

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Legal Services and Monitoring Officer

TO: Civic Affairs Committee

27/6/2012

WARDS: None directly affected

LOCALISM ACT 2000 AND STANDARDS: CONSIDERING COMPLAINTS AND GOVERNANCE

1 INTRODUCTION

- 1.1 The current Standards Committee's role will cease on 30th June 2012 and there is no longer a statutory requirement to have a separate Standards Committee. The Council needs to put alternative arrangements, however, both to be responsible for its statutory duty to promote high standards of conduct, to oversee complaints against councillors and to be responsible for other aspects of standards in local government.
- 1.2 The Council also needs to put in place a procedure for considering complaints that councillors have breached the (new) Code of Conduct. There is no prescribed procedure.

2. RECOMMENDATIONS

- 2.1 That a direct replacement for the Standards Committee is not appointed and that the Civic Affairs Committee is made responsible for promoting high standards of conduct by members and officers, for overseeing the procedure for considering complaints against councillors, and for any other aspect of promoting or regulating standards in local government that do not fall within the remit of the Executive or another regulatory committee.
- 2.2 That the Council amends the terms of reference for the Civic Affairs Committee as set out in Appendix 1, and that references to the Standards Committee are deleted.

- 2.3 That the procedure for considering complaints against councillors set out in Appendix 2 is adopted.
- 2.4 That the Civic Affairs Sub-Committee is invited to appoint one or more Complaints Sub-Committees to consider complaints as outlined in Appendix 2.
- 2.5 That the arrangements proposed are reviewed by the Civic Affairs Committee in 12 months' time.
- 2.6 That external members of the Standards Committee are thanked for their contribution to the work of the Council in promoting and maintaining ethical standards.

3. **BACKGROUND**

- 3.1 The Civic Affairs Committee resolved, on 1 February 2012, as follows:
 - i. A sub set of Councillors, including a representative from the Green Group, meet with the Head of Legal Services to further discuss the proposed changes to the standards regime as set out in the officer's report.
 - ii. The Committee supports, in principle, the incorporation of the Council's standards functions within the remit of the Civic Affairs Committee and that the Monitoring Officer is asked to prepare revised terms of reference for consideration by this Committee and the Council.
 - iii. The Monitoring Officer is asked to draft a Code of Conduct for members incorporating the seven Nolan principles of public life for adoption by the Council.
 - iv. The Monitoring Officer is asked to prepare a protocol for the receipt, investigation and consideration of complaints against councillors for consideration by this Committee.
 - v. The Monitoring Officer is asked to take all necessary steps to establish a register of members' interests to replace (so far as is necessary) the current register and to ensure that councillors are made aware of any changes to registration and declaration of interests.
 - vi. The Monitoring Officer, after consultation with the Chair of this Committee, the Standards Committee, and group spokespersons, is

given delegated powers to devise and implement a procedure for recruiting one or more “Independent Persons”, including setting up a member panel to make a recommendation for appointment to the Council.

- 3.2 An informal meeting took place on 4 April to discuss these issues further. There was general agreement with the resolution passed by Civic Affairs, including bringing standards within the remit of Civic Affairs. The Head of Legal Services outlined his thoughts on a procedure for dealing with complaints against councillors, which aimed at simplicity and speed of resolution, along with a pragmatic approach depending on the nature of the complaint. Members were in agreement in principle, subject to the incorporation of an independent element to consideration of complaints. The procedure set out in this report is based on this discussion.

4. COMMITTEE ARRANGEMENTS

- 4.1 Appendix 1 proposes additions to the terms of reference of Civic Affairs Committee. Subject to some updating, this transposes the responsibilities of the Standards Committee into the remit of Civic Affairs.
- 4.2 One valued aspect of the statutory standards regime was the provision for the involvement of the external members. The statutory regime has been abolished and it is not possible to replicate it precisely. In particular, it is not possible to give voting rights to external members, whether on Civic Affairs or on a reconstituted Standards Committee. It is possible to co-opt but only on a non-voting basis. To ensure some external element, members are asked to consider inviting the Independent Person and Deputy (when appointed) to attend meetings of Civic Affairs when standards matters are under consideration.

5. COMPLAINTS PROCEDURE

- 5.1 The statutory procedure was cumbersome in practice. It had the following key elements:
1. All complaints had to be considered by an assessment sub-committee, which decided whether or not they should be investigated. There was limited scope for less formal resolution and, at this stage, there was no input from the councillor in respect of whom the complaint had been made. If an assessment sub-

committee decided not to investigate a complaint, there was a right of appeal to a different assessment sub-committee.

2. If the sub-committee decided that a complaint needed to be investigated, it would commission a formal independent investigation. This is an appropriate course in relation to serious complaints but it could be cumbersome, time-consuming and disproportionate where complaints were less serious.
 3. The investigator's report had to be considered by a consideration and hearing sub-committee. If the report found a breach of the code (even if trivial) the sub-committee had to refer the matter to a hearing by the Standards Committee. If the report found no breach, the sub-committee could either accept this finding, or refer the matter for hearing.
- 5.2 The statutory procedure was suitable for investigating allegations of serious misconduct but heavy-handed for dealing with complaints arising from a misunderstanding or a technical breach of the Code. The procedure proposed in Appendix 2 aims to allow for formal consideration of more serious complaints whilst providing the flexibility to resolve less serious complaints in a less formal way. This should provide speedier and more satisfactory outcomes for all parties. Safeguards are built in through the involvement of the Independent Person and a right of review given to a dissatisfied complainant.
- 5.3 Members are recommended to review the adopted procedure in 12 months' time.

6. **CONSULTATIONS**

The proposals in this report draw on the consultation that preceded consideration of these matters by Civic Affairs on 1 February 2012, the meeting and resolution of that meeting, and the discussion at the informal member meeting on 4 April 2012.

7. **IMPLICATIONS**

- (a) **Financial Implications** - none
- (b) **Staffing Implications** - none
- (c) **Equal Opportunities Implications** - An EQIA has not been conducted in respect of this report as there is no obvious differential

impact on groups with protected characteristics specific to these proposals.

(d) **Environmental Implications** - none

(e) **Community Safety** – none.

BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

Report to Civic Affairs Committee – 1 February 2012

Minutes of Civic Affairs Committee – 1 February 2012

Agenda and papers for member group meeting 4 April 2012

To inspect these documents contact Simon Pugh, Head of Legal Services.
Tel: (01223) 457401. Email: simon.pugh@cambridge.gov.uk

The author and contact officer for queries on the report is Simon Pugh, Head of Legal Services.

Report file:

Date originated: 26 June 2012

Date of last revision: 26 June 2012

Appendix 1.

Recommended: That the following roles and functions are added to the terms of reference of the Civic Affairs Committee:

1. Ethical Standards

To advise the Council and its committees as appropriate on the ethical framework within which councillors, co-opted members and officers should operate.

To advise the Council and its committees as appropriate on the ethical aspects of the corporate governance framework within which councillors and officers should operate.

To promote a culture of openness, ready accountability and probity, in order to ensure the highest standards of conduct of councillors, co-opted members and officers.

To take an overview of complaints handling within the Council and of issues relating to the Local Government Ombudsman or Independent Complaints Investigator.

2. Code of Conduct

To advise the Council on the adoption or revision of the Members' Code of Conduct and to monitor its operation.

To assist councillors and co-opted members to observe the Members' Code of Conduct, by issuing or relaying advice on it and training or arranging to train councillors and co-opted members on it.

To be responsible for implementing a framework for the grant of dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct, in accordance with the relevant Regulations.

3. Individual cases

To deal with, or to appoint sub-committees to deal with, any aspects of complaints against councillors that requires member-level consideration.

4. Employee issues

To oversee the Employee Code of Conduct and the Council's Whistleblowing Policy.

To support the Monitoring Officer and Chief Financial Officer in their statutory roles.

Appendix 2. Procedure for consideration of complaints about breach of the Code Of Conduct For Councillors.

1. Complaints about breach by councillors of the Code of Conduct shall be received by the Monitoring Officer.
2. The Monitoring Officer shall notify the Independent Person promptly of any complaint about a councillor that, on the face of it, alleges breach of the Code of Conduct.
3. The Monitoring Officer shall also, unless the Monitoring Officer and Independent Person agree otherwise, notify the member concerned of the complaint and its nature.
4. The Monitoring Officer shall agree with the Independent Person a strategy for responding to the complaint. This might involve commissioning the Independent Complaints Investigator to conduct a formal investigation but other alternatives would include the Monitoring Officer seeking to resolve the complaint less formally, for instance, by correspondence or a meeting.
5. The Monitoring Officer shall also have discretion, after consulting the Independent Person, to refer a complaint direct to a Complaints Sub-Committee of the Standards Committee.
6. If a formal investigation finds that a member has breached the Code of Conduct, the Monitoring Officer shall consult the Independent Person as to whether the complaint should be referred to a Complaints Sub-Committee for consideration or whether less formal action is appropriate; e.g. if a member accepts that there has been a breach and other action such as an apology or training is an appropriate remedy.
7. It shall be for a Complaints Sub-Committee to determine how to consider a complaint referred to it. It is entitled either to consider the complaint by way of written representations or it can conduct a formal hearing.
8. At all stages up to referral to a Complaints Sub-Committee, a complainant shall have a right of review by a Complaints Sub-Committee if they are not satisfied with the procedure adopted by the Monitoring Officer or if they are not satisfied with the outcome of their complaint.