pay the premiums. Companies need to make sure that the cover is suitable because this type of policy excludes dishonesty, fraud, slander, libel, pollution, and claims or actions resulting from a director trying to benefit personally.
- For professional directors (accountants, solicitors, architects and structural engineers) providing specialist knowledge and expertise to the board and the company, professional indemnity insurance may be available at a cost.

Can a local authority protect members and officers nominated as directors?

The **Local Government Act 2000** allows the Secretary of State to make regulations giving local authorities powers to provide some protection for a member or officer acting as the Council's nominated director where a claim is brought against them because of some negligent act, or failure to act, in the course of carrying out their duties as Directors. . These regulations are set out in the **2004 Indemnities Order** which came into effect in November 2004.

The measures that a local authority can take are either:

- providing a specific indemnity to the officer or member; or
- securing the provision of an insurance policy; or
- both the above

Cover can only be provided by the authority where the officer or member has been specifically appointed by the authority to act as the Council's nominated director.

Cover cannot extend to acts by the member or officer regarded as criminal e.g. wrongful or fraudulent trading. It can be used to meet the costs of defending any criminal proceedings but if convicted; the costs of the defence must be reimbursed to the Council or Insurance Company.

Cover cannot be provided where there is intentional wrongdoing, fraud or recklessness. Neither can it be provided to fund an action for defamation brought by a member or officer against a third party. (although it can extend to defending an action for defamation brought against a member or officer by a third party)

The cover also extends to members or officers doing acts which are outside the powers of the authority (i.e. ultra vires) so long as they reasonably believed what they were doing at the time was within the powers of the authority.

The Local Authorities (Companies) Order 1995

This Order sets out the rules concerning Councils' involvement in "regulated companies" which are subject to extensive controls.

Regulated companies are so defined if they are "controlled" or "influenced" by the Council. Influenced companies, under the effective control of the local authority, will be subject to capital finance regimes and special property controls.

Companies are local authority "influenced" if there is at least a 20% Council interest plus a business relationship with the company accounting for over 50% of the company's turnover and/or the company is located on local authority land, leased or sold for less than the best price reasonably obtainable. Companies are local authority "controlled" if there is a local authority interest in excess of 50% and the minority interest is less than 20%.

In particular Regulated Companies are subject to the following requirements;

- Comply with limits placed on remuneration paid to Directors who are also members of an authority which is a shareholder;
- Ensure that Member Directors who become disqualified from membership of an authority are removed from the Board;

Conflicts of interest

Conflicts of interest may arise between the Council and a company. Even if the Council and the company have the same overall aims and objectives you cannot assume that their interests will always be the same. The legal position and your obligations remain the same even if the company has worthy objectives or is formed in response to a Council or government initiative.

Conflicts of interest may arise: -

- ❖ If the council is selling, donating or leasing land to the company.
- ❖ If the company and the council are negotiating a contract with each other.
- ❖ If the company is seeking funding from the council.
- ❖ If there is a dispute between the company and the council.
- ❖ If the company is tendering or negotiating to provide goods, services or works to the council.

Company law requires you to act in the best interests of the company but the Council will have nominated you as a director to represent or promote the Council's interests. Accordingly, if you are uncertain whether a conflict of interest exists you should seek advice from the Monitoring Officer as soon as possible.

If you think you have a conflict of interest you should: -

- ✓ Notify the Monitoring Officer;
- ✓ Notify the company's board of directors,
- ✓ Take no further part in the matter on behalf of the company.

Charities

Charities may be created by registering any of the following with the Charity Commission.

- ❖ A Trust Deed – the Trustees become charity trustees
- ❖ A company limited by guarantee – the directors become charity trustees.
- ❖ An unincorporated association – the Management Committee become charity trustees

In order to qualify for a charitable status, the Commission must be satisfied that the organisation is operating for a charitable purpose. These are:

- The relief of poverty and human suffering
- The advancement of education
- The advancement of religion

Another purpose for the benefit of the community

An organisation which operates for political purposes cannot qualify for charitable status.

The Duties of a Charity Trustee

Charity Trustees must:-

- Act strictly in accordance with the charity's constitution and rules.
- Act in the best interests of the charity.
- Manage the charity's affairs prudently
- Not derive any personal benefit or gain from the charity.
- Take proper professional advice on matters you are not competent to decide yourself.
- Ensure that the charity's bank accounts are operated by more than one person.
- Ensure the trustees have proper control of the charity's property and assets.
- Ensure that the charity keeps full and accurate accounting records.
- Spend charity income solely for the purposes set out in the charity's constitution.
- Ensure charity property is properly maintained and insured.

Personal Liability

Personal liability may be incurred if a trustee:

- Acts outside the scope of the trust deed
- Falls below the required standard of care
- Makes a personal profit from the trust assets

Personal liability to a third party may arise because a charitable trust, unlike a company, is not a separate legal entity.

Unincorporated Associations / Bodies

Organisations which are neither charities nor companies are referred to as unincorporated associations. They usually operate pursuant to a constitution or set of rules defining the organisation's responsibilities and those of its members.

The affairs of an unincorporated association are usually governed by a management committee in accordance with the constitution of that organisation or agreed rules of procedure.

Unincorporated associations cannot do any of the following in their own name:

- Enter into contracts
- Own land
- Employ staff

Members of the organisation's management committee must act in accordance with its constitution and must take reasonable care in exercising the organisation's powers.

Generally, the members of the management committee are liable for the acts of the organisation but are entitled to an indemnity from the funds of the organisation if they have acted properly. If there are not enough funds, the committee members are personally liable for the shortfall.

Members of a management committee will have personal liability if they act outside the authority given to them or if they do not comply with the relevant legal obligations.

Unincorporated associations – Duties

As a matter of good practice members appointed to represent the Council on an unincorporated association (body or organisation) must:

- Act in the best interests of the association
- Use reasonable care and skill when involved in decision making on behalf of the association
- Act in accordance with the association's rules or constitution.

Members/officers are therefore encouraged to:

- Clarify the extent of any limits to their power to act on behalf of the Council
- Notify the Monitoring Officer if the association is proposing to take a course of action which is disadvantageous to the Council or which seems to involve considerable risk
- Ensure the association has clear rules and procedures for decision making, particularly for entering into contracts.

The Members Code of Conduct

Duty to Observe the Code

Members are obliged to observe the provisions of the Code whenever they conduct the business of the authority including when they act as a representative of the authority except and insofar as it conflicts with any other lawful obligations to which that body is subject. So the position is that a Member would not be in breach of the Code in circumstances where they take action which would

normally constitute a breach but they are legally obliged to act in that way as a result of their position within the outside body.

It is not easy to imagine such circumstances but one example might be where an authority was proposing to take action which would have an extremely adverse effect on the financial wellbeing of a company on which a Member sat as a Director. If the Member was privy to the information concerning the authority's plans he may find himself in a position where he was compelled to disclose this potentially confidential information to the company due to his fiduciary duty to the company itself and duties arising under the companies act to avoid trading when insolvent. This is an extreme example but one which could feasibly arise.

PERSONAL AND PREJUDICIAL INTERESTS

Personal Interests these are covered in paragraph 8 of the Code and are set out below:-

A member will have a personal interest in any business of the authority where either it relates to or is likely to affect –

- (a) any body of which the member is a member or in a position of general control or management and to which the member has been appointed or nominated by the Authority;
- (b) any body which exercises functions of a public nature, is directed to charitable purposes or if its principal purpose includes influencing public policy or opinion. (including any political party or trade union) and the member is in a position of general control or management.
- (c) Any employment or business carried on by the member
- (d) Any person or body who employs or has appointed the member
- (e) Any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by the member in carrying out the member's duties.
- (f) Any person or body who has a place of business or land in the authority's area, and in whom the member has a beneficial interest in a class of securities of that person or body that exceeds a nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower).
- (g) Any contract for goods, services or works made between the authority and the member of firm of which the member is a partner, a company of which the member is remunerated director, or a person or body of the of the description of paragraph (f) above.
- (h) The interests of any person from whom the member has received a gift or hospitality with an estimated value of £25;
- (i) Any land in the member's authority's area in which the member has a beneficial interest

- (j) Any land where the landlord is the member's authority and the member is a firm in which the member is a partner, or remunerated director or a person/body of the description set out in paragraph (f) above is the tenant;
- (k) Any land in the authority's area for which the member has a licence (alone or jointly with others) to occupy for 28 days or longer or;
 - (i) a decision in relation to that business might reasonably be regarded as affecting the member's well being or financial position or the well being or financial position of a relevant person to a greater extent than the majority of –
 - (ii) other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

A 'relevant person' is a member of the member's family, or any person with whom the member has a close association; or any person/body who employs or appoints such person, any firm in which they are a partner or company in which they are directors or any person/body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000 or any body of a type described in (a) or (b) above.

REPORTING ARRANGEMENTS

Members who represent the Council on outside bodies are required to submit a written report to either full council or Executive, at least annually, on the activities of the organisation.

The purpose of the reporting arrangements is to ensure that members are fully informed of the activities of the outside body or organisation concerned, the nature of the organisation's activities and the impact of such activities on the local community and Council service delivery.

Frequency of reporting will be annual, unless exceptional circumstances require a further report. Reports will be submitted in writing by the Elected Member and, so far as is reasonably practicable, limited to one side of A4.

Further Advice

Advice on the application of this protocol should be sought from the Monitoring Officer.

Taunton Deane Borough Council

Standards Committee – Annual Report 2008

1. Introduction

- 1.1 The Council's Standards Committee has been in operation since 2000. Although our meetings are open to the public, the minutes are available on the website and updates are published regularly in the Weekly Bulletin, we feel it is good practice to produce an annual report so that Councillors and the public are fully aware of our activities.
- 1.2 2008 has certainly been a year of very significant change with the introduction of the Local Standards Framework in early May. This framework placed responsibility for the standards agenda right at the heart of Local Government with all complaints made against Borough, Town and Parish Councillors in Taunton Deane now being dealt with through the local Standards Committee.
- 1.3 There have also been major changes in the membership of the Committee and the officer support given to the Committee.

2. Membership

- 2.1 At the beginning of the year Membership of the Committee stood at 12 Members. However, this has been increased by one and now comprises seven Independent Members, three Parish Council representatives and a Councillor from each of the political groups which form the Council.
- 2.2 We have always ensured that the Committee has a majority of Independent Members. We have also always ensured that the Chairman is chosen from those Independent Members. Although this is now a requirement of all Standards Committees, it is something we have been practising since the Committee's inception.
- 2.3 The last year has seen a number of changes in our membership. After Chairing the Committee since 2000, David Baker decided it was time to step down both as Chairman and as one of the Independent Members. His enormous contribution to the work of the Standards Committee is acknowledged here and our best wishes go to him for the future.
- 2.4 The existing Vice-Chairman, Anne Elder, was appointed as the new Chairman of the Standards Committee with Maurice Stanbury appointed as Vice-Chairman.

- 2.5 Another of the Independent Members, Harold Inder, sadly died following a long period of ill health. He will be missed.
- 2.6 In May, following the introduction of the new Local Standards Framework, it was recognised that the Committee needed to increase the representation from the Parish Councils from two Members to three. This was seen as necessary not only to widen the 'pool' when it came to selecting an Assessment Sub-Committee but would also reduce the possibility of there being a conflict between a Parish Councillor who is the subject of a complaint and the Parish Members on the Standards Committee.
- 2.7 Jenny Hoyle, who was one of our Independent Members and also a Milverton Parish Councillor, opted to move sideways to fill the place for the third Parish representative.
- 2.8 The effect of these changes meant that there were three vacancies for Independent Members. Following public advertisement and circulation of the vacancies amongst charitable and voluntary bodies, a total of six candidates were interviewed in early December. Alan Cottrell, Peter Malim OBE and Robert Symons were provisionally appointed to the Committee as 2008 came to a close and their appointments were formally confirmed by Full Council in February 2009.
- 2.9 On the officer support side, there were also some major changes in personnel and structure. Jeremy Thornberry, the Monitoring Officer, and Greg Dyke, the Democratic Services Manager, both retired after long service to Taunton Deane Borough Council. They have been replaced respectively by Tonya Meers and Richard Bryant.
- 2.10 The full membership of the Committee is as follows:-

Anne Elder (Chairman)
Maurice Stanbury (Vice-Chairman)
Dick Macey JP
W Lynn Rogers
Alan Langford
Peter Malim OBE
Robert Symons

Parish representatives:-
Jenny Hoyle JP
Mike Marshall
David Wilson

Council representatives:-
Councillor Mrs Allgrove
Councillor Slattery
Councillor House

- 2.11 We would like to formally note the support provided by Tonya Meers (Monitoring Officer) and Richard Bryant (Democratic Services Manager) together with their support staff and the role played by David Greig (Parish Liaison Officer). The introduction of the Local Standards Framework has increased their burden of work significantly. This should be formally recognized.

3. Terms of Reference

- 3.1 Despite the introduction of the Local Standards Framework, the Committee's terms of reference remain unchanged. 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; and
- (c) To promote and maintain high standards of conduct in the Authority and assist the Authority's Members to observe the Code of Conduct.

4. Functions of the Committee

- 4.1 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 Councillors and co-opted Members;
 - (b) Assisting the Councillors and co-opted Members to follow the Code of Conduct;
 - (c) Advising the Council on the adoption or revision of the Code of Conduct;
 - (d) Monitoring the effectiveness of the Code of Conduct;
 - (e) Training or arranging to train Councillors and any co-opted Members on matters relating to the Code of Conduct;
 - (f) Assessing and reviewing complaints about Members;
 - (g) Conducting Determinations' Hearings;
 - (h) Granting dispensations to Councillors and any co-opted Members with prejudicial interests; and
 - (i) Granting exemptions for politically restricted posts.

5. Review of the Year

- 5.1 We have further 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 good progress in this area. A separate section of this report gives more detail on this topic.
- 5.2 We are conscious of the need for Members of the Committee to be as well trained and as up to date with developments as possible. With this in mind we were well represented at the 4th Annual Assembly of Somerset Standards Committees held over at County Hall in January and maintained a presence at the meeting of the South West Independent Members Group in Bristol during March.
- 5.3 In October, the Monitoring Officer and the Democratic Services Manager attended the annual Standards Board for England Conference in Birmingham.
- 5.4 All of these events have allowed us to hear first hand from officers of the Standards Board for England particularly in connection with the Local Standards Framework and to share good practice with our colleagues. Feedback from the Birmingham Conference was provided to Members and it is likely that some of the new ideas and innovative practice will be implemented during 2009.
- 5.5 Since the introduction of the new Code of Conduct in 2007, we have continued to note that most Councillors recognise the benefits of high ethical standards and we are reassured by the level of advice generally sought by Councillors on matters of ethics and probity.
- 5.6 As mentioned earlier, the major issue of 2008 was the introduction of the Local Standards Framework.
- 5.7 Complaints about Borough, Town and Parish Councillors have, since the introduction of the Standards 'regime' in 2000, been made directly to the Standards Board for England. The Board carried out an initial filter and decided what action should be taken and what sanctions, if any, should be imposed.
- 5.8 The Standards Committee (England) Regulations 2008, which came into force in early May, completely changed this procedure. Now, all complaints against Borough, Town and Parish Councillors have to be made directly to the local Standards Committee which has become responsible for making initial assessments of allegations of misconduct and what sanctions, if any, should be imposed. The Standards Board for England now only provide, support, supervision and guidance. They will however still provide the strategic vision for ethical governance.

- 5.9 In the lead up to the introduction of the new Regulations, the Committee discussed in detail the forthcoming changes which meant that once a complaint was made, the Committee would have three distinct roles:-
- exercising the local filter;
 - reviewing the local filter if necessary (by way of a review/appeal); and
 - holding a hearing following an independent investigation.
- 5.10 As a result of these discussions, a framework for dealing with complaints has been agreed. A leaflet entitled "How to make a complaint about a Councillor" has been produced and widely circulated across the district. Publicity through the media was also given to the introduction of the new scheme.
- 5.11 Since the introduction of the Local Assessment Scheme, the Committee has received a total of four complaints to the year end. All were initially considered by an Assessment Sub-Committee comprising two Independent Members and one elected Councillor.
- 5.12 Three of the complaints were referred for investigation which currently is in progress. It was decided not to proceed any further with the fourth complaint because the complainant failed to provide additional information requested, in a reasonable time period.
- 5.13 It is difficult to conclude at this stage, seven months into the new arrangements, whether the low level of complaints is due specifically to Councillors knowing and respecting their obligations under the Code of Conduct or whether members of the public are not yet fully aware of the new complaints scheme.
- 5.14 Whilst the Committee certainly believes it is due to the former, a close watch will be maintained on the number of complaints lodged during 2009 to see whether any particular trends emerge.
- 5.15 In the run up to the introduction of the Local Standards Framework, a complaint was made to both the Standards Board for England and Taunton Deane concerning the behaviour of one of the Borough Councillors. Although the case was widely reported through the media no formal action could be taken as it was clear the Councillor concerned had not been acting in his capacity as a Member when the offence of which he was convicted took place.
- 5.16 Nevertheless, the Committee did agree to write to the Councillor to remind him of the Principles of Public Life detailed in the Code of Conduct.

- 5.17 The Department of Communities and Local Government launched a consultation document towards the end of the year towards refining and updating the Code of Conduct for Councillors.
- 5.18 When considering our response to this consultation, it was interesting to note that the Government is likely to tighten the rules in the future to ensure Councillors are bound by the Code of Conduct at all times during their period in office so as to ensure that formal action can be taken in respect of incidents such as the one referred to in paragraph 5.15.
- 5.19 Lastly to mention that the Committee has continued to work hard to maintain a high profile with Borough, Town and Parish Councils so that all are aware of the support, advice and guidance we are able to give.

6. Work with Parish Councils

- 6.1 This was an area where we were keen to further raise the Committee's profile. We wanted to emphasise to all Parish Councils that standards and the ethics and probity regime were there for the protection of both the Clerk and the Councillors themselves. We also wanted to make all Parish Councils aware of the advice and support we were able to give them.
- 6.2 The Committee had previously decided that rather than invite representatives of parishes into The Deane House for training sessions, we would go to them instead. Centrally organised training events had proved not to be well supported in the past.
- 6.3 The training has been delivered by David Greig, our Parish Liaison Officer and members of the Standards Committee have been present at a number of these sessions. Refresher training and 'mop up' events to provide the training to those Parish Councillors who missed out first time around is regularly offered.
- 6.4 By delivering the training in this manner all Parish Councils have now been visited with the vast majority of Parish Councillors and Clerks being trained.
- 6.5 This has proved a very worthwhile exercise and it is perhaps no coincidence that since the introduction of the Local Standards Framework not one complaint against a Parish Councillor has been made.
- 6.6 As well as the training, the Independent Members of the Committee have decided to make at least annual visits to all Parish Councils to maintain the profile of the work of the Standards Committee. These "goodwill" visits have generally been well received by the parishes and we intend to continue to develop and strengthen this particular link.

7. Training

- 7.1 With the introduction of the new Code of Conduct in 2007, training was equally important in relation to our Borough Councillors. Ethics and probity training sessions were provided at the time and during the early part of 2008 and very nearly all of the Councillors have attended.
- 7.2 The success of this 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.
- 7.3 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.

8. The Future

- 8.1 Although this was mentioned in last year's Annual Report, the Standards Committee still feels 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 monitored. The Committee has built up a number of years' successful experience in its various roles in advancing ethical standards across Taunton Deane.
- 8.2 Although some provisional performance indicators were brought to the Committee in January for discussion, the major structural changes which then occurred meant the indicators were not developed or implemented. We hope to introduce indicators/measurements in the forthcoming year.
- 8.3 The Committee is also keen to become more proactive and a number of ideas aimed at raising the Committee's profile in the future have been suggested. These include:-
- Regular contact with the Political Group Leaders and Senior Officers to re-establish formal contact with the Council;
 - Consideration of the Committee's functions to see whether these should be widened and its terms of reference altered;
 - Further appearances by the Independent Members at formal meetings of the Council in a similar way to the visits already made to Parish Councils; and
 - Greater publicity and promotion of the work of the Committee.
- 8.4 With regard to the last point, we feel there is scope to develop our presence on the Taunton Deane website. We want to see a regular supply of information to Councillors, the press and the public through the availability of our minutes and reports in the Weekly Bulletin. A share point site for Councillors is currently under construction and it

should be possible to promote the work of the Committee by this means too.

9. Conclusion

- 9.1 Taunton Deane has a Standards Committee that is committed to promoting good standards amongst Councillors both at Borough and Parish levels. We will continue to look at ways in which we, as a Committee, can improve and serve both the Council and the community by delivering an effective service.
- 9.2 The changed role of the Standards Committee means that there is a greater demand on resources at local level. These resources come not only from the Members of the Committee but also its supporting officers. The resource implications must be recognised if we are to deliver our responsibilities fully and effectively.

Anne Elder
Chairman,
Taunton Deane Standards Committee