
DACORUM BOROUGH COUNCIL

STANDARDS COMMITTEE

19 JANUARY 2012

Present -

MEMBERS:

Borough Councillors, Flint, Lloyd and Rance and Julie Steer (Bovingdon Parish Council) and Independent Members Eileen Heylin and Shelley Savage (Chairman).

OFFICERS:

Steven Baker Assistant Director (Legal, Democratic & Regulatory) and Monitoring Officer and Pauline Bowles (Member Support Officer).

The meeting began at 7.30 pm.

11. MINUTES

The minutes of the meeting held on 13 January 2011 were confirmed by the Members present and were then signed by the Chairman.

12. APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf Borough Councillor Wood; Town and Parish Councillors John Allan, (Tring Town Council) and Daniel Burfot (Nettleden with Potten End Parish Council); Independent Member, Joanna Brown.

13. THE LOCALISM ACT 2011 - CHANGES TO THE STANDARDS REGIME

The Monitoring Officer summarised his report on the changes to the Standards Regime in Local Government brought about by the Localism Act 2011.

The Monitoring Officer highlighted the following points.

- The changes contained in the Localism Bill were previously reported to the Standards Committee in January 2011.
- The House of Lords moved some amendments to the Bill which were accepted by the Government.
- The changes mean that every council is obligated to have a Code of Conduct but will have discretion as to what is included in the Code provided it is consistent with the seven specified principals of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- The council must decide on what pecuniary and non-pecuniary interests Members must register and disclose. The exception is what the Act refers to as Disclosable Pecuniary Interest (DPIs) but the definition of what constitutes a DPI is not yet known. It is thought that DPIs will reflect the current prejudicial interests such as a significant financial interest.

- A DPI must be registered and disclosed and will exclude a member from taking part and voting on that matter. The authority has discretion to adopt a Standing Order requiring members to withdraw from the meeting if they have a DPI. Failure to register and disclose a DPI will be a criminal offence
- The recommendations contained within the report offer a stop gap because the Act does not specify a date when the changes come into force but it is likely to be the start of either the financial or municipal year 2012.
- The second major change under the new Act deals with the process for dealing with complaints. Principal Councils (not Town/Parish Councils) have to have arrangements in place but the Act does not prescribe what that process should be. The exception being the appointment of Independent Persons who will have a role to play in dealing with complaints.
- Councils are not required to appoint a Standards Committee but there will still be a need for the Council to deal with standards complaints and it is therefore recommended that the Council does appoint a Standards Committee. A membership of nine is recommended because nine is the optimum number in terms of cross-party representation and the committee will be appointed under the same rules as any other committee with political proportionality. For DBC, nine members would give representation from all three political groups.
- There will be no provision for Town/Parish Councillors or independent members unless the Council chooses to co-opt in a non-voting capacity.
- In the rules that govern political proportionality the Council does have the power to dissapply the rules but it would require a unanimous vote at full Council.
- The Act enables the Council to establish its own process of investigating complaints which gives an opportunity to adopt a simpler and speedier process by delegating the initial decision on whether a complaint requires investigation to the Monitoring Officer (in consultation with the Independent Person). If the Monitoring Officer and Independent Person conclude that the complaint warrants investigation, then the Monitoring Officer will arrange the investigation (as happens at the moment) and if the investigation concludes that there is no case to answer then the Monitoring Officer has the power to close the case. If there is a case to answer the complaint will be transferred to a Hearings Panel.
- The Act does not contain any powers of sanction and so where there is a failure to comply with the Code the range of actions available are limited.
- There is no provision for right of appeal.
- The arrangements that the Council put in place to deal with complaints would also have to include complaints against Town/Parish Councillors. Town/Parish Councils are bound to adopt a Code of their own, but they are not bound under the Act to put into place a process for dealing with complaints. Where a Town/Parish Councillor is found to be in breach of the Code, the Standards Committee can only make a recommendation to the Town/Parish Councils; they are not bound to accept the results.
- The Borough Council will not be able to charge Town/Parish Councils for investigations of their councillors because it will be a mandatory service. It is expected that only serious breeches will be investigated.
- Parish Clerks were advised after the initial report on the proposed changes to the standards regime and they will be updated with a copy of the report that is being submitted to Cabinet on 7 February.
- The report, put together by the Monitoring Officer was based on a specimen report circulated from Peter Keith-Lucas which he circulated to all authorities. The only member to have seen the report was the Portfolio Holder for Residents and Regulatory Services who was emailed a copy just prior to the

meeting of the Standards Committee in advance of the Cabinet meeting on 7 February.

- The Act specifies that a person is prevented from applying to be an Independent Person if they have been an elected or a co-opted member of any committee of the Borough Council or any of the Town/Parish Councils within the area in the last 5 years. It has been suggested that there is a pool of experienced and trained Independent members within the County whose expertise could be utilised elsewhere.
- The Act specifies that at least one Independent Person should be appointed but the recommendation is for 2-3 in order to provide cover should an Independent Person be conflicted out or otherwise unavailable.
- An Independent Person may be consulted at any stage of an investigation but they must be consulted before a decision on a complaint is made. The surprising point is that the councillor with a complaint against them may also consult the Independent Person.
- It would appear that some of these issues were hurried through so that the changes to the Standards Regime did not hold up the Localism Bill.
- Official notification has been received that the Standards Board for England is to be abolished on 31 January. This will mean a loss of the interpretation and guidance that they offered.
- The recommendations contained within the report are to help the Council through the short-term. Leaders within Herts have been putting forward a suggestion of a common Code at a later stage.

The Parish representative was concerned that without Town/Parish Council representation, the new Standards Committee would not understand how Parish Councils work and have no input into the decisions of the Standards Committee. The Monitoring Officer commented that we have 'twin hatted' councillors and it is likely that there will be representation on the Standards Committee. The Standards Committee can co-opt Town/Parish Councillors but they will have no voting powers.

Discussion took place on whether there should be Cabinet Members on The Standards Committee. The Monitoring Officer explained that under Recommendation 2 only one Cabinet member can be a member of the Standards Committee. Normally Cabinet Members are not voted onto Committees in order to allow seats on Committees to be taken by non-Cabinet Members. There were mixed views from the Standards Committee Members:

- Cabinet members are the decision makers of the Council and as such carry more weight and it would be wrong for them to be on a Committee that might question something related to one of their decisions.
- If a Complaint was made against a Cabinet Member it would be wrong for one of their own Cabinet Group to consider the complaint.
- If Standards are considered to be important, it may be beneficial to see a leading Member of the Cabinet as a member of the Standards Committee to underline the importance of that committee.
- Proportionality causes some concern when there is a majority of one party because it can feel political. The perception of impartiality will increase if the Council is then seen to exclude a particular Group such as Cabinet.

The Monitoring Officer commented that an advantage of having a Cabinet member on the Standards Committee would be that under the new regime the Standards Committee will have no powers; it can only make recommendations and a lot of the recommendations will rely upon the Leader of the Council cooperating and imposing

any suggested sanctions. A Cabinet member on the Committee may mean that recommendations from the Standards Committee carry more weight.

It was agreed to change the wording of Recommendation 2 to read: 'there is no requirement for a Cabinet Member on the Standards Committee, but in any event there should be no more than one Cabinet Member'.

Discussion followed about representation of Town/Parish Councillors on the Standards Committee. It was felt that since the majority of complaints involve Town/Parish Councillors there should be some input in the Standards Committee for that particular tier of governance. The previous regime encouraged their involvement and they made a valuable contribution. There were originally two Town/Parish Council representatives but this was increased to three to accommodate the referral and review sub committees.

It was agreed to add to the wording of recommendation 2 'that one Town and one Parish representative (not twin hated) be co-opted on to the Standards Committee.

The Monitoring Officer pointed out that a process for co-opting Town/Parish Council representatives will need to be approved by Full Council. Nominations could be sifted by the Standards Committee to ensure that they are appropriate people to serve on the Standards Committee before recommending to Full Council as with the Housing and Community Overview and Scrutiny Committee.

This report, with the minor amendments to the recommendations suggested by the Standards Committee will be submitted to Cabinet on 7 February 2012 before referral to Full Council on 29 February 2012.

Resolved:

Recommendation 1 - The Changes

- (i) That Cabinet be recommended to instruct the Monitoring Officer to prepare and present to Council for adoption a draft Code of Conduct. That draft Code should –**
 - (a) replicate Paragraphs 3 to 7 of the current Code of Conduct applied to member conduct in the capacity of an elected or co-opted member of the Council or its Committees and Sub-Committees; and**
 - (b) require registration and disclosure of interests which would today constitute personal and/or prejudicial interests under the current Code except that there will be no requirement for a member with a prejudicial interest to withdraw from participation. Withdrawal from participation will only apply in relation to Disclosable Pecuniary Interests when these have been introduced by regulations.**
- (ii) That, when the Disclosable Pecuniary Interests Regulations are published, the Monitoring Officer shall amend the adopted Code accordingly and present the amended Code to Council for adoption.**

Recommendation 2 - Standards Committee

- (i) That Cabinet recommend Council to appoint a Standards Committee comprising 9 elected members of the Borough Council, appointed proportionally. There is no requirement for a Cabinet Member on the Standards Committee, but in any event there should be no more than one Cabinet Member.**
- (ii) That one Town and one Parish Council representative (not being members of the Borough Council) be co-opted on to the Standards Committee.**

Recommendation 3 - Dealing with Misconduct Complaints

That Cabinet recommend to Council for approval the following arrangements for dealing with standards complaints -

- a. That the Monitoring Officer be appointed as the Proper Officer to receive complaints of failure to comply with the Code of Conduct;**
- b. That the Monitoring Officer be given delegated power, after consultation with the Independent Person, to determine whether a complaint merits formal investigation and to arrange such investigation. He/she be instructed to seek resolution of complaints without formal investigation wherever practicable, and that he/she be given discretion to refer decisions on investigation to the Standards Committee where he/she feels that it would not be appropriate for him/her to take the decision, and to report to Standards Committee on the discharge of this function;**
- c. Where the investigation finds no evidence of failure to comply with the Code of Conduct, the Monitoring Officer be instructed to close the matter, providing a copy of the report and findings of the investigation to the complainant and to the member concerned, and to the Independent Person, and reporting the findings to the Standards Committee for information;**
- d. Where the investigation finds evidence of a failure to comply with the Code of Conduct, the Monitoring Officer in consultation with the Independent Person be authorised to seek local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to the Standards Committee. Where such local resolution is not appropriate or not possible, he/she is to report the investigation findings to the Standards Committee (or a Hearings Sub-Committee) for local hearing;**
- e. That Council delegate to the Standards Committee (or a Hearings Sub-Committee) such of its powers as can be delegated to take action in respect of a member who is found following a hearing to have failed to comply with the Code of Conduct, such actions to include –**
 - Issuing a reprimand;**

- Reporting its findings to Council *[or to the Parish/Town Council]* for information;
- Recommending to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- Recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Instructing the Monitoring Officer to *[or recommend that the Parish/Town Council]* arrange training for the member;
- Removing *[or recommend to the Parish/Town Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish/Town Council]*;
- Withdrawing *[or recommend to the Parish/Town Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- Excluding *[or recommend that the Parish/Town Council exclude]* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Recommendation 4 - Independent Persons

- (i) That the Monitoring Officer advertise a vacancy of the appointment of 3 Independent Persons
- (ii) That a Sub-Committee comprising the Chair and three other members of Standards Committee be set up to set the allowances and expenses for the Independent Persons, to short-list and interview candidates, and to make a recommendation to Council for appointment.

It was also agreed

That the Town/Parish Councils be sent a copy of the report that is submitted to Cabinet on 7 February 2012 on the changes to the Standards Regime in Local Government as currently set out in the Localism Bill.

14. DATE OF NEXT STANDARDS COMMITTEE MEETING

Thursday 15 March 2012

The meeting ended at 8.50 pm.