

## **Wiltshire Council**

### **Standards Committee**

**8 October 2014**

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#### **Review of the Council's Arrangements on Standards of Conduct for Councillors**

##### **Purpose of Report**

1. To advise the Committee of the outcome of the seminar on standards on 23 July 2014 and to ask the Committee to consider the issues raised and how it wishes to take these forward.

##### **Background**

2. At its meeting on 25 April 2014 the Committee received a report on reviewing the effectiveness of the standards regime adopted by Wiltshire Council and resolved:

*To arrange a seminar as soon as possible for members of the Committee and any other Wiltshire Councillors who wish to attend, together with the Council's three Independent Persons and Mr Paul Hoey of Hoey Ainscough Associates Ltd. to review the operation and effectiveness of the standards regime and consider whether any changes to the current system are appropriate.*

3. A seminar was, therefore, held on 23 July 2014 attended by councillors, co-opted members, independent persons and officers. The programme included a presentation from Paul Hoey, of Hoey Ainscough Associates, a consultancy firm which supports local government members and officers in ensuring effective local governance with a particular emphasis on councillor standards of conduct. Paul's co-director, Natalie Ainscough, then led us through some case studies, which involved applying the Council's Code of Conduct to a range of fictitious circumstances. A general discussion followed on aspects of the Council's Code and Complaints Procedure.
4. A copy of the presentation and case studies is attached.
5. Officers have since met with the Chairman of the Standards Committee and Independent Persons to discuss the issues that came out of the seminar. These are summarised below.

##### **Main Considerations**

##### **Standards Committee**

6. The Standards Committee is responsible for ensuring that the Council discharges its duty under section 27 Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the Council. It is,

therefore, important to ensure that members of the Standards Committee are fully engaged in this function, by increasing awareness of the nature of the complaints that are being referred, how these are being dealt with, and the overall impact this is having on standards of conduct and public confidence in local democracy.

7. Whilst members have been involved in meetings of Review and Hearing Sub-Committees more can be done to share the learning that comes out of these with the wider committee membership. In future, therefore, we will be including the minutes of review and hearing sub-committees on agendas, providing more analysis of complaints and trends, and having regular opportunities to review issues emerging from cases and procedural issues.
8. Paul Hoey pointed out that some authorities have waived the requirement for political balance in their standards committee to order to avoid any perception that the committee may be politically motivated. In Wiltshire the Standards Committee is politically balanced, but the review and hearing sub-committees are not and these arrangements seem to be effective.
9. A number of authorities' standards committees, including Wiltshire, have non-voting co-opted members within their membership. This is seen as good practice and enhances the independence and depth of experience of the Committee. It is acknowledged that we should be involving our co-opting members more in review and hearing sub-committees, particularly in cases involving parish and town councillors.

### ***Code of Conduct***

10. The adequacy and fitness for purpose of the current code of conduct was a key issue covered at the seminar. Members will be aware that concerns have been expressed previously that the absence of specific provisions on the expected standards of behaviour of members and co-opted members in the code of conduct may result in cases being rejected that might otherwise have been referred for investigation, with the risk of undermining public confidence in the process
11. This issue was explored at the seminar through discussions on the case studies, which highlighted circumstances where the lack of specificity on behavioural standards in the code may be a problem. There were also discussions on whether the council should be more explicit in its code on interests that should be declared and registered. This aspect was reviewed recently by the council and it was decided that the current requirements in the code are satisfactory, supported with suitable guidance for members on their obligations in respect of declaring interests.
12. A further area which was raised, which the Standards Committee may wish to look at in the context of the code of conduct, is the use of social media. The Council has a social media policy, which is due to be reviewed as part of a review of the Council's Media Protocol. However, it was suggested that guidance for members on this subject would be helpful.
13. At the follow-up meeting with the Chairman and Independent Persons in August it was agreed that any proposed changes to the code of conduct must be

evidence-based. Therefore, if the Committee is minded to pursue this further it will be necessary for officers to undertake detailed work and analysis of the complaints received under the code of conduct and report to the Committee with their findings on the operation of the code in due course. The Committee's steer on this is requested.

### ***Procedure for Dealing with Complaints under the Code of Conduct***

14. The Council's procedure for dealing with complaints under the code is broadly similar to arrangements adopted in other authorities and is considered fit for purpose. Points to consider included:

- **Arrangements for notifying parties of complaint** - the current practice of giving full details of the complaint to the subject member and inviting their comments on the complaint before assessment works well and should be retained. This is a considerable improvement on the former practice under the old regime when regulations prevented disclosure of the details of the complaint to the subject member until after an assessment decision had been made.
- **Review of Monitoring Officer decisions** - it was suggested that the review rights afforded under our current procedure could be removed to streamline and speed up the process. We were advised that many authorities do not provide for reviews of assessment decisions by their monitoring officers. However, the involvement of members in reviews in our view provides important safeguards for the parties in the decision-making process and should be retained. Review meetings are scheduled to be held within tight timescales and in practice do not add in any significant delay to the process.

It is, however, proposed to retain the existing arrangement that the decision of a hearing sub-committee is final with no right of appeal.

- **Disclosure of papers to complainant** - this is not an issue for us as we are clear that the complainant, as a party to the proceedings, is generally entitled to see papers relating to the case.
- **Informal resolution** - we agree that where possible we should seek to resolve matters informally through mediation or otherwise. We may consider using our Independent Persons to facilitate informal resolution in appropriate cases.
- **Access to meetings and information** - we apply the usual statutory rules on access to meetings of standards review and hearing sub-committees and to information with a presumption in favour of openness and transparency.
- **Complainant access to Independent Persons** - on balance we do not feel that it would be appropriate to give complainants the right of access to an Independent Person. This is not envisaged in the legislation and may compromise the role of our Independent Persons. It would also be difficult to manage in terms of process and availability.

- **Hearings** - generally the process ensures fairness and transparency and there is sufficient flexibility in the arrangements to meet the particular circumstances of each case. The need for the views of the Independent Persons to be given in public during the hearing of a case was emphasised (except where the public are excluded under the statutory rules).
- **Sanctions** - there was a strong view that the current sanctions for breaches of the code are inadequate and that the Government should be pressed to revisit this issue and, in particular, restore the power to suspend as a sanction. Without this the standards regime is perceived to be lacking in teeth and this ultimately undermines public confidence.

### **Legal Implications**

15. The Council's statutory obligations in respect of standards, including the duty to promote and maintain high standards of conduct by members, are set out in sections 26 -37 (Chapter 7) of the Localism Act 2011.

### **Financial Implications**

16. There are none directly arising from this report.

### **Recommendations**

14. The Committee is, therefore, asked to consider what action they wish to take in relation to the above areas to ensure that the Council's arrangements on standards are fit for purpose, and promote and maintain high standards of conduct and public confidence in local democracy.

**Ian Gibbons**

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Date of report: 30 September 2014

**Appendices:** Presentation slides and case studies – Hoey Ainscough Associates Ltd.

**Background Papers:** There are no unpublished documents relied upon in the preparation of this report.

