



Report of:	Meeting	Date	Item No.
John Shaw (Chairman of the Standards Committee) and Michael Ryan, (Monitoring Officer)	Council	8 September, 2011	10

STANDARDS COMMITTEE: ANNUAL REPORT 2010/11

1. Purpose of Report

- 1.1 To provide a summary of activities undertaken by the Standards Committee in the 2010/11 Civic Year to ensure high standards of conduct within the Council.

2. Outcomes

- 2.1 An understanding of the Council's performance against the ethical framework.

3. Recommendation

- 3.1 That the report be noted.

4. Background

- 4.1 This is the seventh annual report of the Standards Committee. Last year the report was produced in a different format, which was published on the Council's web site, sent to public libraries and was the subject of media releases, as part of the Committee's Communications Plan. The information in that report remains useful as an explanatory guide to the current role of the Committee and its activities in promoting and maintaining high standards of conduct by Councillors. However, a more concise report has again been produced this year, in the more traditional format of previous years.
- 4.2 The full role and functions of the Committee are set out in Article 11 of the Council's Constitution. Periodic reports are now also submitted to the Council during the year. A brief summary of the work undertaken by the Committee during 2010/11 is set out below.

5. Key Issues and Proposals

Meetings of the Standards Committee

- 5.1 The Standards Committee met on six occasions in 2010/11.
- 5.2 The Chairman of the Committee also met informally with the Leader of the Council and the Leader of the Opposition, in continuance of the recent practice.

Membership of the Committee

- 5.3 Following the resignation during the year of Karen Diver, the total membership of the Committee has been reduced from 13 to 12. It was decided not to replace her for the time being because of the uncertainty about the future of the Committee (referred to in paragraph 5.24 to 5.27 below). The reduction in the overall size of the Committee also ensured compliance with the requirement specified in Regulations made under the Local Government act 2000 that at least twenty five per cent of the committee must be independent members. The Committee therefore now comprises of three independent members, 3 parish and town council representatives and six Wyre Councillors. A vacancy for a parish representative was filled at the end of the year.
- 5.4 The Council's normal practice is to limit the period of office of independent members to two terms of 4 years (i.e. a maximum of 8 years) but, the Council agreed on 3 March to extend the period of office of Bob Jones until the committee ceases to exist as a statutory Committee. The Council also agreed at that meeting that John Shaw should be able to continue as Chairman of the Committee in 2011/12 (a role normally limited to 2 consecutive years) and he has subsequently been re-appointed to that role.

Monitoring Officer

- 5.5 The role of Monitoring Officer has been attached to three different posts during the year, as a consequence of senior management restructures. Following the latest review, the role is now being performed by Michael Ryan, who is currently also one of two Corporate Directors, who, with the Chief Executive, forms the Council's Senior Management Team.
- 5.6 The Committee recorded its thanks and appreciation to Jan Finch, who left the Council in February, 2011, for her expert advice and support to the Committee and for significantly improving the awareness of ethical standards issues in Wyre whilst she was the Council's Monitoring Officer and Deputy Chief Executive.

Code of Conduct Complaints

- 5.7** Two Hearings were held in 2010/11 following investigations into complaints of breaches of the Code of Conduct.
- 5.8** In the first case, relating to the way in which comments on a planning application were submitted, a Member of Nether Wyresdale Parish Council was found not to have breached the Code of Conduct. The Hearing Panel nevertheless concluded that the procedures followed by the parish council should be improved and recommended that all its Members and the Clerk should undertake training on the Code of Conduct.
- 5.9** In the second case, a Member of Great Eccleston Parish Council was found to have breached the Code and was censured for failing to properly declare an interest. The councillor was also required to undergo training. A full record of both decisions has been published on the Council's web site.
- 5.10** Apart from the above cases, the Assessment Sub-Committee met on three occasions to consider a total of eight complaints against 6 different Councillors, three of whom were parish members and 3 were Wyre members.
- 5.11** Four of the complaints were about the behaviour of one Wyre member at a particular meeting, which were referred to Standards for England, which found that there had been no breach of the Code.
- 5.12** One of the other Wyre Councillors was also found not to have breached the Code.
- 5.13** In the other case involving a Wyre Councillor an investigation was conducted but the Councillor was found not to have been acting as a Councillor when the alleged inappropriate actions had taken place and he was therefore found not to have breached the Code of Conduct.
- 5.14** The three complaints against parish councillors were referred to the Monitoring Officer for "other action", which, in both cases included advice on improved procedures and training on the Code of Conduct.
- 5.15** The Committee has expressed concern about some of the ineffective procedures and inappropriate behaviours which, from some of the complaints submitted, appear to be taking place in some Parish Councils.

Constitutional and Governance Issues

- 5.16** During the course of the year the Committee recommended approval of various changes to the Constitution, mostly procedural or delegation issues arising from changes to management or committee structures.
- 5.17** In July 2010 the Committee considered and approved a set of Guidance Notes for Members and Officers Involved in Partnership Working, which

has now been added to the protocols in Part 5 of the Council's Constitution.

- 5.18** In November 2010, the Committee concluded a review of public perceptions of the Council's Planning and Licensing Committee meetings, begun during 2009/10 at the request of the then Leader of the Council (Cllr Forsyth). The review was carried out by some of the independent and parish Members who observed a number of meetings of the Planning and Licensing Committees and interviewed participants, including Councillors, officers and members of the public. As a consequence, various measures to improve the operation of the Planning Committee, in particular, have subsequently been implemented. The changes include minor practical issues, such as the size of nameplates and the timing of speeches, clearer and simpler explanation of the procedures to participants and observers and the provision of training to Councillors on their behaviour at meetings. Changes have also been made to the way in which information about planning applications is presented and updated on the web-site, as a result of comments made by parish council representatives during the review.
- 5.19** The Committee also endorsed a new Protocol for Members Involved in Pre-application Discussions on Planning Issues and a proposed process for responding to petitions, both drawn up in response to new legislative requirements.

Publicity and Information: Ethical Standards Communications Plan

- 5.20** The Committee continued to develop and implement its Communication Plan throughout the year, aiming to raise awareness of ethical standards issues, both internally with employees and councillors, and also externally, with local residents, community groups partners and the media.
- 5.21** As a new initiative, two editions of a newsletter for Parish Clerks were produced, one in the summer and one in the winter. A slightly adapted version of each edition, written for members of the general public, was also published on the Council's web-site.
- 5.22** Other actions taken under the Plan included:
- an article in Wyre Voice focussing on what councillors do;
 - conducting a local version of a national survey on the public perception of councillors;
 - various media releases, including, for example, on the Council's new corporate values;
 - publicity on ethical standards issues during Local Democracy Week;
 - features in Telegraph Wyre on the Council's whistle-blowing policy, and publicity restrictions during the election period;
 - regular updates on standards issues in the Members Information Digest.

Training for Councillors

- 5.23** The Committee has ensured that appropriate training on ethical standards issues has been provided to all new councillors elected in May 2011. Arrangements were also put in place to remind re-elected councillors of their responsibility to register and declare their personal interests.

Future Ethical Standards Regime and the Localism Bill

- 5.24** The Long awaited Localism Bill was published in December 2010. It is now progressing through the Parliamentary Committee process and is due to become law in November 2011.
- 5.25** The Bill proposes the abolition of the whole of the current Standards regime, including the statutory Code of Conduct based on a national model, as well as Standards for England. Local Council's will however, still be under a duty to promote high standards of conduct. There will be a requirement to maintain a Register of Interests and councillors who fail to properly comply will, in certain circumstances, be committing a criminal offence. A brief summary of the main provisions of Chapter 5 of the Bill, which deals with ethical standards issues, which was submitted to the Committee in April 2011, is attached as Appendix 1.
- 5.26** However, the current arrangements remain in force until the Act comes in to force. Any Code of Conduct complaints made prior to the Bill being enacted will have to be dealt with in accordance with transitional arrangements which will be specified.
- 5.27** The Council will consider during the summer and autumn of 2011 whether or not to adopt a voluntary Code of Conduct and decide on its future local ethical standards arrangements. The Committee will feed its views in to that process.

IMPLICATIONS	
Finance	None arising directly from this report.
Legal	None arising directly from this report, although one of the key roles of the Standards Committee is to ensure compliance with legislation.
Community Safety	None arising directly from this report.
Equality and Diversity	None arising directly from this report.
Sustainability	Reporting on the activities of the Standards Committee on a regular basis raises awareness of its role and provides transparency and accountability.
Health and Safety	None arising directly from this report.
Risk Management	Raising awareness of the role and activities of the Standards Committee minimises the risk of breaches of the Code of Conduct.
Asset Management	None arising directly from this report.
Climate Change	None arising directly from this report.

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List of Background Papers:		
Name of Document	Date	Where available for inspection
None	-	-

LIST OF APPENDICES

Appendix 1: Summary of Chapter 5 of the Localism Bill.

arm/rg/sta/cr/11/2808rs1

arm/ex/cou/cr/2011/0809 rs1

Localism Bill A brief summary of Chapter 5: Standards

1. The main provisions for the abolition of the standards regime are contained in Chapter 5 of the Localism Bill introduced into Parliament on 14 December 2010. Further provisions are set out in Schedules 4 and 24.
2. The Bill abolishes the standards regime overseen by the Standards Board for England, including the Model Code of Conduct for members of relevant local authorities in England and their standards committees. The abolition arrangements also affect the First-tier Tribunal (Local Government Standards in England) under the jurisdiction of the Ministry of Justice because the Tribunal will receive no further cases after those that it is already dealing with on the abolition date have been determined.
3. Authorities will be under a duty to promote high standards of conduct. The new arrangements for standards to help them comply with this duty will in part be voluntary, and in part mandatory, with criminal sanctions where certain interests are concerned. The Bill also makes provision for transitional arrangements regarding the Standards Board and ongoing cases.
4. The Standards Board for England will no longer exist and none of its functions will transfer to any other body. There will no longer be a requirement for relevant authorities to adopt a code of conduct for their members or to appoint standards committees, and there will be no mandatory enforceable code of conduct for members that they have to undertake to follow when they take up office (i.e. elected or appointed).
5. The relevant authorities that will be affected by the abolition of the current regime and the new arrangements cover 'relevant authorities'. These include authorities other than local councils - for example, police authorities in England and Wales until they are abolished (subject to the current Police Reform and Social Responsibility Bill being passed by Parliament). Relevant authorities will continue to include Parish Councils, but they will be responsible for their own standards instead of the relevant district or county authority.
6. Matters relating to standards will be the function, i.e. responsibility, of the relevant authorities but no function can be delegated to an executive (sometimes referred to locally as a cabinet), and the adoption of a voluntary code must be done by the authority as a whole.
7. There will still be a requirement, expressed as a duty, to promote high standards of conduct, but this will now be the function of the authority and not standards committees.
8. The duty and any voluntary arrangements adopted by an authority still only apply to members of authorities who can vote. This means that voting co-opted members will be covered by any new arrangements, but non-voting co-opted members will not.
9. Relevant authorities can create a voluntary code either by revising an existing code or adopting a code to replace an existing one. Because the code is voluntary, an authority can also withdraw an existing code without replacement. The authority can publicise what it has done about the code as it sees fit.

10. Where an authority has adopted a code, it can put in place any procedure it wishes to deal with complaints and take any action it sees fit, although this may exclude suspension or disqualification as these sanctions are expressly forbidden by provisions relating to how the council deals with failure to register or declare interests.
11. The arrangements regarding interests and criminal sanctions will be dealt with by way of Regulations issued by the Secretary of State, and the main requirement to maintain a register will remain with the monitoring officer for authorities which have monitoring officers. Although the Bill allows a specified person in parish councils to be responsible for maintaining a register, it may be that the regulations could specify that this responsibility will remain with monitoring officers for parish councils in their area.
12. The Regulations will be able to specify –
 - The interests to be registered
 - The requirements for disclosure
 - Participation in decision-making
 - Dispensations
 - Sanctions (but these cannot include suspension or disqualification) and
 - Access and publicity arrangements for a register.
13. Prosecutions in relation to interests can only be brought with the consent of the DPP. Offences can only be dealt with in the Magistrates Court, and will relate to:
 - a failure to register without reasonable excuse;
 - a failure to disclose without reasonable excuse; and
 - taking part in relevant authority business (which could be wider than taking part in formal meetings).
13. Sanctions available to the court on conviction are
 - A fine, the current maximum for which is £5,000
 - Disqualification for up to 5 years from any relevant authority or from standing or becoming a member.
 - The time limit for prosecutions is 12 months from when the prosecutor decides there is sufficient evidence to support a case, but no later than 3 years from when the offence occurred.
14. The transitional provisions will be made by secondary legislation and are referred to mainly in Part 2 of Schedule 4. Part 1 consists of amendments of specific legislation which mentions the Standards Board. Transitional provisions refer to property and assets of the Standards Board and arrangements for cases.
15. There is still much to be made clear on how some of these matters are to be dealt with in practice and how they link with existing legislation and the general law, particularly in relation to misconduct cases decided before the LGA 2000 came into force.