

Standards Committee – 7 December 2011

Minutes of a meeting of the Standards Committee held in the John Meikle Room, The Deane House, Belvedere Road, Taunton on Wednesday, 7 December 2011 at 2.30 p.m.

Present: Mrs A Elder (Chairman)
Mr A Cottrell (Vice-Chairman)
Councillors Mrs Allgrove, Brooks and Gaines
Mr A Cox, Mr H Davenport, Mr L Rogers, Mr R Symons and Mr B Wilson

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

98. Apologies

Mr T Bowditch, Mr D Macey and Mr M Marshall.

99. Welcome

The Chairman welcomed Adrian Cox to his first meeting of the Committee as one of the independent Members.

100. Minutes

The minutes of the previous meeting of the Committee held on 13 September 2011 were taken as read and were signed.

101. Declaration of Interests

The Chairman, Anne Elder, declared personal interests as a Public Governor of the Taunton and Somerset NHS Trust and as a Member of the House Management Committee of one of the premises operated by the Royal Agricultural Benevolent Institution. Councillor Mrs Allgrove declared a personal interest as a Member of the Somerset Association of Local Councils. Councillor Brooks declared a personal interest as a Member of Somerset County Council.

102. The future of the Standards Regime – The Localism Act 2011

The Monitoring Officer, Tonya Meers, reported on the likely changes and affects to the current Standards Regime following the Localism Act being given Royal Assent on 15 November 2011.

Although a paper produced by Peter Keith-Lucas of the Law Firm Bevan Brittan had already been circulated to Members, Mrs Meers informed the Committee that the following were the main points of interest and the focus of future discussion in trying to establish a clear way forward for Standards under the new legislation:-

1. The provisions would apply to Principal Councils and Town and Parish Councils;
2. The implementation date was likely to be 1 April 2012.
 - It was anticipated that there would be a two month transitional period;
 - The practicalities of this would need to be assessed.
3. There would be a statutory duty to promote and maintain high standards of conduct.
 - The Standards Committee would no longer be a statutory Committee;
 - Co-opted Members – the definition now only applied to Members of Committees and Sub-Committees of the authority;
 - Any Code of Conduct would not apply to co-opted non-voting Members;
 - The Act provided no mechanism or powers to enforce high standards of conduct.
4. Standards Committee – Questions to answer:-
 - Would we still have one?
 - What would its remit be?
 - The role of the Independent Person?
 - The role of the Parish representatives?
5. Code of Conduct – The Council was required to adopt a Code of Conduct.
 - The General Principals Order and the model Code of Conduct had been revoked;
 - The new Code had to be consistent with the seven principles of public life;
 - A Council would be free to adopt their own Code but the issue was one of consistency between Council's and the Parishes;
 - Any new Code of Conduct must be adopted by Full Council.

All Standards matters would be non-executive functions.
6. The Council needed to have arrangements in place to deal with complaints of any breach of the Code of Conduct and this also applied if the Council was dealing with complaints regarding Parish Councillors.
 - The process for convening a Committee to deal with a complaint must be in line with all other Committees, that is five clear days notice;

- They must be conducted in public;
- The deliberations of any Standards Committee must be heard in public.

7. Role of the Monitoring Officer for local resolution.

Did this compromise the role of the Monitoring Officer or give greater flexibility?

8. The Localism Act gave no powers to undertake investigations or to conduct hearings. So there were no powers to require access to documents or to require Members or officers to attend interviews, and no powers to require the Member to attend a hearing. This might prove problematic.

9. There were no powers to take action for a breach of the Code - there only appeared to be a naming and shaming power.

10. Parishes were under no obligation to have regard to any findings of the District Council or its Standards Committee.

11. Independent Persons – this was a new role. They should be appointed by advertisement and application. There were also strict rules on appointment.

- Independent Persons could not be a friend/relative to any Member or officer of the Authority;
- Be a Parish Councillor;
- Or had been a Member or co-opted Member for the past five years.

Therefore no independent Member of our current Standards Committee would appear to be eligible. This meant that all of the knowledge/experience and respect that had been built up with the current Committee Members would be lost.

12. The functions of the Independent Person (IP) would be:-

- The IP could be consulted by a Member of the Authority against whom an allegation has been made. But, if they were so consulted, it was hard to see how they could then participate impartially in the determination of that allegation. It was also hard to see what such consultation could achieve as the IP could not exercise any decision-making functions.
- The IP could be consulted by a Parish Councillor against whom an allegation has been made. But in this instance the IP would appear to be even less able to make any useful contribution; and
- The IP could be consulted by the Principal Authority in circumstances where the Authority was not taking a decision whether to investigate the allegation. Logic would suggest that the IP would be able to make a useful contribution as a moderator

sitting alongside any Hearing Panel, but that would not be practicable if their impartiality had been prejudiced by previously being consulted by the Member concerned.

13. Register of Interests

- The content of the register must be approved by Full Council;
- Disclosable pecuniary interests – these would be defined by regulations;
- The Code must provide for disclosable and non-disclosable pecuniary interests as well as non-pecuniary interests;
- Only the disclosable pecuniary interests would be defined by regulations. It would be for the Authority to define non-disclosable pecuniary interests and non-pecuniary interests;
- This would create a great deal of confusion for Members, especially those who were also Parish Councillors or Councillors of other Authorities who might agree different definitions;
- The Monitoring Officer must ensure that the register is put on the Council's website;
- The Monitoring Officer must ensure that all Parish Registers were publically available and each Parish Council would be required to keep a copy on their website, if they have one.

14. Criminal offence provision –

- A failure to register interests within 28 days of election or co-option or providing misleading information without reasonable excuse would be guilty of an offence with a fine up to £5000 and/or disqualification for up to five years.

15. There was a duty to disclose interests but not the nature and existence of those interests unless it was a sensitive interest.

16. But if it was on the register then the Member was under no obligation to disclose the interest at a meeting.

17. The lack of a sanction if there was a failure to disclose a non-disclosable pecuniary interest or a non-pecuniary interest, even if it was included in any new Code of Conduct.

18. Participation in a meeting – If a Member had a disclosable pecuniary interest then he/she had to disclose it and withdraw from the meeting. The Member was barred from participating in discussion and voting, unless given a dispensation. This therefore appeared to be more restrictive than current prejudicial interest provisions.

19. Participation in the discussion or taking steps in respect of the matter where a disclosable pecuniary interest was declared would be a criminal offence.

20. Dispensations

- Could be delegated to the Monitoring Officer to ensure timely decisions;
- The 50% provision remained but only if it meant that the meeting would be inquorate;
- The political balance provision remained unchanged but the Act had added
 - If all Executive Members were precluded;
 - It was in the interests of persons living in the area; and
 - It would otherwise be appropriate.

During the discussion of this item, Members made the following comments and asked questions. Responses are shown in italics:-

- Unhappy with the political balance proposals and the potential loss of our current independent Members. To achieve political balance would mean more Councillors having to be drafted onto the Committee. From the outset, the Committee has always had an independent Chairman and greater numbers of independent Members than Councillors. This was what had made the Committee so effective;
- A Somerset-wide Code of Conduct – possibly drafted by the Local Government Association or the National Association of Local Councils would ensure consistency of approach across the County. *All of the Somerset Monitoring Officers were keen to move forward together. It was thought that the Association of Council Secretaries and Solicitors had already put together a replacement Code;*
- The Political Groups could be asked to deal with the suspension of Councillors found to have breached any new Code of Conduct. However this would be severely tested if there was a hung Council;
- Removing the “low level” sanctions that could be imposed on a Councillor by the Standards Committee could mean that some interests would not be declared;
- Link Parish Register of Interests to Taunton Deane’s website to enable easier updating to take place;
- Was the appointment of an Independent Person discretionary? *No.*
- What was the political view of Taunton Deane as to the retention of a Standards Committee? *The Political Groups have been very supportive in the past. A briefing note on the changes to the Standards regime is shortly to be circulated to the Group Leaders for consideration. Their reaction will be reported to the next meeting of the Committee;*

- Was it correct that the Police would need to be involved in pursuing prosecutions against Members who failed to declare interests? Yes – *but what level of priority would the Police give to such matters?*
- Regretted that things like “treating others with respect” and “duty to uphold the law” were not required to be included in any new Code of Conduct;
- Important for a Standards Regime to continue, otherwise things were likely to “free-fall”;
- Further lobbying called for to alter the legislation. *It was too late to lobby on the Act, however Councils like Taunton Deane could still try to influence the Statutory Instruments which would bring the various parts of the Act into operation. These were due to be published in the next few months;*
- Was there a difference between co-option and appointment to a Standards Committee? *Clarification on this point was awaited;*
- What role would the Committee have in the formulation of the new Standards regime? *It would be important for the Council to be guided by the Committee as to what was considered workable in the new legislation and what was not. Ultimately though Full Council would decide upon the most suitable regime for Taunton Deane.*

As a starting point towards future deliberations by the Committee, it was suggested that:-

- (1) The Monitoring Officer’s report be noted;
- (2) Concern be expressed in relation to some elements of the Localism Act which appeared to undermine the current Standards regime and the fact that these measures would be imposed on Councils;
- (3) The Council should continue to have a Standards Committee to ensure any new Code of Conduct adopted was adhered to by Councillors;
- (4) The opportunity to influence forthcoming regulations and guidance be taken; and
- (5) Measures to either adapt or streamline the investigative process be also considered.

These suggestions were generally supported and further discussions would take place at the next meeting of the Committee.

103. Attendance at Taunton Deane Committee Meetings

The Chairman reported that since the last meeting she had attended all meetings of the Planning Committee and Full Council as the independent representative from the Standards Committee.

With regard to the proposal agreed at the last meeting concerning the re-introduction of visits to Parish Councils, it was felt that this should be delayed until the new Standards regime was in place and the likely relationship between Taunton Deane and its parishes became clear.

Resolved that the report be noted.

104. Date of next meeting

The next meeting would be held on Tuesday, 24 January 2012 at 2.30 p.m. in The John Meikle Room at The Deane House.

105. Exclusion of the Press and Public

Resolved that the press and public be excluded from the meeting for the following items because of the likelihood that exempt information would otherwise be disclosed relating to Clause 2 of Schedule 12A to the Local Government Act 1972 and the public interest in withholding the information outweighed the public interest in disclosing the information to the public.

106. Update on complaints made against Councillors

Mrs Meers reported that with regard to the one current complaint against a Taunton Deane Councillor, the investigator appointed had recently submitted a draft report on the findings for comment.

The final report, once received, would be referred to a Consideration Sub-Committee to decide whether a hearing into the complaint should be held.

Mrs Meers also reported the receipt of two new complaints against Parish Councillors – the first of this type received. An Assessment Sub-Committee would be set up shortly to determine whether the complaints should be investigated.

The Chairman reported that she had been sent a complaint by a Parish Council about an officer. This was outside the Committee's remit and she had responded accordingly.

Resolved that the report be noted.

(The meeting ended at 4.01 p.m.)