



**South
Cambridgeshire
District Council**

Standards Committee Third Annual Report to Council

**26 May 2011
www.scambs.gov.uk/standards**

1. PURPOSE OF THE REPORT

1.1 The report:

- (a) summarises the achievements of the Standards Committee during the 2010/11 civic year;
- (b) summarises how the Committee has developed in the past year; and
- (c) outlines the Committee's plans for 2011/12.

2. THE STANDARDS COMMITTEE

2.1 Composition

2.1.1 The Standards Committee membership altered during 2010/11, from:

- eight District Council members to seven;
- from seven independent (lay) members to eight; and
- four parish council members (later reduced to two).

2.1.2 The wide membership of the Standards Committee has enabled continued success in maintaining the panels required for local authority assessment, investigation and consideration of complaints, ensuring that matters are dealt with by a quorate and fully-trained panel well within statutory deadlines.

2.1.3 Following the retirement of parish council members Alan Brett and Bob Bryant in, respectively, March 2011 and May 2011, Council agreed to reduce the composition of the Standards Committee from "at least three parish council members" to "at least two parish council members" to enable the Committee to continue to meet and discharge its responsibilities during 2011/12 until the future of the local standards regime and composition of the Standards Committee, should the Council continue to operate one, had been agreed.

3. LOCAL ASSESSMENTS, REVIEWS, HEARINGS

3.1.1 Seven complaints about the conduct of Parish Councillors were made by members of the public to the Monitoring Officer during 2010/11. It is very pleasing that again this year no complaints were made about the conduct of District Councillors. The Local Assessment Panel completed its considerations of the allegations in an average of 7.4 working days, well within the national requirement for completion within 20 working days.

3.1.2 Of the seven complaints made, the Assessment Panel decided to:

- Require a course of other action for one case;
 - "Other action" is one alternative to an investigation to be used in circumstances where there is evidence of a poor understanding of the Code of Conduct and / or the authority's procedures, or where relationships within the authority have broken down to such an extent that it becomes very difficult to conduct the business of the council. Examples of other action could be to require the member to attend a training course, or to arrange for the member and complainant to engage in a process of conciliation;
- Take no further action for one case for which the panel did not receive any evidence of a breach of the Code of Conduct; and
- Investigate one case. The Investigating Officer concluded that there was no evidence of a breach of the Code of Conduct in this matter and, after thorough consideration, this finding was upheld by the Standards Committee.
- Refer three related cases to Standards for England for investigation by an Ethical Standards Officer. Standards for England has reviewed the allegations and has decided to investigate one matter and to take no further action on the other two.
 - If a breach is found, the Ethical Standards Officer's investigation report will be returned to the Standards Committee for determination. If no breach is

found, the Ethical Standards Officer's investigation report will be returned to the Standards Committee for information only.

- There is no right of appeal against Standards for England's decision to take no further action.

3.1.3 There has been one request to review the case for which the Assessment Panel decided not to take further action. The review panel will meet shortly.

3.1.4 The Standards Committee Hearing Panel held four public hearings (determination meetings), all relating to allegations about Parish Councillors which had been made late in the 2009/10 civic year:

- **CORCOM 3886** – the Hearing Panel upheld the Investigating Officer's findings that the Parish Councillor had breached the Code of Conduct by failing to treat others with respect by using inappropriate and offensive language in e-mails and on the village internet message board. The Panel required the Parish Councillor to apologise in writing to the Parish Council within 28 days from the hearing, or to be suspended from office for three months if no apology were forthcoming. The Parish Councillor declined to apologise and the suspension took effect at the expiration of the 28 days. The Parish Councillor did not attend the hearing.
- **CORCOM 3946** – The case related to whether or not the Parish Council Chairman had a personal and prejudicial interest in a planning matter. The subject member, complainant and parish clerk all attended the hearing and answered the Hearing Panel's questions, and the Hearing Panel upheld the finding that there had been no breach of the Code of Conduct.
- **CORCOM 4099** – the Hearing Panel upheld the findings of the Investigating Officer that the Code of Conduct had been breached when the Parish Councillor had failed to withdraw from the meeting room after declaring a personal and prejudicial interest in a planning matter. The Panel also upheld the finding that there had been *no* breach of the Code of Conduct in respect of the allegations that the member had tried to use his position to the advantage or disadvantage of another or that he had failed to record a particular interest in the public register of interests. The Parish Councillor did not attend the hearing and had resigned from the Parish Council. The Hearing Panel censured the former Parish Councillor.
- **CORCOM 4058** – the Hearing Panel upheld the findings of the Investigating Officer that there had been two breaches of the Code of Conduct when the two Parish Councillors had failed to withdraw from the meeting room after declaring personal and prejudicial interest in a planning matter. The Panel also upheld the finding that there had been *no* breach of the Code of Conduct in respect of the allegation that one member had tried to use his position to the advantage or disadvantage of another. Both Parish Councillors had resigned from the Parish Council, but attended the hearing. The Hearing Panel censured the former Parish Councillors, one of whom has since been co-opted back onto the Parish Council.

3.1.5 As a result of the similarity of some of the complaints received during the year, the Standards Committee advised Parish Councils of the importance of taking steps to ensure that declarations of interest and actions consequent on them are properly understood, occur in the right way in the future and are recorded accurately in the minutes; and that, where a personal interest is declared in relation to a planning application, that interest is likely to be considered under the Code as also being prejudicial and any member with such an interest should leave the room and not sit in the public gallery.

4. ADDITIONAL WORK UNDERTAKEN BY THE STANDARDS COMMITTEE

4.1 Parish Council Survey

4.1.1 The Standards Committee surveyed Parish Councils about understanding of the Code of Conduct, general training and support for Parish Councillors, how meetings were conducted (including public access and Standing Orders), financial and audit arrangements, training and remuneration of clerks, and views on the support received from the Standards Committee. One-third of parishes responded. The Parish Liaison Working Group considered the findings and made recommendations about provision of Parish Council training. Officers from the District Council and representatives from the Cambridgeshire and Peterborough Association of Local Councils (CPALC) began working on a training programme to be delivered jointly; however, this has been deferred indefinitely, as it was felt it would be difficult to motivate people to attend training due to the current uncertainty about the future of standards. The full results of the survey were presented to the Standards Committee on 16 June 2010.

4.2 Parish Council and Independent Member Recruitment

4.2.1 The Standards Committee ran two successful recruitment exercises during 2010/11. In July 2010 Council co-opted independent members Diane Best, Raith Overhill and Eric Revell, on the recommendation of the appointments panel, and in November 2010 Council co-opted parish council member Alan Brett, following his election by the parishes.

4.3 Responding to changes in the Localism Bill

4.3.1 The Standards Committee made representations to the Secretary of State for Communities and Local Government following publication of the Localism Bill, noting that:

- the Committee welcomed the broad principles to remove the overly-bureaucratic regime for responding to complaints; however, it had serious concerns that there would be too great a dichotomy between the few sanctions remaining to a Standards Committee and criminal prosecution as the only means of dealing with complaints of misconduct. The Standards Committee believes that the legislation should include a middle ground to reassure the public that allegations were taken seriously and addressed proportionately without placing an undue burden on police resources;
- the Committee felt that the possibility of facing criminal charges for failing to register an interest correctly would discourage candidates from standing for election. The legislation must set out clearly the definitions of interests and the rules for their registration, considering the seriousness of the charges which could result from a failure to follow the proper process; and
- the Committee unanimously supported the adoption of a Code of Conduct at South Cambridgeshire District Council and was in favour of the plan suggested by the Association of Council Secretaries and Solicitors (ACSeS) to work in conjunction with the Local Government Association (LGA) to draft a model Code of Conduct which authorities could decide to adopt to give more consistency across the country.

4.3.2 The letter was copied to the two local Members of Parliament, both of whom acknowledged it within days, and was submitted as evidence to the Public Bill Committee considering the Localism Bill.

4.3.3 Andrew Stunnell, Parliamentary Under-Secretary of State, Communities and Local Government, responded to the Standards Committee Chairman on 8 March 2011, saying:
“The Government believes that the existing conduct regime has encouraged vexatious, politically motivated and malicious complaints that waste council resources and council taxpayers’ money. Although the Localism Bill currently includes a provision to abolish the requirement on authorities to adopt a code of conduct for their members, it will not prevent them from doing so if they wish.

“The Government expects that councils will decide to adopt a code of conduct in the absence of a legal requirement to do so, and such a code could cover bullying and failure to treat others, including council employees, with respect, or any other types of behaviour that it considers inappropriate or improper. Councils will need to consider the sanctions that they will have the power to impose given that these will no longer include suspension or disqualification of members. It should be noted that under the Localism Bill, district councils will no longer be responsible for dealing with complaints about the conduct of parish council members in their area.

“The Government is committed to high standards of conduct and that is why we have introduced a new criminal offence, for members who deliberately fail to register or declare their personal interests. A member who simply forgets to register an interest will not be guilty of committing the new offence. The definition of the interests that members will be required to register and disclose will be set out in secondary legislation.”

4.3.4 ACSeS later announced that the LGA appeared no longer to be minded to work with the ACSeS and the National Association of Local Councils (NALC) to prepare a draft model code.

4.4 Promotion of the Work of the Standards Committee

4.4.1 The Standards Committee has published three newsletters this year, as well as sent a series of e-mail updates to parish and district councillors whenever there is news about the changes to the standards regime. Newsletters have focussed on identifying personal and prejudicial interests and acting accordingly, and how these should be recorded in the minutes, and on the Localism Bill and the future of Standards in South Cambridgeshire.

4.4.2 The Chairman appeared in the Summer 2010 edition of *South Cambs magazine* providing an explanation of the public register of interests and the requirement upon councillors to declare interests at meetings, reminding readers to show their appreciation of their local councillors: “not only are they giving up their time to help our community, they are also giving up some of the privacy that the rest of us enjoy.” The Autumn 2010 *South Cambs magazine* addressed the announcement in the Queen’s Speech to abolish the Standards Board regime and what implications this could have for local residents.

4.4.3 The Chairman, Vice-Chairman and Deputy Monitoring Officer attended the Parish Council-Cabinet Liaison meeting on 29 March 2011 to discuss the forthcoming changes. Members of the Standards Committee and the Deputy Monitoring Officer have also visited, at their invitation, Cottenham and Melbourn Parish Council to deliver code of conduct briefing sessions.

4.5 Standards Committee Workshops and Training Sessions

4.5.1 Before or after each regularly-scheduled meeting, the Standards Committee holds a workshop or training session to maximise attendees’ time and minimise travel requirements. Workshops and training sessions held in 2010/11:

- 16 June 2010 – The Planning Process, conducted by Senior Lawyer Gary Duthie. This session provided the background to planning matters and the roles played by Parish and District Councillors, and how the Code of Conduct applied;
- 15 September 2010 – Induction / refresher training for committee members on the Standards framework, conducted by Legal and Democratic Services Manager and Democratic Services Team Leader
- 19 January 2011 – Member / Officer Relations Protocol, conducted by Legal and Democratic Services Manager and Democratic Services Team Leader

4.6 Meetings with Chief Executive

4.6.1 Continuing on from the programme of meeting with senior members and officers of the authority, the Chairman and Vice Chairman have had a number of meetings with the Chief

Executive, as well as attending and speaking at the Parish Council-Cabinet Liaison meeting on 29 March 2011, at which Executive members and the Chief Executive were present.

5. PROJECTS NOT UNDERTAKEN IN 2010-11 FOLLOWING CHANGE OF GOVERNMENT

5.1 New Code of Conduct for Local Government Members

5.1.1 The Standards Committee had responded to the Department for Communities and Local Government's (CLG) 2008 consultation on the proposed new Code of Conduct, publication of which was expected in spring 2009; however, no further information was published between 24 December 2008 and the general election in May 2010. The coalition government announced in June 2010 that it would "abolish the Standards Board regime", details of which were released in late 2010 as the Localism Bill neared publication.

5.1.2 The Committee, in its representations to CLG and to the Public Bill Committee, wrote: 'The Standards Committee share the concerns raised by Sir Christopher Kelly, the Chairman of the Committee for Standards in Public Life that it would be unwise to abandon a national code of conduct as it provides a consistency of approach and advice and minimises confusion for councillors and residents alike in knowing what is required of them. The Committee noted that the Secretary of State, in answer to a question raised in the House of Commons in October about how members of the public will be able to hold councils and councillors to account, stated "*We have been in discussions with the Local Government Association and we will have a code of conduct, which seems to me to be a sensible way of doing that*". The Committee was surprised to note that this view has apparently changed.' To date no response has been received.

5.2 Quarterly and Annual Returns to Standards for England

5.2.1 In April 2010 Standards for England dropped the requirement for local Standards Committees to submit quarterly and annual returns detailing their cases, outcomes, publication timescales, and other training, support and promotion of ethical standards undertaken.

5.3 Joint Working with East Cambridgeshire District Council

5.3.1 Work begun in 2008/09 and continued in 2009/10 to establish a joint Standards Committee Hearing Panel to determine matters from across South and East Cambridgeshire, was deferred indefinitely pending the changes to the Standards regime.

5.4 Web-based Code of Conduct and other relevant training modules for councillors and parish clerks

5.4.1 Originally scheduled for consideration in 2009-10, this was deferred pending re-organisation of the SCDC IT section. The software is in place, but further developments will depend upon the decisions made by South Cambridgeshire District Council and the parish councils about adopting a local code, and whether the District Council will maintain any training responsibility for parish councils. The free software is available to provide intranet-based for training District Councillors as part of the Council's member development programme.

5.5 A place for standards: 2010 Annual Assembly of Standards Committees – October 2010

5.5.1 The Annual Assembly was cancelled by Standards for England in summer 2010.

5.6 Standards for England 'Risk Rating'

5.6.1 In early 2010 Monitoring Officers were advised that Standards for England, in its new regulatory role, would be adopting a risk-based approach to its work, assessing risks in its area of regulation and applying its resources accordingly to keep risks low. Three main types of risk have been identified:

- Systemic risk – risk which could lead to a widespread failing in the work of the framework or in standards across all authorities

- Sectoral risk – risk which could lead to a failing in standards in a number of similar authorities
- Entity risk – risk of a serious standards failure affecting one of the authorities covered by the local standards framework

5.6.2 Standards for England intended to focus its resources on those activities, situations or authorities which posed the biggest risk. The ‘risk rating’ programme was cancelled following the announcement of the abolition of Standards for England.

6. PLANS FOR THE FUTURE

6.1 Localism Bill

6.1.1 Chapter 5 of the Localism Bill (in its current form) included the following key points in relations to standards:

- Councils will still have a duty to promote and maintain high standards of conduct with its members and co-opted members
- The national Members’ Code of Conduct will be revoked
- Standards for England will be abolished
- The statutory requirement for local authorities to have a standards committee will be removed
- Councils can adopt a voluntary code of conduct
- Local authorities will have a duty to consider allegations of breach of such a code
The Bill currently provides that if a written allegation of failure to observe a code is received it must decide whether it is appropriate to investigate the allegation, and if it decides an investigation is appropriate, carry out that investigation as it sees fit
- There will be no statutory sanctions against an offending member – sanctions for breach of a local Code will be up to each council (and suspension of a member is no longer an available option).
- Councillors will have to register certain personal interests in a publicly available register; this could include anything that could reasonably be regarded as likely to influence or affect their actions, conduct when on business for the authority, or voting.
- It becomes a criminal offence to fail to register or withdraw for a personal interest (the scope of which awaits regulations). It is not yet clear whether the “personal interests” that will need to be recorded in the “publicly available register” referred to in the DCLG’s announcement will be different to the “personal interests” that members are currently required to register in the Council’s register of members’ interests under paragraph 13 of the Code of Conduct.
- A schedule to the Bill provides for the Committee’s role in relation to politically restricted posts to be undertaken by the Head of the Paid Service.

6.1.2 Sir Christopher Kelly, Chairman of the Committee on Standards in Public Life gave his views in a press notice saying that: *“the lack of a national code of conduct and an independent complaints mechanism in the proposed new regime for standards in local government risks lower standards and a decline in public confidence.”* In his view: *“It is essential that there remains a national code of conduct so that both councillors and – most importantly- the public can judge what is acceptable behaviour and what is not.”*

6.1.3 The Government also included a provision in the Localism Bill (Section 13) to clarify the rules on pre-determination and bias by providing that an indication by a councillor that he takes a particular view on a matter is not to be taken as evidence of a closed mind. The intention is that the normal activities of a councillor, such as campaigning, talking with constituents, expressing views on local matters and seeking to gain support for those views, should not lead to an unjust accusation of having a closed mind on an issue that can lead to a legal challenge. The Government says that that this will give councillors the assurance that they can campaign, discuss and vote on issues with confidence and so encourage more people to stand in local elections. ***In practice, there will be little change***

as the courts have already asserted that such activities will not preclude participation in decision-making as it is perfectly acceptable to be “pre-disposed” towards something (i.e., to have expressed a view) – the issue has always been where a councillor is so committed that they are not even prepared to listen to the evidence which means they can be said to have a “closed mind” on a matter.

6.2 Working Party on the Future of Standards in South Cambridgeshire

6.2.1 The Standards Committee established a Working Party on the Future of Standards in South Cambridgeshire, its membership being:

- Cllr Nigel Cathcart, District Council Member, Labour group
- Mrs Kathleen English, Independent Member and Standards Committee Chairman
- Michael Farrar, Parish Council Member
- Jean Hunter, Chief Executive
- Cllr Janet Lockwood, District Council Member, Liberal Democrat group (substitute Cllr Jim Stewart)
- Cllr Cicely Murfitt, District Council, non-group
- Cllr Tony Orgee, District Council Member, Conservative group (substitute Cllr Roger Hall)
- Eric Revell, Independent Member and Local Assessment Panel Chairman
- Cllr Alex Riley, District Council Member, Independent Group

6.2.2 The Working Party's Terms of Reference, finalised by the Party at its inaugural meeting on 16 May 2011, are to report to the Standards Committee, with the intention of the Committee making recommendations to Council on the following:

- (i) whether the district council should adopt a local code of conduct and associated administrative framework, including a framework for the handling of complaints;
- (ii) possible wording for a local code of conduct;
- (iii) a possible framework for the administration of the code of conduct including handling of complaints;
- (iv) the future of the Standards Committee, including its role and composition, and whether any or all of its work should be assigned to another Council body; and
- (v) whether or not the district council will continue to have responsibility for parish council matters, even if not obliged to by law, if requested by parish councils

6.2.3 To assist the Working Party with its deliberations, the Standards Committee launched a consultation with district and parish councillors, and employees of SCDC and parish councils, seeking their views about the future of standards. The Committee made clear that the cost to District Council taxpayers in 2010/11 for administration of complaints about parish councillors' conduct had been in excess of £12,000, and sought feedback on an annual fee if the District Council chose to continue to bear responsibility for parish council guidance, advice, training and administration of complaints, as it would no longer be obliged to do so in law. The consultation will run until Friday 10 June 2011 to enable all newly-elected district and parish councillors to respond.

6.2.4 As no further information about the future of standards and the Localism Bill had been received either from the Government, Standards for England, the Local Government Association, NALC or the Association of Council Secretaries and Solicitors, before the Future of Standards Working Group's first meeting, the Working Group has not yet started detailed work on how a local standards regime would operate. It is expected that the recommendations of the Working Group will be broadly similar with what is being adopted by other authorities nationally, to make the process transparent, efficient and understandable to councillors and members of the public, and the Working Group does not wish to direct Council resources to “inventing the wheel” if a national body is likely soon to produce a framework which can be adopted with minimal amendment to reflect local circumstances.

7. CONCLUSION

- 7.1.1 Despite the uncertainty about the future of the Standards regime, the members of the Committee and the officers serving it have continued to carry out their roles with care and commitment for which they should be commended.
- 7.1.2 The proposed legislation will place the Council under a duty to promote and maintain high standards of conduct. The Under Secretary of State's letter of 8 March 2011 is unequivocal in its expectation that local authorities will voluntarily adopt a code of conduct and detailed recommendations on adoption of a code, the scope of the code, the associated administrative framework for dealing with allegations, and details of the recommended future composition of the Standards Committee will be made to Council in due course.

Mrs KM English
Chairman, Standards Committee