

**Summary of a Meeting of the Standards Committee's  
Improvements and Issues Working Group  
Monday, 23<sup>rd</sup> January 2012 in Committee Suite, Westfields, Sandbach**

**Present:**

Mr Nigel Briers	Standards Committee Chairman
Mr David Sayer	Standards Committee Vice Chairman

**Councillors:**

Peter Groves, John Hammond, Frank Keegan, Margaret Martin, Howard Murray and Mike Parsons

**Independent Members:**

Ian Clark, Mike Garratt and Roger Pomlett

**Parish Representatives:**

Patricia Barnett, Teresa Eatough and Barbara Lawton

**Officers:**

Caroline Elwood (Monitoring Officer), Julie Openshaw (Deputy Monitoring Officer) and Diane Moulson (Committee Officer)

**Apologies:**

Councillors R Fletcher and D Marren

**1. CHAIRMAN'S INTRODUCTION**

The Chairman welcomed members to the meeting, the purpose of which was to discuss how the local standards framework would change as a result of the passing into law of the Localism Act. To set the context for the meeting he summarised the present position in respect of the standards regime:

- Standards for England (SfE) would stop accepting cases from 31 January 2012 and would be formally abolished on 31 March 2012
- Local Standards Committees would no longer have a role from 1 July 2012, the point at which the new arrangements would come into force
- Each Council had to adopt a Code of Conduct which embraced the Nolan principles of public life and appoint an Independent Person whose views must be sought as part of the assessment procedure
- It would become a criminal offence to fail to register a pecuniary interest(s) as defined in the regulations

A pack of documents detailing issues previously considered by the Standards Committee and options for the future were provided to members to help inform the discussion. Four issues were identified for debate; i) Code of Conduct; ii) procedure for handling complaints; iii) appointment of Independent Person; and iv) arrangements for Parish and Town Councils.

## **2. THE CODE OF CONDUCT**

As per the Localism Act, the Code of Conduct had to comply with the 7 Nolan principles of public life. Both Codes provided in the pack; the Model Code of Conduct [Paper A] and a *draft* Code of Conduct prepared by the Association of Council Secretaries and Solicitors (ASCeS) [Paper D] complied with this directive. It was noted that, should the Model Code be retained, it would require amendment to reflect the new arrangements. In comparison, the ASCeS document would not be finalised until the regulations had been enacted.

The Working Group looked at the merits of each Code.

### Discussion

- The Model Code had the advantage of being familiar. It benefited from comprehensive guidance on its application/interpretation but was considered bureaucratic
- The ASCeS Code was easier to follow with clear explanations of matters such as predetermination. However, guidance either within the body of the Code or as an appendix to it would be required to define matters such as material gain, family connections and pecuniary interests
- As the list of sanctions which could be imposed was less extensive than before, it was important that the public remained confident in the new arrangements when seeking redress for their complaints
- Members felt that the new Code should allow for trivial, vexatious and malicious complaints to be rejected to protect all Councillors from frivolous allegations
- Subject Members should continue to be made aware that a complaint had been made against them but, unlike the present system, they should be given the opportunity to respond to the allegation *before* the complaint was assessed

## **3. COMPLAINTS PROCEDURE**

It was generally accepted that the present framework for dealing with complaints was expensive and time-consuming and a shorter, more cost effective system was required.

Annex E of Document D proposed a streamlined procedure which had been put forward by the Monitoring Officer for discussion.

### **3.1 Receipt of Complaint**

It was agreed that the Monitoring Officer should remain the first point of contact for receipt of complaints.

### 3.2 Gateway Procedure

In the 'streamline' proposal, the Group Leaders, Independent Chair and Chief Executive were nominated to act as a 'gateway' to deal with the initial assessment of complaints. Papers B1-B3 set out the Conservative Group's position i.e. that all standards matters should be dealt with by an ad-hoc Committee of the Audit and Governance Committee. It was this proposal which received support but there was further debate as to how the procedure as a whole would then operate.

### 3.3 Assessment of Complaint

A view was expressed that complaints which were Member against Member should be referred to the political parties so that they could be dealt with informally within their own groups; leaving complaints from members of the public, staff or parish clerks to be considered formally by the ad-hoc Committee. It was argued that this approach would allow the Groups to apply a wider range of sanctions that the regulations would permit, on the proviso that the Complainant was happy for their complaint to be dealt with in this manner.

Counter to this was the argument that the public might develop a negative image of the procedure as it lacked the transparency of the formal process and could lead to perceptions of protectionism. It was also felt that matters could prove difficult to resolve if i) there was no political party to direct complaints to; and ii) the nature of the complaint divided opinion within the Group.

As independent involvement was highly valued it was suggested that the Independent Person(s) should be involved in the 'gateway' procedure for example, an Independent Panel could be convened to submit a report for consideration by the ad-hoc Committee. Whilst independent involvement was welcomed, concern was raised that this approach would slow the process down.

### 3.4 Investigating Officer

Under the current framework, an Ethical Standards Officer had investigative powers and access to documents, rights which would be lost under the new arrangements. There would be no compulsion for members to co-operate with the Investigator but under the rules of natural justice it was hoped that members would respect the procedure and comply.

The Monitoring Officer stated that to support the process, a panel of external Investigators could be established (to be approved by Council). In supporting the proposal, members suggested that, in cases of potential criminal breaches, the Panel would benefit from the appointment to it of former/retired police officers.

#### **4. INDEPENDENT PERSON**

Authorities would be required to appoint one or more Independent Persons (IP's) and clarification of the eligibility of the present Independent members to fulfil this role had been sought. The Monitoring Officer reported that advice received from counsel had confirmed that, as co-opted members, the present incumbents would not be eligible and the post(s) would have to be advertised externally.

The Independent members were considered by the Working Group to be ambassadors for ethical standards within the Council, providing reassurance to the public that the adopted practices were fair and equitable to all parties. As there was a wish to retain their skills and expertise, options were explored as to how this could be achieved.

As there would be a period of transition between the current and new arrangements, ASCeS was to make representation to Communities and Local Government (CLG) to lobby for the option to appoint Independent Members as IP's. The Working Group requested that Cheshire East Council add its support to the representations.

#### **5. TOWN AND PARISH COUNCILS**

The Monitoring Officer reported that there was support for a pan-Cheshire approach to the new arrangements and consideration was being given as to how the various proposals could be brought together to develop a consistent approach for authorities and Town and Parish Councils throughout Cheshire.

#### **6. NEXT STEPS**

To enable work to move forward, the Chairman summarised the discussions. He stated that the Working Group had expressed a preference for the ACSes Code but that more work was required on the actual procedure for the consideration of complaints.

The next meeting of the Standards Committee was scheduled for 26 March 2012 and an update report was requested at that meeting. The Working Group noted that an additional meeting of the Standards Committee and Council may need to be convened to enable the new arrangements to be put in place by the deadline of 1 July 2012.