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STANDARDS COMMITTEE

DATE: THURSDAY 6 JANUARY 2011
TIME: 2PM
PLACE: COUNCIL HOUSE, ARMADA WAY, PLYMOUTH

Members –

Steve Pearce, Chair (Independent Member)
Councillors Delbridge, Lowry, Dr. Mahony, McDonald and Mrs Stephens

Co-opted Representatives –

Roy Campbell, Corinne Farrell and John Williams

Members are invited to attend the above meeting to consider the items of business overleaf

Members and Officers are requested to sign the attendance list at the meeting.

Please note that, unless the Chair agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used during meetings.

BARRY KEEL
CHIEF EXECUTIVE

STANDARDS COMMITTEE
PART I (PUBLIC COMMITTEE)

1. APOLOGIES

To receive apologies for non-attendance submitted by Committee Members.

2. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. MINUTES (Pages 1 - 6)

The Committee will be asked to confirm the minutes of the meeting held on 10 March 2010.

4. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. THE FUTURE OF THE STANDARDS REGIME (Pages 7 - 12)

The Committee will be provided with an update on the future of the Standards regime.

6. DATE AND VENUE OF NEXT MEETING

The next Standards Committee will take place on 16 March 2011 at 10am in the Council House.

7. EXEMPT BUSINESS

To consider passing a resolution under Section 100(A)(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE COMMITTEE)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the Committee is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

Nil

Standards Committee

Wednesday 10 March 2010

PRESENT:

Mr Pearce (Independent Member), in the Chair.
Councillors Mrs Aspinall, Gordon, Dr. Mahony and Mrs Stephens.

Co-opted Representatives: Mr Roy Campbell, Mr Malcolm Haggart and Mr John Williams

Apologies for absence: Councillor Mrs Bragg and Mr Craig Duncan and Ms Corinne Farrell

The meeting started at 10.00 am and finished at 11.45 am.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

10. DECLARATIONS OF INTEREST

There were no declarations of interest in accordance with the code of conduct.

11. MINUTES

Resolved that the minutes of the meeting held on 9 December 2009 be approved subject to the following changes:

Minute 5 'Process for Dealing with Standards Review Hearings' (ii) and (iii) are to read –

- 5(ii) 'On an occasion that a Standards Assessment Sub Committee resolve to instruct an officer to undertake an investigation of a complaint, there was currently no specification or clarification from Standards for England where the investigation should be submitted for determination. Therefore a Hearings Consideration Sub Committee was to be held in order for selected members to consider if the investigation report identified if there was a breach of the code; if no breach was found to have been committed this would be the end of the process. However if a breach was found the process would move to the first stage of the Standards Hearing Sub Committee in which a pre hearing was to be held;
- 5(iii) at a pre-hearing Members could resolve issues such as what areas of fact were in dispute, timings, and if witness statements were required;

In response to questions raised under this agenda item it was reported that –

- (i) with reference to minute 5, the 'Process for Dealing with Standards Review Hearings', the Assistant Director for Democracy and Governance would provide committee members with a flow chart clarifying the procedure for Standards Review Hearings;
- (ii) with reference to the resolution of minute 6 'Update on Matters dealt with by the Assessment and Review Sub Committees', the Assistant Director for Democracy and Governance would send a letter to Members outlining the work of the Standards Committee and the increase in numbers of complaints received;
- (iii) with reference to the minute 6 'Update on Matters dealt with by the Assessment and Review Sub Committees' an annual report would be submitted to City Council;
- (iv) it would be identified who was to provide members with further training upon ombudsman complaints and when these training sessions were to take place.

Under this agenda item the Head of Legal Services provided an update on the 'application for an exemption in relation to a post being placed in the list of politically restricted posts'. The Committee was informed that legislation had changed and this issue was still being addressed by the Legal Department with the Human Resources Department.

12. **CHAIR'S URGENT BUSINESS**

The Head of Legal Services informed the Committee that there were three items of Chair's Urgent Business to be considered, regarding a Local Government Group Conference that took place in February, the scheduled Ethical Governance workshop that was due to take on 17 March 2010 and a recent article in the Municipal Journal.

Local Government Group Conference – At this event, held on 10 February 2010, delegates (which included Head of Legal Services) were advised that on 9 February the Department for Communities and Local Government had announced it did not intend to implement a revised Code of Conduct for Members (addressing outstanding private life issues) or a Code of Conduct for Officers before the General Election.

Ethical Governance Workshop – Due to the non-availability of so many Members, the workshop arranged by Head of Legal Services in partnership with Audit Commission would not now be taking place on 17 March 2010. This would be re-scheduled after the election.

Municipal Journal Article – Head of Legal Services took the Committee through the article entitled 'The New Framework is Working' written by Chief Executive of Standards for England. The article addressed what issues the Board considered needed to be addressed in taking the framework forward following an extensive review period – a copy of article was to be circulated to all Committee Members.

Under this agenda item the Chair congratulated Councillor Aspinall on her appointment as Lord Mayor, thanked Malcolm Haggart for his engagement in the Standards Committee as it was expected that this would be his last meeting and thanked members for their attendance at the increased number of Standards Assessment Sub Committees.

13. **OMBUDSMAN REPORTS**

There were no updates upon Ombudsman reports.

14. **TERMS OF REFERENCE - STANDARDS HEARING SUB COMMITTEE**

The Head of Legal Services provided the Committee with an update on terms of reference for the Standards Hearing Sub Committee.

The Committee was informed that –

- (i) the current terms of reference for the Standards Hearing Sub Committee agreed at the 28 July 2008 City Council meeting stated that ‘Membership of the Hearings Sub-Committee was to comprise a minimum of five members of the Standards Committee’ and that ‘none of the members of the Hearings Sub-Committee, as far as possible, shall have dealt with the particular complaint previously, at either the Assessment or Review Sub-Committee’;
- (ii) due to problems experienced when trying to arrange the first Standards Hearing Sub Committee, it was considered beneficial for the terms of reference to be amended so that Members who sat on either a Standards Assessment Sub Committee or Standards Review Sub Committee would be able to sit on a Standards Hearing Sub Committee, and that the quorum for the meeting be reduced from five members to three;

The Committee made the following comments –

- (iii) the Standards Committee had an obligation to ensure that those for whom allegations of Code of Conduct breach had been made had a right for their case to be determined by a fair and unbiased panel;
- (iv) the terms of reference for the Standards Hearing Sub Committee should either have a membership of five members, consisting of a majority of members that had not heard the case before, or for the membership to reduce to three with the condition that the whole panel had not heard the case before;
- (v) there were concerns that if the Standards Committee deviated from the guidance of the Standards for England the Committee’s authority may be challenged;

- (vi) the terms of reference for the Standards Hearing Sub Committee should state a panel membership of five however include a quorum of three;

In response to questions raised it was reported that –

- (vii) if the panel resolved to change the Standards Hearing Sub Committee terms of reference it would reflect guidance from Standards for England;
- (viii) the Head of Legal Services considered it was far more practicable to have a quorum of three however verified that officers would aim for five members to sit on a Standards Hearing; he also confirmed that he did not consider a panel to be biased or prejudiced if members had previously sat in either a Standards Assessment or Review Sub Committee as this was in accordance with guidance from Standards for England;
- (ix) it was not considered that political balance was necessary to the membership of the Standards Hearing Sub Committee, however it was stated that wherever possible officers tried to ensure political balance in order to mitigate against possible allegations of bias;

Recommended to Council that the terms of reference for the Standards Hearing Sub Committee be amended to read the following:

Membership of the Hearings Sub Committee is to comprise, where possible, five members from the Standards Committee and have a quorum of three members. The Chair will be an independent member of the Standards Committee. In line with guidance from Standards for England, members who previously sat on the Assessment or Review Sub Committee of the same complaint are able to sit on the Standards Hearing Sub Committee.

15. **OVERVIEW OF CASES DEALT WITH BY THE STANDARDS ASSESSMENT SUB COMMITTEE**

The Head of Legal Services provided the Committee with an update on an overview of cases dealt with by the Standards Assessment and Review Sub Committee in the previous 12 month period;

The Committee was informed that –

- (i) there had been more than 600% increase in cases dealt with by the Standards Committee (rising from 5 to 30);
- (ii) following considerable efforts in the past 12 months by the Committee Members and Officers there were currently five live cases to be considered; bringing the caseload back in line with figures from last year;

- (iii) there were limited resources to deal with complaints submitted to the Committee;

In response to questions raised it was reported that –

- (iv) the Chair of the Standards Committee and the Assistant Director for Democracy and Governance had met with the leaders and chief whips for the Conservative and Labour groups and informed them of the work of the Standards Committee and the increase in the number of tit for tat complaints which had caused concern;
- (v) statistics were not held with regards to the of age of the complainant or where complaints had come from;
- (vi) Members should be guided on what was acceptable political banter and the consequences of crossing that line;

Resolved that the update be noted.

16. **CRB CHECKS FOR MEMBERS**

The Assistant Director for Democracy and Governance provided the Committee with an update on the requirement for Members to have CRB (criminal records bureau) checks.

The Committee was informed that –

- (i) currently all but one member had completed a CRB check;
- (ii) if a CRB check was not on the Council's records for a specific individual it was to be assumed that a negative response to their CRB check had been received; in that instance, that particular individual would be restricted from sitting on specific committees that involved issues concerning social services and children's education;
- (iii) it was not a requirement for Independent Members to have CRB checks as they did not have access to children or vulnerable adults; the Assistant Director for Democracy and Governance confirmed that the Independent Chair of the Standards Committee did not require a CRB check despite having received a letter which stated it was a requirement for him to get one;
- (iv) the Council could only accept CRB checks that had been undertaken by the Council;
- (v) CRB checks had a time limit of three years;

Resolved that the report is noted.

17. **DATE AND VENUE OF NEXT MEETING**

It was noted that the date and time of the next meeting would be advised following the meeting of the City Council on 21 May, 2010.

18. **EXEMPT BUSINESS**

Resolved that, under Section 100(A)(2) and (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of confidential/exempt information as defined in paragraph 1 of Part 1 Schedule 12A of the (Local Government Access to Information) Act 1985, as amended by the Freedom of Information Act 2000.

19. **APPLICATION FOR AN EXEMPTION IN RELATION TO A POST BEING PLACED ON THE LIST OF POLITICALLY RESTRICTED POSTS (E1)**

Please refer to minute 9.



Dr. Robert Chilton

Bob Neill MP
Parliamentary Under Secretary of State

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A handwritten signature in black ink, appearing to read "Dr. Robert Chilton".

15 OCT 2010

Conduct of local authority members

Recently Andrew Stunell announced the broad package of changes that we intend to put in place to abolish the Standards Board regime. A press notice relating to this announcement is available on the Department's web-site at:

<http://www.communities.gov.uk/news/corporate/157558411>

When we met on Wednesday 15 September, I undertook to let you have the details of what we are proposing once the package of changes was announced, and accordingly I enclose a short paper setting out the changes we intend to make.

I would of course be very happy to discuss these with you and your Committee. If you would like a meeting, please don't hesitate to get in touch with my office.

A handwritten signature in black ink, appearing to read "Bob Neill".

A stylized printed signature in black ink, appearing to read "Bob Neill".
BOB NEILL MP



Abolition of the Standards Board regime

The Standards Board regime

The Coalition Agreement *Our Programme for Government* included the commitment to “abolish the Standards Board regime”.

The Government considers that the Standards Board regime, consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend a local authority member and regulated by a central quango was inconsistent with the principles of localism. In addition there is a concern that the regime is a vehicle for vexatious or politically motivated complaints.

The Government considers that it is the right and the responsibility of the electorate to determine who represents them and that the abolition of the regime will restore power to local people.

Accordingly, given the interdependencies of the bodies, requirements and guidance that constitute the Standards Board regime, the Government is proposing to abolish the regime in its entirety.

Subject to Parliament approving the necessary legislation, the changes are as follows:

- The Relevant Authorities (General Principles) Order 2001, which sets out the principles which govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, will be revoked.
- The Local Authorities (Model Code of Conduct) Order 2007 (S.I 2007/1159) which prescribes the model code of conduct to apply to members of relevant authorities, will be revoked.
- The requirement for local authorities to have standards committees will be abolished.
- Standards for England (formally known as the Standards Board for England) will be abolished. Established by the Local Government Act 2000 and the regulator for local authority standards committees, the Standards Board requires primary legislation to abolish it and its legislative functions. None of the Standards Boards functions will be transferred to other bodies.

- The First-tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, will lose its jurisdiction over the conduct of local authority members.

It is intended to effect the abolition of the Standards Board regime through the Localism Bill. It is anticipated that the Bill will be laid before Parliament in December and will receive Royal Assent late-2011.

The present conduct regime (a model code governing local authority members' conduct and enforced through local authority standards committees, regulated in turn by the Standards Board for England), will continue to function in a normal manner, considering, investigating and determining allegations of misconduct, until a fixed date ("the appointed day"), probably two months after the Bill receives Royal Assent.

This means that until the appointed day, an allegation of misconduct can be made; after the appointed day, no further allegations of misconduct can be made under the standards board regime. It also means that at the appointed day, allegations will be in the process of investigation and, further, that appeals against sanctions will be pending. Transitional measures will be put in place to address this.

Proposed transitional measures

Any cases in the system at the appointed day will make their way through a transitional regime. This would meet the expectation of those who had made allegations that their allegations would be properly dealt with. It also enables that if a member has an allegation made against them, they should have the opportunity to clear their name.

The Government propose that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.

Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date.

The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The Government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England).

Further, the Government propose that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards

committee could do is, for instance, to issue a councillor with a censure or a request that they undergo training.

The conduct regime in a post-Standards Board world

The Government is committed to maintaining high standards of conduct in office and will ensure that, in the absence of a statutory code of conduct, councillors do not abuse their office for personal gain by putting their personal interests before those of the general community or local area that they represent. Members will be required to continue to register and declare personal interests and will not be allowed to use their position improperly for personal gain. The Government intend that wilful failure to comply with these requirements will constitute a criminal offence.

The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code will be abolished. However, local authorities will be free to adopt their own, voluntary code of conduct should they so wish.

The requirement to maintain a standards committee will be abolished. However, local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees will, according to councils' local constitutions, be able to censure but will not be able to suspend or disqualify members from council membership.

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To: Standards Committee Chairs

30 November 2010

Dear colleagues

I would like to draw your attention to a letter sent to me from the Local Government Minister, Bob Neill MP about the Government proposals for the future of standards in local government. This letter has now been published on both our and CLG's website.

As you will know, since the Coalition Government announced its intention 'to abolish the Standards Board regime', there has been little detail available about what this would mean in practice. The letter from the Minister now sets out the proposition in greater detail.

In brief, you will see that the proposal is that, alongside the abolition of Standards for England, the First Tier Tribunal (Local Government Standards in England) would lose jurisdiction over member conduct. The Government also intends to remove the national Code of Conduct for councillors and the requirement to have a standards committee. Instead it would be for councils themselves to choose whether or not they wish to have a local code or a standards committee (which would be an 'ordinary committee' of the authority and therefore not need to have independent representation). Any standards committee would no longer have the power to suspend a member. There would also be a new criminal offence created relating to failure to register or declare interests.

In the meantime, you will see that these proposals will need primary legislation. Our understanding is that the Decentralisation and Localism Bill, which would contain such provisions, will be introduced to Parliament by the end of the year. The current framework will continue in place until such time as the bill receives Royal Assent and the relevant provisions are enacted. Our understanding is that

this is likely to be some time in the summer or autumn next year, although exact timing will obviously depend upon Parliamentary progress of the bill as a whole. Consequently, in the meantime, as the Minister recognises, standards committees will continue to have a legal requirement to operate as now and, in particular, to continue to consider any allegations.

You will see that the Minister's letter sets out, in some detail, the transition arrangements that they intend to apply to any cases which will be in the pipeline at the end of the framework. While these proposals obviously depend on Parliamentary approval, in brief, Standards for England would cease to handle cases from an Appointed Day (likely to be two months after the coming into force of the provisions). At that stage, all cases still open would be passed back to the relevant local authority to complete. Any cases with the Tribunal at that stage would be completed but no further references could be made to it. Any cases being handled locally would need to be completed locally after that date by the standards committee, with no power to pass them to Standards for England or the Tribunal, but no new allegations could be made after the Appointed Day.

I hope that you find this helpful.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'R Chilton', with a stylized flourish at the end.

Robert Chilton
Chair