

Standards Committee

Annual Report 2010-2011

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It remains the role of the Standards Committee to seek to ensure that the elected representatives sustain the very highest standards of behaviour in their public life. I remain convinced that in terms of selfless public service and ethical conduct the Cheshire East councillors and the town and parish councillors have a great deal to be proud of; however, these standards need to be conscientiously upheld and jealously guarded.

For much of the past year the Committee has become increasingly aware of the Coalition Government's commitment to remove the whole Standards Regime. This was explained in a letter from the Chairman of the Standards for England in November 2010 when he informed Standards Committees nationally that the proposals encompassed not only the abolition of the Standards for England but also the removal of the National Code of Conduct for councillors and the hitherto obligatory requirement to appoint and maintain a Standards Committee. In its place it will be for councils themselves to choose whether or not they wish to have a voluntary local code or a Standards Committee (which would be deemed an 'ordinary committee' of the authority and therefore not need to have independent representation). In addition any standards committee which was formed would not have the power to suspend a member. Regulations, yet to be made under the proposals would create a new criminal offence of failing to register or declare interests.

The Councils within Cheshire East must clearly decide what they wish to do. They may decide not to adopt a Code of Conduct and thus have no Standards Committee at all, relying upon the existing state and judicial machinery to deal with issues. The Cheshire East Standards Committee are looking at the possible future scenario and if requested will produce a report with recommendations to the Full Council and to the Cheshire Association of Local Councils (ChALC). The Committee is anxious to maintain liaison and co-operation with ChALC in furtherance of the Compact defined and agreed with ChALC and its Chief Executive during 2009/10. The Chief Executive of ChALC attended the March 2011 meeting of the Standards Committee.

I would like to place on record my thanks to my Vice-Chairman, David Sayer, who continues to play a crucial and central role in the work of the Committee. I would also record my thanks to all the Committee and the Staff who have worked to ensure a successful year for the committee.

The work of the Committee will continue under the current rules until new legislation is enacted. The current assumption is that the Localism Bill will become law in November 2011 and depending upon what complaints are being considered, the Standards Committee in its current form will cease to exist in the early part of 2012.

NIGEL BRIERS

(Independent Chairman Cheshire East Standards Committee)

In contrast with other Committees of Cheshire East Council, the Standards Committee has no less than five Independent non-political members who are appointed, and selected on merit and experience and these include the Chairman and Vice-Chairman of the Committee. This does ensure that the Committee retains independence and free from political influence. The remaining members of the Standards Committee are drawn widely from across the spectrum of the Council and the community and comprise eight elected members who reflect the political constitution of the Council as a whole and three Town/Parish Councillors.

- **Independent Members:**

Nigel Briers (Chairman of the Committee), was a Member (and Chairman) of the former Crewe and Nantwich Borough Council Standards Committee.

David Sayer (Vice-Chairman of the Committee) was appointed Chairman of the former Congleton Borough Council Standards Committee in 2000 and served for just over 9 years until the inception of Cheshire East Council.

Ian Clark was a Chairman of the former Macclesfield Borough Council Standards Committee.

Michael Garratt served for 5 years as an Independent Member on the Congleton Borough Council Standards Committee.

Roger Pomlett was an Independent Member of the former Crewe and Nantwich Borough Council Standards Committee for 5 years.

- **Parish Council Members:**

Teresa Eatough served as a Parish Council representative on the former Crewe and Nantwich Borough Council Standards Committee.

Patsy Barnett served as a Parish Council representative on the former Congleton Borough Council Standards Committee.

Ken Edwards served on Macclesfield Borough Council Standards Committee for a year as a Parish Council representative.

- **Borough Council Members:**

Rhoda Bailey (Conservative).

Brian Dykes (Conservative) was a member of the former Crewe and Nantwich Borough Council.

John Goddard (Liberal Democrat) was a member of the former Macclesfield Borough Council Standards Committee.

John Hammond (Conservative) served for 5 years as a member of the former Crewe and Nantwich Borough Council Standards Committee and was Deputy Chairman from 2006 to 2008.

Margaret Hollins (Conservative), was a member of the former Crewe and Nantwich Borough Council.

Margaret Martin (Labour), was a member of the former Crewe and Nantwich Borough Council.

Michael Parsons (Independent) was a member of the former Congleton Borough Council.

Lesley Smetham (Conservative) was a Parish Council representative on the former Macclesfield Borough Council Standards Committee for 2 years.

The Interim Borough Solicitor and Monitoring Officer is Caroline Elwood. The previous Borough Solicitor and Monitoring Officer, Chris Chapman, left the Authority in December 2010 to take up a new post in Herefordshire.

The Monitoring Officer has a statutory role in ensuring that the Council, its Members and Officers carry out their functions in a proper and lawful manner.

The Monitoring Officer's duties include the following –

- Maintaining the Register of Members' Interests.
- He has an important role in contributing to the promotion and maintenance of high standards of conduct throughout the organisation.
- Main legal adviser to the Standards Committee and its Sub-Committees.
- Ensuring that decisions of the Standards Committee are implemented.
- If the Standards Committee refers an allegation for investigation, the Monitoring Officer will appoint another Officer to investigate the allegation and, should there be a local determination hearing, will act as the Legal Adviser to the Sub-Committee.
- The Monitoring Officer is also the main point of contact for Standards for England and submits periodic returns on the complaints received and dealt with by the Standards Committee.

The Standards Committee was set up under Article 9 of the Council's Constitution and sets out to discharge the Council's function under Part 111 of the Local Government Act 2000.

ROLE

The main roles of the Standards Committee which apply to all elected and co-opted members of the Local Authority, including Town and Parish Councillors, are:

- To promote and maintain high standards of conduct by Members
- To assist Members in observing the adopted Codes of Conduct which set out rules governing the behaviour of Councillors
- To investigate allegations that Councillors' behaviour may have fallen short of the required standards.

STRUCTURE OF THE COMMITTEE

The full Committee has met on five occasions during the 2010-2011 Council year. The Monitoring Officer and/or his deputy are in attendance at these meetings. Members of the public are welcome to attend and some time is allocated at the start of each for people to raise issues connected to the work of the Standards Committee.

In addition to the full Committee meetings, a further three Sub-Committees have been set up in accordance with the guidance from Standards for England which deals with complaints made against Councillors.

- Assessment Sub-Committee:

The role of this Sub-Committee is to receive complaints and make an initial assessment as to whether or not there is a *prima facie* case which warrants further action or investigation.

- Review Sub-Committee:

If the Assessment Sub-Committee has concluded that there is no case to answer, and the complainant is dissatisfied with this outcome, they can request the Review Sub-Committee to review that decision.

This Sub-Committee will assess the complaint afresh and it has the same decision-making powers as the Assessment Sub-Committee, ie (i) refer the complaint for investigation, (ii) refer for other action, (iii) refer to Standards for England, or (iv) decide that no action should be taken.

The Review Sub-Committee cannot comprise the same membership as that of the Assessment Sub-Committee which initially assessed the complaint.

- Hearings Sub-Committee:

Although this Sub-Committee is called the “Hearings” Sub-Committee for ease of reference, it has two distinct roles. It has a “consideration” role and a “determining” role. The “consideration” meeting is separate to the meeting at which a hearing may subsequently need to be conducted to “determine” the complaint.

“Consideration” role

Where a complaint has been referred for investigation, the Monitoring Officer will appoint an Investigating Officer to investigate the complaint. The Sub-Committee, acting in a “consideration” capacity then receives the Investigator’s Report, for the purpose of deciding, based on the facts as set out in the report, whether or not to accept the findings of the Investigator.

If the Investigator’s report concludes that there has been no breach and the Sub-Committee agrees, there is no further action.

However, if a breach has been identified by the Investigator, or the Sub-Committee disagrees with an Investigator’s finding of “no breach”, then it must hold a hearing to consider the matter in full. Not only is this in accordance with the Standards Committee (England) Regulations 2008, but it also ensures that the Rules of Natural Justice are not breached; these are the minimum standards of fair decision-making imposed on persons or bodies acting in a judicial capacity and includes (a) the right to know the case against them; (b) the right to a fair hearing; and (c) the rule against bias, including a perception of bias.

“Determination” role

This will be a separately convened Sub-Committee but it can include the same Members who considered the complaint at “consideration” stage.

At the Hearing, the subject Member and/or their representative, together with the complainant and any witnesses, will have the opportunity to present their case to Members (both orally and in writing).

The Sub-Committee will determine whether or not there has been a breach of the Code of Conduct and if it concludes that there has been a breach, will be able to impose appropriate sanctions.

COMPLAINTS AGAINST COUNCILLORS

During the past Council year there have been four complaints against serving or former Councillors –

- On 24 March 2010, the Assessment Sub-Committee considered a complaint (CEC//10/01) made against a serving Cheshire East Councillor. The Assessment Sub-Committee resolved that action other than an investigation was appropriate. This was carried out by the Monitoring Officer and the outcome of that action was reported to the Sub-Committee on 13 July 2010.
- On 13 July 2010, the Assessment Sub-Committee considered a complaint made against a serving Cheshire East Councillor (CEC/10/02). The Sub-Committee concluded that the Subject Member may have breached the Code of Conduct and referred the matter to the Monitoring Officer for investigation.
- On 13 July 2010, the Assessment Sub-Committee considered a complaint made against seven serving Cheshire East Councillors (CEC/10/03). The Sub-Committee concluded that there was no breach and no further action was justified. The complainant was not satisfied and the matter was referred to the Review Sub-Committee on 26 August 2010. The Sub-Committee concluded that no further action was justified.
- On 13 July 2010, the Assessment Sub-Committee considered a complaint against a Parish Councillor (CEC/10/04). The Sub-Committee concluded that the Subject Member may have breached the Code of Conduct and referred the matter to the Monitoring Officer for investigation.
- On 26 August 2010 the Assessment Sub-Committee considered a complaint against a serving Cheshire East Councillor (CEC/10/05) and concluded that action other than investigation was appropriate. This was carried out by the Monitoring Officer.
- On 9 December 2010 (CEC/10/06) the Assessment Sub-Committee considered a complaint made against a serving Cheshire East Councillor. The Sub-Committee concluded that the Subject Member may have breached the Code of Conduct and referred the matter to Standards for England.
- On 18 March 2011, the Hearings Sub-Committee, in its “consideration” role, considered the reports of Jonathan Goolden, the Investigating Officer who had investigated Complaints CEC/10/02 and CEC/10/04. Both of these had been referred to the Monitoring Officer for investigation following consideration by an Assessment Sub-Committee on 13 July 2010 as noted above.

NOTE: The conclusions of the Sub-Committee will be added to the report prior to submission to full Council.

WORKING PARTIES

A Working Party entitled “Issues and Improvements Working Party” was established to consider issues concerning the proposals by the Government to end the Standards Regime.

ANNUAL ASSEMBLY

The Annual Assembly of Standards Committees which is usually held in October each year was cancelled in 2010 in light of the Government’s announcement about the future of Standards for England.

TRAINING

The Committee has not undertaken any formal training during the year 2010-2011.

MAKING CONTACT

Information about the Standards Committee including details of meetings, membership and the work of the committee is available from carol.jones@cheshireeast.gov.uk or phone 01270 686471.

If anyone wishes to make a complaint, they are asked to contact the Council's Monitoring Officer at Cheshire East Council, Westfields, Middlewich Road, Sandbach, CW11 1HZ or phone 01270 686637 or e-mail complaints.customerservices@cheshireeast.gov.uk.

Standards for England can provide members of the public with useful information about both the Code of Conduct and the work of Standards Committees.

5.

Work Programme

The Standards Committee agreed the following work programme at its meeting held on 24 May 2010.

Month	Item
May 2010	<ul style="list-style-type: none"> • Report on Partnerships Protocol • Training requirements (standing item) • Work Programme 2010/2011
July 2010	<ul style="list-style-type: none"> • Monitoring compliance with the Code of Conduct (monthly report on the number and types of complaints which have been referred). • Progress report on Partnerships Protocol • Training requirements (standing item) — to give consideration to the arrangement of training sessions on the Code of Conduct for Borough, Parish and Town Councillors. This will be dependent on Communities and Local Government (CLG) having published the revised Code. • Local Government Ombudsman complaints – these are published at the end of the June
September 2010	<ul style="list-style-type: none"> • Monitoring compliance with the Code of Conduct (monthly report on the number and types of complaints which have been referred). • Training requirements (standing item) • Raising awareness: to review publicity for the role of the Standards Committee. • Review of Register of Interests. Committee to receive a report twice yearly on the outcome of a review of the Register of Interests.
November 2010	<ul style="list-style-type: none"> • Monitoring compliance with the Code of Conduct (monthly report on the number and types of complaints which have been referred). • Training requirements (standing item) • Feedback from the Annual Assembly of Standards Committees • Promoting high standards of ethical behaviour – the role of political groups
January 2011	<ul style="list-style-type: none"> • Monitoring compliance with the Code of Conduct (monthly report on the number and types of complaints which have been referred). • Training requirements (standing item) • Chairman's Annual Report for confirmation before submission to full Council

Month	Item
	<ul style="list-style-type: none"> • Town and Parish Councils: Feedback from the annual conference (Autumn 2010) in respect of any Code of Conduct issues raised by Clerks or Chairmen. • Annual Review of Whistle-blowing Procedure and “Dignity at Work” policy
March 2011	<ul style="list-style-type: none"> • Monitoring compliance with the Code of Conduct (monthly report on the number and types of complaints which have been referred). Finalised Chairman’s Annual Report 2010/2011 • Training requirements (standing item) • Finalise Work Programme 20111-201209/2010 • Review of Register of Interests. Committee to receive a report twice yearly on the outcome of a review of the Register of Interests.
May 2011	<ul style="list-style-type: none"> • Monitoring compliance with the Code of Conduct (monthly report on the number and types of complaints which have been referred). • Training requirements (standing item)