

REPORT TO	DATE OF MEETING
STANDARDS COMMITTEE	2 DECEMBER 2010

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SUBJECT	PORTFOLIO	AUTHOR	ITEM
UPDATE REPORT: 1. Meeting with Standards for England; 2. Future of the Standards Regime	NOT APPLICABLE	DAVID WHELAN	

SUMMARY AND LINK TO CORPORATE PRIORITIES

This report updates members on the outcome of a recent meeting with Standards for England regarding issues arising from a couple of appeals that were made to the Adjudication Panel for England (now known as the First Tier Tribunal [Local Government Standards in England]) against decisions of this Standards Committee.

In addition the report also updates members on the current situation with regard to the Coalition Government's proposals to abolish the Standards regime.

It is considered that these developments will impact on a number of the Corporate priorities – in particular "Efficient, effective and exceptional Council."

RECOMMENDATION

That Standards Committee should note the contents of this report

DETAILS AND REASONING

1. Meeting with Standards for England

Members will no doubt recall that officers have been trying to arrange a meeting with Standards for England for some time to discuss issues arising from the decisions that the Adjudication Panel for England made in relation to appeals that had been brought by Councillors Sharratt and Watts against Standards Committee decisions.

In both instances the Standards Committee had found the members to be in breach of the Code of Conduct but on appeal both decisions were over turned.

On the 2nd of November 2010 a meeting took place. The Chairman of Standards Committee Russell Atkinson and John Holt (independent member) attended on behalf of the Committee. Also in attendance were the Director of Corporate Governance/Monitoring Officer and the Legal Services Manager. Mr Tim Leslie (Director of Regulation) and Mark Jones (Principal Lawyer) attended on behalf of Standards for England. At the outset, Standards for England were apologetic with the amount of time it had taken them to respond to our request for a meeting.

The purpose of the meeting was to have a general discussion of the issues arising from both appeals. The intention was not to talk about the specifics of either case. The time to challenge

such discussions had expired some time ago. The council sought additional guidance for any possible future cases.

Members will recall that the crucial question in the Councillor Sharratt decision related to “official capacity” – when was a member acting in their official capacity. It was only when a member was acting in their official capacity that the Code of Conduct will apply. The crucial question in the Councillor Watts decision related to the definition of “confidential information.”

Much of the discussion centred on the question of “official capacity.” Standards for England accepted that there was something of a lack of clarity over this issue. There had only been one leading High court decision on this issue (the Livingstone decision) and that was a number of years ago. In passing it was observed that there had been very few appeals to the High Court against decisions of the Adjudication Panel – this had resulted in a lack of clarity on a number of issues.

Standards for England advised that inevitably many decisions of the Adjudication Panel were “fact sensitive” – it was not always possible to glean general rules from individual decisions.

Standards for England advised it would shortly publish an updated Case Review. This would provide a summary of a number of Adjudication Panel decisions on various important issues including the crucial question of when a member was acting in their official capacity. It was hoped that this would provide greater clarity. If nothing else it was hoped that patterns of decisions would emerge.

Standards for England did comment that generally speaking the Adjudication Panel (now the First Tier Tribunal) appeared to be more reluctant than Standards committees to find breaches of the Code of Conduct.

The issue of what constituted “confidential information” was also discussed. It was hoped that the shortly to be published Case Review might assist on this issue. However, it was probably fair to say that this specific appeal (Councillor Watts) turned on its own particular facts.

2. Future of the Standards Regime

Whilst meeting with Standards for England the future of the Standards regime was also discussed.

Members have previously been made aware of the Coalition Government’s proposals to abolish the Standards regime.

As yet precise details of those proposals are still unknown. The provisions are expected to be contained within the Decentralisation and Localism Bill. This will be a major piece of legislation that is planned to cover many areas including planning and health issues. It is expected that the Bill will be published some time in November although it might take some considerable time before it finally becomes law. It might not be until Spring 2012 before the new regime comes into force – until then the existing arrangements will continue.

It is understood that under the new rules serious misconduct by a councillor which results in personal gain will become a criminal offence. The Government also proposes to strengthen the role of the Local Government Ombudsman – for the first time local authorities will be legally compelled to implement the Ombudsman’s findings.

Andrew Strunell the Communities Minister has commented:

“The Standards Board regime ended up fuelling petty complaints and malicious vendettas. Nearly every council had investigations hanging over them – most of which would be dismissed but not before reputations were damaged and taxpayer money was wasted. Frivolous allegations undermined local democracy and discouraged people from running for public office.”

“That’s why we are axing the unpopular and unelected standards board regime. Instead we will legislate to ensure that if a councillor is corrupt and abuses their office for personal gain they will be dealt with in the criminal courts”.

Eric Pickles the Secretary of State for Communities and Local Government further stated:

“The standards board regime became the problem, not the solution. Unsubstantiated and petty allegations, often a storm in a teacup, damaged the reputation and standing of local government, as well as wasting taxpayers’ money.”

There is some debate that the centrally prescribed Code of Conduct may be abolished.

There was further suggestion that local authorities would be able to introduce their own voluntary codes of conduct and that there would be a role for the Local Government Association in leading on standards issues. However, at this stage we are awaiting further information on these proposals.

Once it is known what the new arrangements will be then clearly Standards Committee will have to undertake a review of precisely what its new role will be.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these.

FINANCIAL	There are no direct financial implications at this stage.		
LEGAL	At this stage the committee must continue to comply with the existing statutory requirements. Obviously a review of all the council’s policies and procedures will be needed once the new statutory arrangements are known.		
RISK	Whatever new arrangements are put in place the Council must continue to demonstrate that it is committed to the highest possible standards in public life. We must continue to ensure that the Council does everything possible to protect its reputation.		
OTHER (see below)	Training and Development – Members will be fully informed of the requirements of any new Standards Regime.		
<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Efficiency Savings</i>	<i>Equality, Diversity and Community Cohesion</i>
<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>
<i>Respect Agenda</i>	<i>Staffing</i>	<i>Sustainability</i>	<i>Training and Development</i>

BACKGROUND DOCUMENTS

NONE