

The key points raised by Members' of Taunton Deane Borough Council's Standards Advisory Committee at the meeting with Rebecca Pow MP held on Friday, 29 April 2016 as to their dissatisfaction with the Standards Regime introduced by the Localism Act 2011

- **Sanctions**

Prior to the introduction of the Localism Act, the Council's Standards Committee had access to a range of sanctions which could be applied in respect of a Councillor who had breached the Council's Code of Conduct. In the most extreme cases, a sanction whereby the offending Councillor could be suspended for up to six months was available to the Committee.

The current arrangements still allow a range of sanctions but they are considered to be so weak as not to provide any real deterrent to a Councillor who knows his intended actions will breach the Code of Conduct. Similarly, someone who wishes to make a complaint against a Councillor could easily be deterred from doing so when they become aware of the 'soft' sanctions that are now available to the Standards Committee and decide that making a complaint is effectively a waste of time.

- **Politically Based Standards Committees**

The decision requiring Standards Committees to become a politically based Committee is regarded as a retrograde step.

Before the Localism Act, Taunton Deane's Standards Committee was made up of three Councillors, five independent members and three Parish Council representatives. The Chairman of the Committee was always one of the independent members. This enabled the Committee to operate in a truly independent way without any political 'slant'.

When the new Standards Regime was introduced in 2012, Taunton Deane's Standards Committee comprised five Councillors – two each from the two main political groups and one other. At the time, the Council decided that it did not want to lose all the experience of its previous Committee so decided to co-opt three of the former independent members and two Parish Council representatives as 'non-voting' Members of the Committee.

The negative effect of the politicisation of the Committee was soon demonstrated when a complaint against a Councillor was determined via a hearing. With one Councillor unable to attend the hearing, the four Councillors left happened to be from the two leading political groups. Despite

the fact that there was no doubt that the Code of Conduct had been breached by the subject Councillor, when the time came to decide whether sanctions should be imposed, the two Councillors from the same political group as the subject Councillor voted against – and it required the Chairman’s casting vote to ensure that sanctions (from the very limited range now available) were duly imposed.

As well as the above example, the new Committee ‘set-up’ soon led to issues from the co-opted members who felt that they had no real influence in the Committee’s deliberations and discussions without the right to vote.

Having considered this matter, the Council decided that the Committee should be re-constituted as a Standards Advisory Committee which meant that all Members had an equal standing.....although all decisions had to be referred to Full Council.

- **The Independent Person Role**

Whilst the introduction of the role of Independent Person is understood, the restriction on existing independent members being able to apply for that role is not.

The Council has had several independent members on its Standards Committee for many years. With all of the knowledge/experience and respect that has been built up over that time with the Councillors here at Taunton Deane, surely to exclude them from consideration as the Council’s Independent Person is surely not right.

- **Code of Conduct**

Neither the Members of the Standards Committee nor the Monitoring Officer can understand why the version of the Code of Conduct which had universally been adopted by the County Council, all District Councils and all Town and Parish Councils was effectively scrapped leaving each authority to decide whether it wanted to adopt another ‘model’ code or modify this to their own requirements.

In the past, the universal version of the Code of Conduct meant certainty and consistency especially when dealing with a complaint against a Parish Councillor. Now though, when such a complaint is investigated the Code adopted by the Parish Council concerned has to be thoroughly checked to ensure that the alleged breach is covered by its Code!

- **Disclosable Pecuniary Interests**

The introduction of Disclosable Pecuniary Interests (DPI) is also considered to be a retrograde step.

Prior to the Localism Act being introduced a Councillor with a Prejudicial Interest was able to speak, give evidence or answer questions before leaving the room for the debate and vote.

However, the Act now makes it a criminal offence for Councillors to participate in a meeting in any way if they have a DPI and they are therefore unable to represent their constituents properly.

It is also felt that the possibility of a Councillor facing criminal charges for not declaring a DPI is 'overkill' and that the sanctions which were previously available were sufficient to ensure that the non-declaration of interests did not happen.

There is anecdotal evidence too that some potential candidates for the Local Elections in Taunton Deane last year were put off by the notion that they could end up with a criminal record !

Draft

Secretary of State for
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Government
Eland House
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Dear Sir

Local Authorities and the Standards regime

I am writing to you to relay some concerns raised by Standards Committees across Somerset about the current Standards regime.

The concern is in relation to the limits on sanctions that Councils can now apply against councillors. The Committee finds it disappointing that there is no middle ground between the criminal sanctions for Disclosable Pecuniary Interest transgressions and the relatively tame sanctions available to the council for other transgressions. The Standards Committee do not consider the latter to provide a sufficient deterrent to poor behaviour by councillors.

The Committee would welcome the availability of sanctions with some teeth such as suspension. These are sanctions that were available to the committee before 2012 and as you will recall, the First Tier Tribunal also had the ability to disqualify members where their poor behaviour was sufficiently serious.

An example of the lack of teeth is demonstrated by a scenario where a member carries out a serious pattern of bullying against a Council officer within two months of being elected. Even if they are found to be in breach of the Code of Conduct, no action can be taken to suspend or disqualify them. It is recognised that the public can vote with their feet through the ballot box. However, where, as in this scenario, a Councillor makes a serious transgression early in their term of office, the public have to wait almost four years to vote them out at the next election.

It is considered that the ability to suspend councillors for short periods for more serious transgressions would provide an effective local deterrent to poor conduct together with the ability to defer the suspension subject to good behaviour. The Committee would ask, therefore, that you increase the range of sanctions available to local standards committees.

Another issue of concern is the fact that criminal acts in a Members personal life cannot be taken into account. For example, where a member committed benefit fraud, his Council, a District Council responsible for administering benefits, was unable to suspend or disqualify him. It is therefore felt appropriate for a Standards Committee to be able to take into account behaviour of a councillor in

his private life where this amounts to criminal behaviour. The Committee would therefore ask that you amend the legislation so that criminal activity in a members personal life can be taken into account.

We are also disappointed by the inability for the Independent Person to be a co-opted member of the Committee. Similarly, the Committee are disappointed that in order to co-opt a Parish Representative onto the Committee as a voting member, a Joint Committee has to be set up with Town and Parish Councils. In our experience this is something that Towns and Parishes do not wish to pursue. We see the role of co-opted members of committees as providing effective balance to the councillor representation on the committee in wider discussions on matters such as member conduct and member /officer relations. The Committee would ask, therefore, that Standards Committees be given the power to co-opt Independent Persons and Parish Representatives on to the Committee as full voting members of the Committee.

I hope you will give serious consideration to these suggestions and I look forward to receiving your reply which I will pass on to the Standards Committees across Somerset.

Yours sincerely

Cllr John Woodman, Standards Committee Chair, Sedgemoor District Council

Cllr Jeremy Christopher, Leader., Teignbridge District Council

Cllr Anna Groskop, Standards Committee Chair, South Somerset District Council

Cllr Alan Gloak, Standards Committee Chair, Somerset County Council

Peter Bradshaw, Standards Committee Chair, Mendip District Council

David Thomas, Standards Committee Chair, Torbay District Council

Tim Evans, Standards Committee Chair, West Somerset Council

Anne Elder, Chair

West Devon & South Hams

Cornwall County Council

North Devon District Council

Torrige Council