

**(AG.45)**  
**Decisions to be considered by**  
**Full Council on 15 May 2012**

Minutes of the meeting of the AUDIT AND GOVERNANCE COMMITTEE held at 1.00pm on Monday 30 April 2012 at the Civic Centre, Stone Cross, Northallerton

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Present

Councillor J N Smith (In the Chair)

Councillor	D E Adamson	Councillor	Mrs B S Fortune
	Mrs C S Cookman		R W Hudson
	G W Dadd		M Rigby

Also in Attendance

Councillor	K Billings	Councillor	J Noone
	A W Hall		Mrs C Patmore
	K G Hardisty		Mrs M Skilbeck
	N W Huxtable		D A Webster

AG.45

**LOCALISM ACT 2011 – NEW STANDARDS REGIME**

All Wards

**The subject of the decision:**

The Head of Legal Services asked the Committee to consider further a report which suggested amendments to the Council's current structures and processes for dealing with Standards issues as a result of the Localism Act 2011 significantly amending the Standards Regime which affects all Councils, including District and Parish Councils. The report was originally considered by the Committee on the 5 April 2012; however at Council on 10 April 2012 it was agreed that other Members be given the opportunity to be involved in the decision.

The Localism Act abolished the Standards Regime which comprised of Standards for England (formerly the Standards Board), Standards Committees of Local Authorities and a national Model Code of Conduct for Members. The dismantling of Standards for England had begun, but a date for abolishing other elements had yet to be set, but it was likely to be in July 2012. Although the old regime was to be removed there would continue to be obligations placed on District and Parish Councils, including the requirement to have a local Code of Conduct; a duty to promote standards of conduct and; mechanisms for investigating allegations of breaches of the Code.

The Council would no longer be required to maintain a stand-alone Standards Committee and the rules governing composition and procedure would be removed. There would continue to be a need to promote standards amongst Members of the District Council and Parish Councils; in addition, the current Standards Committee had responsibility for District Officer probity issues and the District Council's Complaints Procedure. Given the close synergy between the responsibility of the Standards Committee for personal probity and the Audit and Governance Committee's responsibility for organisational probity it was recommended that the functions of the current Standards Committee be transferred to the Audit and

Governance Committee from the date of abolition of the current Standards Regime. It might be appropriate to re-name the Committee to be the "Audit, Governance and Standards Committee." In the meantime certain preparatory work could be delegated to the Audit and Governance Committee. There would be no requirement to have Independent or Parish Members on a "Standards Committee" under the new regime and it was not proposed to change the current arrangements for membership of the Audit Committee. It was however, still recommended that the current Independent and Parish Members had a role. Consideration would have to be given to a new Code of Conduct. If the Audit and Governance Committee was to become responsible for the Standards Regime then it would be appropriate for it to consider the new Code and make a recommendation to Full Council in due course.

The District Council would continue to have a duty to make arrangements for investigating allegations of breaches of the new Code of Conduct, either against District Councillors or Parish Councillors. One significant change was that the Parish Councils would have to request the District Council to investigate and would not be bound by any decision following the investigation. The new legislation gave the District Council significant leeway in setting its own procedures. This contrasted with the existing system which was very prescriptive and bureaucratic, involving three separate Sub-Committees of the Standards Committee. The decision about whether to investigate allegations was currently taken by a Sub-Committee of the Standards Committee; the decisions were often straightforward and only took a few minutes. It was therefore recommended that the Council took the opportunity provided by the new regime to delegate to the Monitoring Officer the initial decision on whether an allegation required investigation, subject to consultation with the Independent Person.

Currently an investigation involved the Monitoring Officer or another person who interviewed all of the parties and produced a report which was considered by the Sub-Committee. It was recommended that this element be removed so that allegations proceeded straight to a Sub-Committee, which would reduce delay; avoid duplication and; allow all parties to present their version of events to the eventual decision-maker. The new regime required the District Council to appoint an Independent Person; this was someone who was not a Member, Co-opted Member or Officer of the Council. This person must be consulted by the Authority where it was making a decision on an allegation and might be consulted in certain other circumstances by the parties. The Independent Person had to be approved by a majority of Members of the District Council. It was therefore recommended that a Panel of the Audit and Governance Committee begin the process of identifying an Independent Person, and a substitute, to be recommended to Full Council. It was recommended that the Panel comprised the Chairman and Vice-Chairman of the Committee and Councillor M Rigby as the Member from the non-controlling Group.

Currently determinations on allegations were made by the Consideration and Hearing Sub-Committee of the Standards Committee. This Sub-Committee was comprised of an elected Member, an independent Member and a Parish Council representative drawn randomly from a pool. This applied whether the allegation related to a District Councillor or a Parish Councillor, although it would still be possible for a non-elected and Parish representative to be on a Sub-Committee or Panel it would no longer be possible for them to have a vote. Consequently it would be necessary to have at least three elected District Members on a Sub-Committee or Panel. It was recommended that a Standards Hearing Panel be created comprising five Members, three elected District Members (with at least two Party Groups represented), one co-opted non-elected Member and one co-opted Parish representative. The membership of a Panel would be drawn from a Pool comprising

six elected Members (four from the Conservative Group and one each from the Liberal Democrat and Independent Groups), the three current non-elected Members of the Standards Committee and the three current Parish representatives on the Standards Committee selected on a rota basis. The Independent Person would also attend to provide views on the allocation. Only the three elected District Councillors would vote and a Chairman would be elected on the day. The Chairman would have a second and casting vote as was normal practice and it would be necessary for Full Council to waive the political proportionality rules for the proposed Panel.

The new regime would retain the power for the District Council to agree dispensations which would allow Members to participate in meetings even though they had a Disclosable Pecuniary Interest. It was recommended that decisions on dispensations be delegated to the Monitoring Officer with an "appeal" against a refusal to the Audit, Governance and Standards Committee. This would speed up the process whilst maintaining a fall-back where those applying were unhappy with the Monitoring Officer's decision. The Monitoring Officer would have the option of referring the matter to the Committee in any event.

The new regime did not give a Standards Committee or Panel any statutory powers to issue a sanction on District Members or Parish Members. Indeed, the final decision on Parish Members must be taken by the Parish Council. In respect of District Members, the powers of the Council to take action against individual Members would now be governed by existing common law principles about how Councils might control their Members. In practice these would be limited to those which were directed at securing the ability of the Council to effectively carry out its functions rather than "punishing" a Member.

The new regime provided for the Monitoring Officer to continue to maintain a Register of Member Interests; the Register would contain Disclosable Pecuniary Interests and such other matters as the Council required to be registered through its Code of Conduct. The Monitoring Officer must also maintain a Register for Parish Councillors. Arrangements for disclosing interests and participating at meetings might change and there were new statutory requirements to disclose certain pecuniary interests, under-pinned by new criminal offences. The Council could specify other disclosable interests in its Code of Conduct and there would need to be amendments to Council/Committee Procedure Rules if Members were to be excluded from meetings.

The Council would continue to have a responsibility to support Parish Councils and Councillors and guidance and training would be offered in due course. Training for District Council Members would be undertaken at an early stage.

**Alternative options considered:**

None

**The reason for the decision:**

To approve recommended structures and processes for dealing with Standards issues.

**THE DECISION:**

To recommend to Council that:

- (1) it be agreed in principle that the current functions of the Standards Committee (as amended by the Localism Act 2011) be transferred to a new Audit, Governance and Standards Committee and that revised Terms of Reference be considered at the next Annual Meeting;
- (2) the Audit and Governance Committee be given authority to consider and make recommendations to Council on the new Code of Conduct;
- (3) the Monitoring Officer (in consultation with the Independent Person) be authorised to determine whether allegations under the new Code of Conduct should be investigated and that the Audit, Governance and Standards Committee approve the principles to be applied in reaching a decision;
- (4) if the legislation allows it the three existing non-elected members of the Standards Committee be appointed as Independent Persons, but if not a Panel comprising the Chairman and Vice-Chairman of the Audit and Governance Committee and Councillor M Rigby be authorised to identify an Independent Person (and substitute) to be recommended to Full Council;
- (5) the proposals for a Standards Hearings Panel as set out in paragraph 4.13 be approved in principle with further details to be approved at the Annual Meeting and that the arrangements be reviewed by the Audit Committee after 12 months;
- (6) the options set out in paragraph 4.15 form the basis of guidance to be provided by the Monitoring Officer to the Standards Hearing Panel about its response to breaches of the Code of Conduct;
- (7) the proposals for delegation of decisions on dispensations as set out in paragraph 4.14 be approved in principle and further details be approved by the Audit and Governance Committee;
- (8) it be noted that the Monitoring Officer will continue to maintain Registers of Members' Interests for the District Council and Parish Councils;
- (9) it be noted that training will be offered to District Council and Parish Council Members on the new regime in due course;
- (10) a meeting of the Standards Hearings Panel be convened within 4 weeks of receipt of an allegation by the Monitoring Officer unless in exceptional circumstances the Chairman of the Audit, Governance and Standards Committee agrees to a longer period;
- (11) all parties be informed promptly of any correspondence between the Monitoring Officer, complainant and complaine.

The meeting closed at 2.30pm

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Chairman of the Committee

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Present

Councillor J N Smith (In the Chair)

Councillor	D E Adamson	Councillor	Mrs B S Fortune
	Mrs C S Cookman		R W Hudson
	G W Dadd		M Rigby

Also in Attendance

Councillor	K Billings	Councillor	J Noone
	A W Hall		Mrs C Patmore
	K G Hardisty		Mrs M Skilbeck
	N W Huxtable		D A Webster

AG.46

**MINUTES**

**THE DECISION:**

That the minutes of the meeting of the Committee held on 5 April 2012 (AG.43 - AG.44), previously circulated, be signed as a correct record.

The meeting closed at 2.30pm

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Chairman of the Committee