

## ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	<b>Meeting:</b>	<b>Standards Committee</b>
2.	<b>Date:</b>	<b>14<sup>th</sup> April 2011</b>
3.	<b>Title:</b>	<b>Future of the Standards Committee</b>
4.	<b>Directorate:</b>	<b>Chief Executive's</b>

### 5. Summary

To give consideration to future arrangements within the Council should the Localism Bill be adopted in substantially its present form.

### 6. Recommendations

- (1) That the Council adopt a Voluntary Code of Conduct and that a further report be submitted upon the contents of such a Code.
- (2) That a Standards Committee continue to be appointed by the Council.
- (3) That a further report be submitted upon the suggested composition of such a Committee and its Terms of Reference, once the likely final provisions of the Localism Bill and proposed regulations regarding Members' Interests become clearer.

## 7. Proposals and Details

At the meeting of the Committee on 13<sup>th</sup> January 2011, consideration was given to a report setting out in detail the changes to the standards regime contained in the Localism Bill published in December 2010. The changes are also summarised in the Local Government Association/Association of Council Secretaries and Solicitors paper "Maintaining High Ethical Standards in Local Government" which appears elsewhere on this agenda.

In my previous report, I stated that if the Bill was enacted in its current form, the Council would need to determine its response on a number of issues. One of these was whether to adopt a Voluntary Code of Conduct and the content of such a Code. Another key issue was whether to retain a Standards Committee on a voluntary basis and, if so, what should be its composition and functions, and the nature of any future working with Town and Parish Councils on standards issues.

### Voluntary Code of Conduct

Under the Bill's proposals, the power for the Secretary of State to issue a Model Code of Conduct will be repealed. The Code of Conduct adopted by the Council, which is substantially based upon the Model, would cease to have effect.

The government proposes to make regulations dealing with disclosure and registration of Members' Interests and requiring the Monitoring Officer to establish and maintain a Register of Interests of the Members and Co-opted Members of the Authority. However, other areas of conduct presently covered by the Code will otherwise be left unregulated. These include:-

- Breach of Equalities
- Bullying
- Compromising impartiality of staff
- Breach of confidentiality
- Refusal of access to information
- Misuse of position for personal advantage
- Misuse of Council resources
- Have regard to advice

View expressed at recent training sessions for Members on the Code of Conduct, which included an examination of the provisions in the Localism Bill, suggests that there should be some form of Code in place to set out required standards of conduct in some, if not all, of the above areas. It is, therefore, suggested that some form of Voluntary Code should be adopted by the Council. It is recognised that the sanctions that the Council might be able to apply for breach of such a Voluntary Code may well be limited.

The form that such a Code might take will require further consideration. The present Model Code could, of course, be used as a starting point. However, the opportunity could be taken to review the provisions of the current Code, to see whether it should be amended or simplified. This opportunity has not previously been available as the

provisions of the Model Code were effectively compulsory, although they could be made stricter.

It is also not clear as yet whether national bodies will produce a model or models that might be considered for adoption on a voluntary basis. These might include the Local Government Association, or the National Association of Local Councils as regards Town and Parish Councils. The Council of the Association of Council Secretaries and Solicitors has agreed to work on a draft Model Code. Further developments in this area will be brought forward to the Committee.

### The Standards Committee

Under the Bill, the requirement to establish a Standards Committee will be repealed. However, the Council will continue to be under a duty to promote and maintain high standards of conduct by Members and Co-opted Members of the Authority. It is suggested that there should be some Member body to provide leadership on ethical governance in order to ensure that the Council is able to fulfil that duty.

The retention of the Standards Committee on a voluntary basis may well be the best way of achieving this. A copy of the Committee's current Terms of Reference is attached at Appendix 1, together with commentary on how each of them will be affected by the changes proposed in the Bill. From this it appears that many of the Terms of Reference would still appear to be relevant. The principal changes relate to the arrangements for considering allegations and carrying out investigations, the references to the role of Ethical Standards Officers and Standards for England, which will be abolished, and the responsibility for carrying out functions on behalf of Town and Parish Councils.

There will, however, need to be arrangements within the Council for dealing with allegations of breach of any Voluntary Code that is adopted by the Council and this could be the responsibility of a Standards Committee appointed on a voluntary basis. As regards Town and Parish Councils, whilst the statutory responsibilities will be abolished, it may well be that they will wish to receive written support from the Borough Council on ethical standards issues, which could be negotiated on a voluntary basis through protocols or a Town and Parish Council compact.

Attached at Appendix 2 are the original Terms of Reference adopted by the Standards Committee, which was established by the Council on a voluntary basis prior to this becoming a statutory requirement under the provisions of the Local Government Act 2000. Many of the original Terms of Reference, with amendment in some cases, are still part of the Standards Committee remit and would continue to be appropriate following the enactment of the Localism Bill.

The composition of any Voluntary Standards Committee should be given further consideration. The Committee originally comprised five Members of the Borough Council and six Independent Members, appointed in similar fashion to the present Independent Members. A Parish Council representative was added to the Committee in place of one Borough Councillor upon the assumption of statutory responsibilities for Town and Parish Councillors. The number of Independent Members was increased from six to eight and two further Town and Parish Council

representatives were appointed when the Committee took over responsibility for the assessment of allegations of breach of the Code in 2008. This was to reflect the statutory requirement for Assessment and Review Panels to be differently constituted, to allow for five Members to sit on each and to allow for additional Members in the event of any conflicts of interest. The removal of the statutory responsibility for Town and Parish Councillors and the abolition of the statutory framework for making and dealing with allegations, might mean that there is no longer a need for as many Independent Members or Town and Parish Council Members, although the latter in particular might be influenced by whatever arrangements are negotiated between the Borough Council and the Town and Parish Councils.

Alternative arrangements might include a combined audit and governance committee which could deal with standards issues or some form of sub-regional committee.

As regards these, the former is a possibility and the Standards Committee has, in the past, held joint meetings with the Audit Committee on issues of mutual interest such as partnership governance. However, the present role of the Audit Committee is different from that of the Standards Committee, with strong emphasis upon financial systems, accounting standards and risk management. CIPFA advice is that the Audit Committee should be independent with direct access to the Council and should not combine its function with other Council roles and responsibilities such as standards issues or overview and scrutiny.

As regards a possible sub-regional approach, there is attached for Members consideration at Appendix 3 an e-mail from the Deputy Clerk and Solicitor and Monitoring Officer at the South Yorkshire Joint Secretariat. The Standards Committee has not hitherto expressed interest in possible joint working with neighbouring authorities, other than information sharing and mutual training events, but the proposals in the Bill would provide an opportunity to reconsider such a possibility and shared service arrangements with neighbouring authorities are increasingly being explored in a number of areas.

## **8. Finance**

There are no financial implications arising directly from this report.

## **9. Risks and Uncertainties**

The Bill would make significant changes to the standards regime. Relevant authorities will still be under a duty to promote and maintain high standards of conduct by their members and co-opted members. However, it will no longer be a statutory requirement to have a Standards Committee, which at the moment has the statutory responsibility for promoting and maintaining high standards of conduct. The Code of Code, which at present closely follows a statutorily prescribed model, will in future be voluntary. If such a Code is adopted, then consideration must be given to allegations of breach and, if appropriate, such allegations should be investigated. However, it is not clear what sanctions may be applied if the member is found to be in breach.

If the Bill is enacted, the Council will need to determine its position on whether to adopt a Voluntary Code and appoint a Member body to deal with ethical standards issues.

## **10. Policy and Performance Agenda Implications**

The Council is dedicated to high standards of conduct and will be under a duty to promote and maintain such standards by Members and Co-opted Members following the passage of the Bill.

## **11. Background Papers and Consultation**

The Localism Bill.  
Report to Committee on 13<sup>th</sup> January 2011.

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