



*Metropolitan Borough of Rotherham*

## **STANDARDS COMMITTEE**

## **ANNUAL REPORT 2011**

**M. Andrew, Chair**  
**A. Bingham, Vice-Chair**

## STANDARDS COMMITTEE: ANNUAL REPORT 2011

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## **FOREWORD BY THE CHAIR OF THE STANDARDS COMMITTEE**

*Michael Andrew*  
*Chair of Standards Committee*

*Angela Bingham*  
*Vice-Chair of Standards Committee*

### **(1) INTRODUCTION**

The Standards Committee was established by the Council in May 1999, prior to the statutory requirements contained in the Local Government Act 2000.

The Committee has various statutory functions and additional functions conferred by the Council. One of its main responsibilities is to advise the Council and Town and Parish Councils on the Code of Conduct, monitor its operation and arrange training.

Since May 2008, the Committee has been responsible for assessing and dealing with written allegations that Members of the Borough Council or of Town and Parish Councils within the Borough are in breach of the Code of Conduct.

This report shows how the Committee has performed its functions over the last year and how it supports good governance and high standards within the Borough.

### **(2) MEMBERSHIP OF THE STANDARDS COMMITTEE 2010/11**

The Committee comprises eight Independent Members, including the Chair and Vice-Chair, three Parish Council representatives and four Borough Councillors. Independent Members, therefore, have an overall majority.

Independent Members and Parish Council representatives are paid a co-optees allowance of £1,000 per annum. The Chair and Vice-Chair are paid respectively an additional £2,500 and £1,500 per annum.

#### **Independent Members**

##### **Mr. M. Andrew (Chair)**

Mr. Andrew has extensive experience of local government, including with the Borough Council for whom he worked until 16 years ago. He is a former Member of the Standards Committees at both the British Standards Institute and the National House Building Council. He was formerly a School Governor, and was a member of the Yorkshire Electricity Consultative Council. He is a Magistrate on the Rotherham bench.

Mrs. A. Bingham (Vice-Chair)

Mrs. Bingham currently works as a self-employed research/management consultant and is a former higher executive officer at the Telephone Managers Office in Sheffield. She has previously served on the Parochial Church Council at All Saints, Rotherham, was a Trustee of Rotherham Crossroads and acted in a voluntary capacity as a Director of Rotherham Community Resource Programme and formerly represented the voluntary sector on Rotherham's Children and Young People's Board. From November 2006-2009 she served as Chair of the Steering Committee of Risky Business. She is currently an Independent Member of the Standards Committees of West Yorkshire Police Authority, South Yorkshire Police Authority, South Yorkshire Fire and Rescue authority and South Yorkshire Integrated Transport Authority.

Mr. I. Daines

Mr Daines was an Assistant Chief Constable with South Yorkshire Police and retired in December 2006. As well as membership of this committee, he is a member of the General Social Care Council (GSCC); he chairs hearings into allegations of misconduct by social workers. The Standards Committee and the GSCC absorb about 35 days a year, leaving plenty of time to enjoy retirement.

Mr. P. E. Edler

Mr. Edler has recently retired from BT where he was Clerk of Works, having worked there for thirty years. He served on the Post Office Engineering Unions Sheffield Committee from 1982 to 1992. For four of those years he was the union's welfare officer and three years as the union's magazine editor. He was a representative for the Sheffield POEU at two POEU Conferences. Mr. Edler now works as a teaching assistant in Sheffield schools.

Mr. D. Foster

Mr. Foster is currently a business consultant specialising in all aspects of learning and development. He works with a number of organisations, in the public and private sectors, to develop assessment and feedback practice against a variety of standards. Prior to this he served as a police officer for almost 31 years reaching the rank of Inspector. He has considerable committee experience including membership of the Yorkshire and Humberside Crimestoppers Committee.

Dr. G. Musson

Dr. Musson is a senior research and teaching academic in Human Resource Management at Sheffield University Management School. She was formerly employed as an officer of the Council in a variety of roles, and as Clerk to Brinsworth Parish Council for ten years. She is a

former member of Wickersley Comprehensive School Governing Body and former Non-Executive Member of Rotherham Health Authority.

Ms. J. Porter

Ms. Porter was born and brought up in Rotherham and has recently retired, having worked in Rotherham hospitals for the previous thirty years. During that time she was a member of working groups on nursing procedures and the hospital's Standards Committee, in which role she helped to develop that service from the beginning. She is currently working in her local hospice shop part-time.

Mr. N. Sykes

Mr. Sykes was a research scientist and worked for some years for British Rail, he then became a founder director of a private sector company developing software products in the field of mechanical engineering. He is a magistrate, a lay member of the GMC and NMC Fitness to Practice Panels, Deputy Chair of the Consumer Council for Water Northern Committee and a member of the North Sheffield NHS Research Ethics Committee.

**Borough Council Members** (until 20<sup>th</sup> May 2011)

Councillor J. Austen

Councillor A. Buckley

Councillor J. Gilding

Councillor D. Hughes (until September 2010)

Councillor C.N. Middleton (From October 2010)

*At the elections in May 2011, Councillor Austen did not seek re-election to the Council. At the Annual Council Meeting held on 20<sup>th</sup> May 2011 Councillor Hughes, who had previously been a member of the committee was appointed to take her place.*

**Parish Council Representatives**

Councillor D. Bates - Thrybergh Parish Council

Councillor Bates is a member of Thrybergh Parish Council. He is also a Lay Member of the Sheffield Employment Tribunal and a retired school teacher.

Councillor D. Rowley – Ravenfield Parish Council (from February 2011)

Councillor J. Sharman – Aston cum Aughton Parish Council (until May 2011)

## **Officer Support**

Advice to the Committee is provided by Tim Mumford, Assistant Chief Executive (Legal and Democratic Services) who is the Council's Monitoring Officer. The Committee is supported by Alan Harston, Principal Democratic Services Officer. Other officers attend the Committee as and when appropriate.

### **(3) FUNCTIONS OF THE COMMITTEE**

The Council's Standards Committee's primary roles and functions are:-

- promoting and maintaining high standards of conduct by councillors and co-opted members;
- assisting councillors and co-opted members to observe the *Members' Code of Conduct*;
- advising the Council on the adoption or revision of the *Members' Code of Conduct*;
- monitoring the operation of the *Members' Code of Conduct*;
- advising, training or arranging to train councillors and co-opted members on matters relating to the *Members' Code of Conduct*;
- granting dispensations to councillors and co-opted members from requirements relating to interests in the *Members' Code of Conduct*;
- dealing with any written allegations that a member of the Council or co-opted member is in breach of the Council's Code of Conduct;
- dealing with any report from a First-tier Tribunal, and any report from the Assistant Chief Executive (Legal and Democratic Services) in his capacity as the monitoring officer or from an ethical standards officer of Standards for England.
- Performing similar functions in respect of all town and parish councils within the borough.

The Council's Standard's Committee's additional roles include:-

- preparing and reviewing protocols, local codes, advice and guidance;
- overview of the whistle-blowing policy (the *Confidential Reporting Code*);
- review of the application of *Standing Orders* and *Financial Regulations*;
- overview of complaints handling and local government ombudsman investigations;
- consideration of any reports or investigation which casts doubt on the honesty and integrity of the Council and recommending action to the Council or Cabinet.

The Council's Standards Committee's Terms of Reference are attached at Appendix 1.

#### **(4) INFORMATION ABOUT THE CODE OF CONDUCT**

This is a quick reminder of the main points of the Members' Code of Conduct and is not intended to be legal advice. The full Code of Conduct is available on the Council's website and a guide to it – entitled *The Code of Conduct: Guide for members* – is available from the Standards for England's website.

##### Do

- Follow the Code of Conduct when you are representing your authority.
- Be aware of what personal and prejudicial interests are – refer to the Standards Board guide if you are unsure.
- Keep your register of interests up to date.
- Treat others with respect
- Register gifts and hospitality, received in your role as a member, worth more than £25.
- Visit [www.standardsforEngland.gov.uk](http://www.standardsforEngland.gov.uk) for more information.

##### Don't

- Bring your authority or office into disrepute.
- Use the authority's resources for party political purposes.
- Compromise the impartiality of people who work for your authority.
- Discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age.
- Bully, intimidate or attempt to intimate others.
- Use your position improperly for personal gain or to advantage your friends or close associates.
- Attend meetings or be involved in decision-making where you have a prejudicial interest – except when speaking when the general public are also allowed to do so.
- Disclose confidential information, other than in exceptional circumstances – refer to the Code of Conduct and the Standards for England guide if you are unsure.
- Prevent anyone getting information they are entitled to.

##### Personal and Prejudicial Interests

You have a personal interest if the issue being discussed in the meeting affects the well-being or finances of you, your family or your close associates more than most other people who live in the area affected by the issue. Personal interests are also things that relate to an interest you must register.

Prejudicial interests are personal interests that affect you, your family, or your close associates in the following ways:-

- their finances, or regulatory functions such as licensing or planning which affect them
- and which a reasonable member of the public with knowledge of the facts would believe likely to harm or impair your ability to judge the public interest

If you have a personal interest you must normally declare it in the meeting.

If the personal interest arises because of your membership of another public body, you only need to declare it if you intend to speak.

If you have both a personal and prejudicial interest you must not debate or vote on a regulatory or financial matter, but you do have the same right to speak as a member of the public.

There are exemptions to both types of interests and when they must be declared. The Monitoring Officer will advise you.

## **(5) WORK OF COMMITTEE 2010/11**

### **(a) Partnership Governance**

The Committee continued last years work in looking at the governance of significant partnerships in which the Council is involved. Specific consideration was given to proposals for a monitoring regime to ensure that areas for improvement were implemented and that outcomes and benefits derived from the partnerships were identified.

The committee also considered a paper from Standards for England regarding partnership behaviour protocols. They noted and approved an updated Council document entitled "Partnership Governance Compliance – Good Practice 2011", which took account of and included issues from the Standards for England protocol.

### **(b) Maltby Town Council – Mediation**

The Committee approved the final version of the report from MESH, the mediators appointed following directions from Standards for England and the Standards Committee to provide conciliation services following a series of complaints regarding the conduct of members of Maltby Town Council. They approved publication of the report and the Vice Chair attended a meeting of Maltby Town Council at which the mediators presented the report.



### (c) Ethical Audit

A Working Group appointed to consider responses to the ethical standards survey carried out in the previous year met and reported to the committee on progress regarding the action points. The Working Group included Councillor Alex Sangster, Chair of the Audit of Committee, thereby maintaining the relationship between the two committees.

Particular consideration was given to Parish Councils response to the ethical standards survey. The Working Group and the Committee considered ways of working more closely with Town and Parish Councils, including the possible adoption of a compact tool kit that had been developed jointly by Standards for England, the National Association of Local Councils and the Society of Local Council Clerks. Whilst interests in this appeared to be limited, it was felt that it would be helpful to return to this issue later this year in view of the proposals contained in the Localism Bill which is presently before parliament. If the present statutory regime were to be abolished, voluntary compact or protocol between the Committee and Town and Parish Councils might be beneficial.

The Working Group and the Committee also agreed a form of questionnaire for submission to Town and Parish Council clerks as to training currently available, with a view to identifying further support that the committee might provide. Responses to the questionnaire were considered and it was agreed to return to this matter later in the year following the Town and Parish Council elections in May.

### (d) Review of Assessment Criteria

The Committee carried out a review of the local assessment criteria which it has agreed for use by assessment panels and review panels when considering allegations that members may have broken the code.

Following on from this, the Committee looked in more detail at further guidance as to when members are acting or giving the impression that they are acting as a Councillor or Council representative, which determines whether or not the code of conduct is applicable and is not always clear. They also looked in more detail at guidance on failure to treat others with respect, which is one of the most frequent allegations of breach.

### (e) Review of Complaints

The committee considered a report summarising the complaints made against members of the Borough Council and Town and Parish Councils within the Borough over the last year. The report set out the breakdown of complainants, outcome of the allegations, paragraphs of the code to which the allegations referred, timeliness of decisions and cases referred to the Monitoring Officer for action other than

investigation. The report also made some comparison between local and national statistics.

#### (f) First Tier Tribunal

The committee considered decisions of the first tier tribunal in respect of allegations concerning a member of Bramley Parish Council and a member of Wales Parish Council. In both cases allegations had originally been made to the Standards Committee. In the former case the allegation had been referred to Standards for England for investigation and in the latter case, the matter had been referred to the tribunal following consideration of an investigation report commissioned by the Monitoring Officer.

#### (g) Blogging

The Committee considered guidance from Standards for England on blogging and social networking and decided that the guidance should be distributed to all Members of the Council.

#### (h) Confidential Reporting Code

The committee reviewed the operation of the confidential reporting code which it does on an annual basis. Consideration was given to the deliberations of the Working Group regarding the need to improve further the awareness level of the code and to discussion held at focus groups following the latest employee opinion survey. It was agreed to make some minor amendments to the code including the addition of wording to the effect that the Council had a responsibility to support anyone wishing to raise concerns under the code. Measures should then be taken to re-launch the code.

The Committee also requested a full account of one particular case which had been raised under the code. Following consideration of the report into that case the Committee felt that appropriate action to investigate the allegations and to mitigate future risks have been taken. The Committee nevertheless felt that the policy should be reviewed further to identify potential improvements.

#### (i) Localism Bill

Following the publication of the bill in December 2010, the Committee considered an initial report on the proposed legislation in relation to standards and a more detailed report set out in detail the significant changes that would result. It was noted that whilst it would still be a statutory requirement for a relevant authority to promote and maintain high standards of conduct by Members, the adoption of a code of conduct and the appointment of a standards committee would cease to be statutory obligations, although authorities could undertake them on a voluntary basis.

(j) Future of the Standards Committee

In view of the proposals in the Localism Bill the Committee gave consideration to future arrangements within the Council should the Bill be enacted in its present form. They noted that despite the prospective repeal of the requirement to establish a Standards Committee, the Council and Town and Parish Councils within the Borough would be under a continuing duty to promote and maintain high standards of conduct by members. They also felt that the repeal of the model code would leave many areas of conduct potentially unregulated. Accordingly the Committee has recommended that a Standards Committee continue to be appointed by the Council and that the Council should adopt a voluntary code of conduct at the present time.

(k) Other

The Committee considered various papers relating to aspects of the ethical standards framework from Standards for England and the Association of Council Secretaries and Solicitors. There was however less advisory and comparative material from Standards for England than in the previous year, no doubt in anticipation of the proposed abolition of that body.

**(6) SUMMARY OF COMPLAINTS RECEIVED DURING THE YEAR**

Between 22<sup>nd</sup> April 2010 and 30<sup>th</sup> April 2011, 16 allegations that Members were in breach of the Code of Conduct have been considered by Assessment Panels of the Standards Committee. This represents a considerable reduction in the number of allegations from the previous year, when 38 were considered.

Of the 16 allegations, 1 was against a member of the Borough Council and the remainder were against members either of Town or Parish Councils.

4 allegations were made by members of the public and 11 by Town or Parish Councillors. In one case the allegation was submitted by members of the public and a Councillor.

In 13 of the cases the decision of the Assessment Panel was that no action should be taken. 1 case was referred to the Monitoring Officer for investigation and 2 cases for action other than investigation.

Reviews were requested in 5 of the cases. In 4 of these the Review Panel upheld the decision of the Assessment Panel to take no further action. In the other case, the Review Panel directed the Monitoring officer to take action other than investigation.

In the case of the allegation referred for investigation by the Monitoring Officer, the investigating officer found no breach of the code and this was accepted by the Committee.

No cases were referred to Standards for England during the year. However the Committee did refer to the first tier tribunal an allegation where a local investigation had found a breach of the code. This resulted in a member of a Parish Council being suspended for the remainder of his term of office. A case referred to Standards for England during the previous year was also considered by the first tier tribunal during the year and this also resulted in a Parish Councillor being suspended, for a period of 6 months.

Paragraphs of the code which IS the complaints made during the year appeared to relate are as follows, based solely upon the allegations submitted. In many of the cases more than one paragraph of the code could potentially have been relevant.

3 (1) – you must treat others with respect – 10 cases

3 (2) (b) – you must not bully any person – 1 case

4 (a) – you must not disclose information given to you in confidence – 1 case

5 – you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute – 12 cases

6 (a) - you must not use or attempt to use your position as a Member improperly – 2 cases

6 (b) – you must ensure that the Council's resources are not used improperly for political purposes – 1 case

6 (c) – you must have regard to any applicable local authority code of publicity – 1 case

Paragraphs 8 – 12- failure to disclose personal / prejudicial interests – 4 cases.

This is a similar pattern to the previous year, with allegations of failure to treat to others with respect and bringing your office or the Council into disrepute being the most common.

## **(7) TRAINING**

The Monitoring Officer presented a session for Council Managers on ethical standards and codes of conduct in November 2010.

In the week commencing 21<sup>st</sup> February 2011, the Monitoring Officer provided 3 Training sessions for Borough Councillors and Town and Parish Councillors on Training. These covered the requirements of the code of conduct, a range of examples for discussion drawn from reported cases and a look ahead to the proposals contained in the Localism Bill and their implications.

The Monitoring Officer provided induction training for newly elected members immediately following the elections in May. This covered the

requirements of the code and briefly looked ahead to possible future changes.

**(8) ISSUES FOR THE YEAR AHEAD**

The main issue seems sure to be how the Council will deal with standards issues if the proposals in the Localism Bill are enacted largely in their present form. If the Council adopts the recommendations of the Committee that a Standards Committee should continue to be appointed by the Council and that the Council should adopt a voluntary code of conduct at the appropriate time, then further work will need to be done both as to the composition of the Committee and its terms of reference and the content of the voluntary code of conduct. Further consideration will also need to be given to the relationship between the Borough Council and the Town and Parish Councils within the Borough. Whilst statutory jurisdiction of the Standards Committee would cease, the Town and Parish Councils would themselves be under a duty to promote and maintain high standards of conduct and may adopt a voluntary code. The Borough Council may be able to assist them with this through a voluntary Standards Committee.

The Bill also provides for the making of regulations to govern the registration and declaration of Members' interests, with potential criminal sanctions for non compliance. The implications of these regulations will need to be considered and advice and guidance given to Members.

Other areas of work for the committee over the next year are likely to include:-

- A further ethical audit survey
- A review of the member / officer protocol (outstanding from the previous year)
- A review of the planning code (postponed because of uncertainty over the future of the current code of conduct and the planning proposals contained in the localism bill)
- Further consideration of Members' web pages following the recently issued revised publicity code.
- Further monitoring of areas considered during the past year including partnership governance and the confidential reporting code.

Overall, this is likely to be not only another busy year for the Standards Committee but a year which will require the management of very considerable change.