

THE ASSEMBLY

18 MAY 2011

REPORT OF THE STANDARDS COMMITTEE

Title: Annual Report of the Standards Committee 2010/2011		For Information
Summary: <p>The Standards Committee is responsible for promoting and maintaining high standards of conduct by all Members, statutory co-opted Members and employees of the Council to assist them in observing relevant Codes of Conduct.</p> <p>This report summarises the work of the Standards Committee over the past municipal year.</p>		
Recommendation: <p>The Assembly is asked to note the Standards Committee's annual report for 2010/11.</p>		
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1. The role of the Standards Committee

- 1.1 The current roles and functions of the Standards Committee were changed by the Local Government and Public Involvement in Health Act 2007, which includes provision for complaints against elected Members to be assessed and dealt with locally, as opposed to them being sent to the Standards Board for England, as it was then known (now called Standards for England). The Standards Committee (England) Regulations 2008 came into force on 8 May 2008 and govern the assessment and review processes, investigations, hearings and appeals.
- 1.2 The terms of reference of the Standards Committee are attached at Appendix 1.
- 1.3 The Committee is tasked with making very careful and difficult decisions in relation to the complaints coming before them as to whether the Code of Conduct is engaged in any particular instance. The Committee is also particularly mindful, as is referred to in Standards for England Guidance, of the cost of dealing with complaints, and will only commit to an investigation where they consider that, on the face of it, the cost of doing so appears to be justified. Seemingly frivolous or tit for tat type complaints are generally not pursued. Where no action is decided by a Sub-Committee, complainants have a right of review, which is an opportunity for them to submit further evidence.

2. The membership of the Standards Committee

- 2.1 The Standards Committee is chaired by an Independent Member, Kevin Madden, who was appointed as chair with effect from 11 October 2010, following the retirement from the Committee of Fiona Fairweather. Mr Madden is a retired local government officer with more than 20 years experience at Board level. During his career he promoted national initiatives on open government legislation and the development of effective complaint handling procedures for local authorities. He is also an Independent Member of the Standards Committee at the London Borough of Havering.
- 2.2 As well as the Chair, the membership of the Standards Committee comprises four elected Members and four Independent Members. Independent Members are appointed for a period of not more than four years and cannot be re-appointed to the Standards Committee until the expiry of at least two years.
- 2.3 There is currently a vacancy for an Independent Member, following the resignation of Jennifer Spearman in January 2011. This position has been left vacant for the time being and will be reconsidered when the future of the Standards regime is more certain.

3. Member complaints between April 2010 and March 2011

- 3.1 Five complaints were carried over from the last municipal year. One had been referred for hearing, two related complaints had been deferred and two separate complaints were under investigation.
- 3.2 The matter that had been referred for hearing was ultimately suspended indefinitely and the complaint filed away without conclusion. This decision was made in the light of the fact that the subject Member was not re-elected as a councillor and although the matter had been part heard and adjourned it proved difficult to reconvene to the point where the public interest in the matter and effective use of public money came into question.
- 3.3 The two related complaints were also filed away indefinitely with no action on them at all.
- 3.4 Of the two matters referred for investigation, one was re-assessed on advice from Standards for England as the subject Member had not been re-elected as a councillor and the Standards Sub-Committee agreed to take no action in respect of the complaint for the reasons referred to in paragraph 3.2 above. In the other case, the Sub-Committee considered the Investigating Officer's report and accepted his finding that there was no breach of the Code of Conduct.
- 3.5 Since May 2010 and up to the time of drafting this report, four formal complaints against Members of the Council have been received and assessed. Two were made by members of the public, one by an employee and one by the Council's Whistle Blowing Officer.
- 3.6 The four complaints related to alleged breaches of one or more of the following paragraphs of the Members' Code of Conduct:

- ❖ 3 (1) You must treat others with respect
- ❖ 4(a)(i) You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware of, is of a confidential nature, except where you have the consent of a person authorised to give it
- ❖ 5 You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute
- ❖ 6(a) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage

3.7 The outcomes of the four complaints are as follows:

- Three were found not to amount to a breach of the Code of Conduct on the facts as alleged. On one of those matters, the complainant exercised the right to request a review. A Review Sub-Committee, made up of different membership to that of the Assessment Sub-Committee, upheld the Assessment Sub-Committee's decision that there was no evidence of a breach of the Code of Conduct.
- One was referred to the Monitoring Officer for investigation as potential breaches of the Code of Conduct had been identified. An investigating officer has been appointed and the investigation is ongoing.

4. Time taken in dealing with complaints

4.1 The time taken at the various Sub-Committee meetings dealing with individual complaints varies considerably. From cases to date:

- assessments and reviews may take anything from ten minutes to an hour or two;
- consideration of Investigating Officers' reports, from forty minutes to an hour or two;
- hearings may take in excess of eight hours, followed by further time expended in the event of an appeal.

4.2 None of the above times include the preparation of documentation nor the time taken by the Sub-Committee members and relevant officers in reading that documentation and preparing for meetings.

4.3 Any number of complaints is a cause for concern but since reporting to the Assembly in March 2010, complaints against Members have reduced by two-thirds, which is a positive trend. The Committee would remind Members that whilst they are generally held in high regard by members of the public, expectations of Members' standards of behaviour are equally high.

5. Annual review of policies and procedures:

5.1 The Standards Committee also reviews, on an annual basis, policies and procedures relating to ethical standards and various codes, policies and protocols.

- **The Members' Code of Conduct** - the Monitoring Officer provided a verbal update to the Committee on the Members' Code of Conduct and how the proposed Decentralisation and Localism Bill (the Bill) may impact on it. The Committee is of the view that the Code of Conduct gives the public assurance that complaints are taken seriously.
- **The Members' Code of Conduct for Licensing and Regulatory Matters**** – the Committee received a report that there have been no findings of breaches of this Code and that it remains fit for purpose.
- **The Members' Code of Conduct for Planning Matters**** – the Committee received a report that there have been no findings of breaches of this Code and that it remains fit for purpose.

** These reports focused on how the proposed Bill may impact on both the **Planning and Licensing Codes of Conduct for Members**, as Members will be given greater scope to comment and campaign on local issues of concern even if they are later involved in making a relevant decision, and that it will not be considered “predetermination” if a Member expresses their position on a matter he/she later makes a decision on. As a result of this proposed change, there will be a need for further related training for all Members on the respective committees.

- **Gifts and Hospitality Register** - the Committee received a report in relation to the systems in place to ensure that Members and staff are aware of the need to inform the Monitoring Officer and complete the appropriate forms where gifts and hospitality are received or given to the value of £25 or over.
- **Rules on Conferences, Visits and Hospitality** – following consultation with Members, Chief Officers, Heads of Service and Trade Unions (including those representing teaching staff) no amendments were considered necessary to these Rules.
- **Member/Employee Relations Protocol** – following consultation with Members, Chief Officers, Heads of Service and Trade Unions no amendments were considered necessary to this Protocol.
- **Guide on use of Council Resources, Facilities and Equipment** - following consultation with Members, Chief Officers, Heads of Service and Trade Unions (including those representing teaching staff) no amendments were considered necessary to these Rules.
- **Standards for Members of the Public (Volunteers) Undertaking Council Activities** – these Standards are scheduled to be reviewed by the Standards Committee at its next meeting.
- The Committee agreed the continued use of the **Benefits Fraud Policies*** (the Prosecution and Sanction Policy – Housing Benefit; and the Anti Fraud Policy and Strategy – Housing Benefit and Council Tax Benefit).
- The Committee agreed the continued use of **the Money Laundering Policy***, **the Whistle Blowing Policy*** and **the Whistle Blowing Policy for Schools***

- **Anti-Fraud and Corruption Policy and Strategy*** – the Committee approved the revised Strategy and noted that specific action has been taken to increase awareness amongst staff and Members in strengthening pro-active anti-fraud measures.

- 5.2 Deloitte and Touche (on behalf of internal audit) carried out an audit of the Council's Corporate Governance framework, following which a report was received in February this year which provided management with "Substantial assurance" regarding the system of internal control over Governance. The Committee very much welcomed the audit and the report, as it provided a valuable assessment of our current arrangements.
- 5.3 As a result of recommendations in Deloitte and Touche's report, the above policies marked with an asterisk * will in future be presented to and formally approved by the Cabinet. Consequential amendments will require to be made to the Standards Committee's Terms of Reference.
- 5.4 The Committee also reviews past complaints on an annual basis, and Committee Members use this review as an opportunity to discuss lessons learned to enable them to efficiently discharge their functions under the Standards regime. Efficient handling of member complaints will generate efficiency savings to the authority as unmeritorious complaints are weeded out early on.
- 5.5 As part of its yearly work programme the Committee also received annual reports from the Monitoring Officer and the Divisional Director of Human Resources and Organisational Development.

6. Member Training

- 6.1 Independent Members of the Standards Committee worked closely with the Legal Partner to develop the training that was provided to all Members following the Council Elections on 6 May 2010 and an introduction to the Code of Conduct was provided by the Monitoring Officer at the Members' Induction event on 12 May 2010.
- 6.2 Members of the Standards Committee received training on 3 June 2010 in order to equip them for their role.
- 6.3 All Member training in relation to Standards has been provided through pre-Assembly Briefings and at all Member training sessions, specifically:
- Standards and Ethical Governance - 9 June 2010 led by the Monitoring Officer
 - Liability of Members on Outside Bodies - 23 February 2011 led by the Legal Partner
- 6.4 The newly appointed Independent Member of the Standards Committee was provided with 1:1 Standards training by the Monitoring Officer on 4 November 2010.

7. The proposed abolition of the Standards regime

- 7.1 The draft Decentralisation and Localism Bill (the Bill) proposes the abolition of the current Standards regime and will give local authorities the power to revise, replace or withdraw entirely their existing Code of Conduct for Members. There would be no requirement for a local authority to appoint or retain Independent Members to sit on Standards Committees. While local authorities could retain a committee addressing standards issues and applying a local Code of Conduct, such a committee would be an ordinary committee of councillors and not a version of the existing regime. Local authorities will therefore have to decide to what extent they continue with aspects of the current regime including a Code of Conduct. Any successor committee to the current Standards Committee would not have the power to suspend a member.
- 7.2 The Bill further proposes:
- to give Members greater scope to comment and campaign on local issues of concern even if they are later involved in making a relevant decision, in that it will not be considered “predetermination” if a Member expresses their position on a matter they later make a decision on, and
 - that it will become a criminal offence if Members fail to register an interest.
- 7.3 The Bill is still before Parliament and Royal assent is anticipated between July and October 2011 with implementation between the end of December 2011 and the end of March 2012. Until such time, the current standards framework still exists, and standards committees and monitoring officers have an obligation to keep the system operating.
- 7.4 Prior to the legislation becoming effective, the Monitoring Officer will undertake full consultation with Members as to the future of the standards regime at this Council.

Background Papers Used in the Preparation of the Report:

- Agendas and minutes of Standards Committee meetings 2010/11