

**West Midlands Fire
and Rescue Authority**

**Standards
Committee
[Draft]
Annual Report**

2010/2011

**For submission to the Authority
27th June, 2011**

Foreword by the Chair of the Standards Committee

It is my pleasure to present the Annual Report of the Standards Committee.

This has been a difficult year for the Committee. We made considerable progress in the previous two years in implementing a new assessment regime, but have not undertaken further developmental work pending the impact of the Localism Bill which will abolish the Standards Board for England. The Bill sets out a duty for authorities to promote high ethical standards, but it is likely that there will be much more freedom at a local level to decide what the standards arrangements should be, with the option to adopt a voluntary code of conduct and have a Standards Committee.

I am pleased to say that we have continued to maintain high standards of member conduct, with no complaints being received this year.

I wish to express my appreciation to both the elected members of the Standards Committee and my independent member colleague David Denny, for all their contributions this year. I would also like to thank the Monitoring Officer and her supporting officers for their efforts and support to myself as Chair.

Colin Topliss

Chair of the Standards Committee

**MEMBERS OF THE STANDARDS COMMITTEE
2010/11**

Independent Chair

Mr Colin Topliss

Independent Vice-Chair

Mr David Denny

Elected Members

Councillor Adrian Andrew

Councillor Matt Bennett

Councillor Linda Clinton

Councillor Mohammed Idrees

Councillor Barbara Jackson

Councillor Tersaim Singh

Annual Report of the Standards Committee 2010/2011

1. The Standards Committee, its constitution and membership

- 1.1 The Local Government Act 2000 requires every local authority to establish a Standards Committee. Further details of those requirements are set out in Appendix 1.
- 1.2 The main function of the Standards Committee is to promote and maintain high standards of conduct for members, and to help members follow the Code of Conduct. The Committee also operates the local assessment regime which deals with allegations of misconduct by members. The Committee also undertakes non-statutory functions allocated to it by the Authority such as the overview of officer codes of conduct.
- 1.3 The detailed terms of reference of the Committee are set out as Appendix 2 to this report. The Committee met on two occasions during the 2010/2011 municipal year:-

6th September 2010

6th June 2010

- 1.4 The Standards Committee is satisfied that the Authority's arrangements for the ethical framework are compliant with the statutory requirements and with guidance issued by the Standards Board for England.
- 1.5 The Standards Committee in 2010/11 had eight members, as follows:-

Chair	Mr C Topliss	Independent Member
Vice-Chair	Mr D Denny	Independent Member
	Councillor Andrew	Conservative
	Councillor Bennett	Conservative
	Councillor Clinton	Labour

	Councillor Idrees	Labour
	Councillor Jackson	Liberal Democrat
	Councillor Singh	Labour

- 1.6 The independent members on the Standards Committee are a valued asset. Their presence gives balance and challenge and they carry out their role with confidence and impartiality. Mr Topliss was appointed by the Authority for a two year term of office to expire in June 2012. Mr Denny was appointed for a four year of office to expire in June 2014.

2. Role of the Monitoring Officer in the Ethical Framework

Sandwell Metropolitan Borough Council's Director of Legal and Governance Services, Neeraj Sharma, is Clerk and Monitoring Officer to the Authority. As Monitoring Officer she is responsible for ensuring that the Authority and its members act lawfully, do not cause maladministration and comply with the Code of Conduct for Members. She is the primary source of advice for members on the requirements of the Code of Conduct. The Monitoring Officer is the principal adviser to the Standards Committees and its sub-committees.

3. The future for the standards regime – the Localism Bill

- 3.1 The Committee has been aware since September 2010 that the incoming Government proposed to abolish the Standards Board for England [SBE] and to make it a criminal offence for councillors to deliberately withhold or misrepresent a personal interest. There was little information as to what would replace the existing regime. The proposal to abolish the SBE was confirmed in a statement by the Communities Minister in September 2010.
- 3.2 There has been a marked relaxation of the Standards Board inspection and monitoring activities and their annual Standards Conference was cancelled.
- 3.3 In December 2010, the Localism Bill was published. The Bill confirms the intended abolition of the Standards Board for England and makes it clear that authorities will be required to promote and maintain high standards of conduct by their members, but the regime would be permissive with codes of conduct being voluntary rather than mandatory as at present. It would be for authorities to decide whether it would be appropriate to investigate any member misconduct allegation. The Monitoring Officer will still be required to maintain a public register of interests of members and co-opted members and members would still be required to declare any

interests at meetings. Voluntary standards committees appear to be an option available to the Authority.

- 3.4 There is likely to be lobbying on the proposals set out in the draft legislation. The Committee on Standards in Public Life, for instance, in its 2009/10 Annual Report, supported the continuance of a local standards framework.
- 3.5 The thrust of the Standards Committee's work in 2009/10 was the priorities set by the Standards Board for England. This contributed to the consolidation and standardisation of the standards regime. The Committee's approach in 2010/11 has been less developmental but the Committee has continued to carry out its statutory role and those other responsibilities set out in its terms of reference.

4. Members' Code of Conduct

- 4.1 The Authority in September 2007 adopted a revised Code of Conduct based on the national model. The Code of Conduct was given appropriate publicity at the time of its adoption. The Code is also publicised on the Authority's website.
- 4.2 All members are issued with a copy of the Code of Conduct upon their appointment to the Authority and are required to sign an undertaking to comply with the Code. Members also receive induction training and subsequent refresher training, delivered by the Clerk and Monitoring Officer, on the provisions of the Code and how to carry out their duties in line with the Code. Standards Committee members receive training as and when necessary and are invited to take part in training events delivered by Sandwell Council for its Standards Committee members. Members also receive training in their constituent authorities.
- 4.3 Part 3 of the Members' Code of Conduct requires elected and co-opted members to give written notification to the Monitoring Officer of any personal and prejudicial interests to be included in the Authority's statutory Register of Interests within 28 days of election or appointment, and to update their declarations as appropriate by notifying any amendments or new interests within 28 days of becoming aware of them. The Register of Interests and Declarations of Interest are monitored by the Monitoring Officer

and are made available for inspection by the Standards Committee on a regular basis and by the public on request.

- 4.4 Members are also obliged to disclose any personal or prejudicial interests at meetings where those matters are to be discussed. These declarations are recorded in a register open for public inspection and are also noted on the Committee Management Information System. The Register is monitored by the Monitoring Officer.
- 4.5 The Authority also has a protocol for members on gifts and hospitality giving additional guidance on the requirement of the Members' Code of Conduct for members to declare gifts and hospitality received with an estimated value of at least £25. These declarations are recorded in a Register which is open for public inspection. The Register of Gifts and Hospitality is monitored by the Monitoring Officer and is made available for inspection by the Standards Committee on a regular basis.

5. The Local Assessment Framework

- 5.1 From 8th May 2008 the responsibility for assessing complaints about allegations of member misconduct transferred from the Standards Board for England to local authorities. The local assessment framework is now well established in the Authority and an outline of the process is set out as Appendix 3.
- 5.2 The Committee engages in regular learning about dealing with complaints, including a regular report outlining case summaries published by the Standards Board for England and the First Tier Tribunal, selected by the Monitoring Officer for their relevance. These case summaries are also a useful barometer as to the types of cases being referred up to national level and the decisions and sanctions they generate.

6. Allegations of Misconduct by Members

- 6.1 Under the local assessment framework all complaints of misconduct come direct to the Monitoring Officer and are referred to the Assessment Sub-Committee. The Authority has not received any allegations to date.

7. Benchmarking

- 7.1 Measuring the Authority's performance against benchmarking tools such as the Standards Board for England good practice guides indicates that the ethical framework already comprises much of what is lauded nationally as good practice.

8. Regular review of ethical framework

- 8.1 A further important part of the work of the Standards Committee is the regular updating of the ethical framework. The Committee has reviewed the Employee Declaration of Interest process in 2010/11 as indicated below.

Employee's Declaration of Interests

- 8.2 The Committee during 2009/10 looked at the Authority's practices with regard to the recording of employees' declarations of interest, and had asked for further information about proposals to develop an electronic database for this purpose during 2010/11. The Committee in June 2011 received Brigade Standing Order 2/12 which sets out the officer Code of Conduct including guidance on declaring personal interests to the appropriate line manager and reference to a further Standing Order on declaration of membership of external organisations, acceptance of donations, gifts and hospitality and politically restricted posts. Any such declarations are recorded in the appropriate register. The Standing Order is currently under review.
- 8.3 The Authority does not have a single comprehensive register for recording and reporting employee interests. The Service has recently undertaken a review of its Human Resource Management Systems (HRMS) and as a result of this membership to societies, outside and secondary employment and political restricted posts are now recorded on the HRMS system. Gifts and hospitality are not currently recorded on the Service's HRMS but are recorded electronically. Should the Service decide to make further amendments to the HRMS system then consideration will be given to gifts and hospitality records being maintained on HRMS.

Recommendation of Standards Committee to be inserted.

9. Member Training

- 9.1 The Standards Committee is responsible for overseeing training in connection with matters within its terms of reference.
- 9.2 Training on the ethical standards regime continues to be an important element of training for new and continuing members, as referred to above [paragraph 4.2 above]. A member familiarisation session was held on 19th July, 2010, which included a section facilitated by the Monitoring Officer on the ethical standards regime and the role of the Standards Committee. The session was well attended, with 17 members present.
- 8.2
- 9.3 The Standards Committee continues to develop its own skills and expertise, for instance, by looking at case summaries [paragraph 5.2 above] and by appropriate refresher training on the assessment framework as necessary.
- 9.4 In addition, Members receive training in their constituent authorities.

Standards Committee – Legal Requirements

1. Every relevant local authority is required under Section 53 of the Local Government Act 2000 to establish a Standards Committee , for the purpose of carrying out the functions conferred on it under the Act. The general functions are:-
 - (a) to promote and maintain high standards of conduct by the members and co-opted members of the authority, and
 - (b) to assist members and co-opted members of the authority to observe the authority's code of conduct.

More specifically, the committee must:-

- (a) advise the authority on the adoption or revision of a code of conduct;
- (b) monitor the operation of the authority's code of conduct;
- (c) advise, train or arrange to train members and co-opted members on matters relating to the code of conduct;
- (d) assess and review complaints about members;
- (e) conduct determination hearings
- (f) grant dispensations to members with prejudicial interests;
- (g) grant exemptions for politically restricted posts.

An authority may also arrange for their Standards Committee to exercise other functions as the authority considers appropriate.

The committee must include at least two members of the authority and at least one person who is not a member, or an officer, of that authority or of any other relevant authority (an independent member). Independent members must comprise at least 25% of the membership. The Chair of the Committee must be an independent member.

2. The Standards Committee (England) Regulations 2008 further define, amongst other things, the size and composition of Standards Committees and Sub-Committees, the appointment of Independent Members, the conduct of meetings and hearings,

publicity and the availability of information connected with meetings.

3. Standards Committees are not subject to the political balance requirements of Sections 15 –17 of the Local Government and Housing Act 1989. This is to allow the Committee to be seen as above party politics and comprised of representatives that command the support of the whole authority, regardless of party political loyalties.

Appendix 2

Terms of Reference of the Standards Committee

To promote and maintain high standards of conduct by Members of the Authority.

To assist Members of the Authority to observe the Authority's Code of Conduct, specifically:-

- To advise the Authority on the adoption or revision of a Code of Conduct.
- To monitor the operation of the Authority's Code of Conduct.
- To advise, train or arrange for training for Members of the Authority on matters relating to the Authority's Code of Conduct.

To determine, monitor and review the arrangements for the local ethical standards regime and carrying out any functions reserved to the Standards Committee under those arrangements.

To appoint Sub-Committees with delegated power:

- a. To discharge any function specified in Section 57A of the Local Government Act 2000 (initial assessment of allegations of Member misconduct);
- b. To discharge any function specified in Section 57B of the Local Government Act 2000 (review of decision of Assessment Sub-Committee)
- c. To conduct local hearings under Regulation 10 of the Standards Committee (England) Regulations 2008.

To grant dispensations to Members from requirements relating to interests set out in the Code of Conduct for Members.

To consider applications for exemption from the 'politically restricted post list' by the post holder, and make decisions as to whether the post should be included on the list.

To consider concerns from any member of the public who believes that a post has been wrongly omitted from the 'politically restricted post list'.

To exercise any functions which the Authority may consider appropriate from time to time.

To submit an Annual Report to the Authority.

To submit its minutes to the Authority.

Appendix 3

How the local assessment process works

The process comprises the following stages:

Initial Assessment

Complaints about alleged breaches of the Member Code of Conduct are received by the Monitoring Officer, who refers them for consideration by the **Assessment Sub-Committee** of the Standards Committee.

The Sub-Committee has 4 options:

- To refer the complaint to the Monitoring Officer for investigation
- To refer the complaint to the Monitoring Officer for other action
- To refer the complaint to the SBE [in the case of very serious complaints]
- To take no action in respect of the complaint.

Assessment decisions are made within 20 working days of the receipt of the complaint.

Review

In the case of a decision to take no action on the complaint, the complainant can ask for the decision to be reviewed by the **Review Sub-Committee** of the Standards Committee. That Sub-Committee has the same options as the Assessment Sub-Committee in dealing with the complaint.

Reviews are carried out within 20 working days of the receipt of the request for a review.

Decision notices in respect of initial assessments and reviews are sent out to the complainant and subject member with 5 working days. A written summary of the proceedings is made available on CMIS and is open to public inspection for six years.

Assessment and Review Sub-Committees are closed meetings, that is, they are not subject to the provisions of the Local Government Act, 1972 relating to access to information for press or members of the public. They are therefore not meetings which the press or public are entitled to attend.

Consideration and Hearing

If the Assessment or Review Sub-Committees refer a complaint to the Monitoring Officer for investigation, on completion of the investigation the Monitoring Officer will make one of two findings:

- There has been a failure to comply with the Code
- There has not been a failure to comply with the Code.

The Monitoring Officer's report must be considered by the **Consideration and Hearing Sub-Committee** of the Standards Committee which must decide whether to accept the recommendation of the Monitoring Officer.

If it is found that there has been a breach of the Code of Conduct, there will be a full hearing by the Consideration and Hearing Sub-Committee. The range of sanctions available to the Sub-Committee has been extended by new legislation.

At each stage of the process the Sub-Committees are supported by a legal adviser, a presenting officer and a clerk. An independent legal adviser is used where this is considered to be appropriate.

In accordance with the regulations and guidance, fresh members hear the assessment and review stages of the process. The increase in the size of the Standards Committee should allow fresh members also to hear cases at consideration and hearing stage.