

## **STANDARDS COMMITTEE**

**24 NOVEMBER 2010**

### **WORK PROGRAMME**

Report from: Deborah Upton, Monitoring Officer

Author: Peter Holland, Committee Co-ordinator

#### **Summary**

This report sets out the proposed work programme previously agreed by the Committee for 2010/11. This is kept under review and presented to each meeting of the Standards Committee. In addition the position relating to complaints considered by the Referrals Sub Committee is summarised for information only.

#### **1. Budget and Policy Framework**

1.1 The role of the Standards Committee is to promote and maintain high standards of conduct by all Councillors and co-opted members including church and parent governor representatives serving on the Children and Adults Overview and Scrutiny Committee. The committee has responsibility for setting its own work programme and this should be kept under regular review.

#### **2. Report**

2.1 Appendix 1 to this report sets out the updated work programme for the committee up to May 2011.

2.2 The committee should also note that at the time of agenda despatch, eight complaints alleging member misconduct are currently being investigated locally following consideration by the Referrals Sub-Committee. Standards for England (SfE) guidance on timescales for an investigation acknowledges there are many factors that can affect the time it takes to complete an investigation. There is an expectation that the Standards Committee will monitor the progress of investigations and the SfE guidance recommends that most investigations are carried out, and a report on the investigation completed, within six months of the original complaint being assessed by the Referrals Sub-Committee.

- 2.3 On 1 September 2010 a Hearings Sub-Committee Review Sub-Committee conducted a hearing into a complaint against Ex-Councillor MacFarlane and decided to censure Mr MacFarlane.
- 2.4 On 16 September 2010 a Hearings Sub-Committee at it's "consideration stage" considered the final investigation reports relating complaints about Councillors Ruparel and Maisey and agreed with the Investigating Officer's conclusion that neither Member in question had breached the Code of Conduct.
- 2.5 On 12 October 2010 a Hearings Sub-Committee considered the final investigation report with respect to a complaint against Councillor Brice. The Investigating Officer's findings were that Councillor Brice had not breached the Code of Conduct as he was acting in his private capacity. The Sub-Committee considered that the complaint should go to a hearing as it considered that Councillor Brice may not have been acting in a private capacity at the time the alleged misconduct occurred.
- 2.6 On 10 November 2010 a Hearings Sub-Committee met to conduct a hearing into the complaint against Councillor Brice. The Sub-Committee's decision was that they were unable to find a breach of the Code of Conduct but made a recommendation to Full Council that Councillor Brice should not be appointed to any committees, or to substitute on any committees, or to represent the Council in any way. The Sub-Committee were of the opinion that the law should be altered to cover actions such as this, when carried out by a councillor in any capacity and asked the Committee Co-ordinator to write to the Secretary of State to bring this to his attention.
- 2.7 The Referrals Sub-Committees met on 12 October 2010 and 22 October 2010 to consider four new complaints against Members and decided that all four complaints should be referred to the Monitoring Officer for investigation.
- 2.7 The following table provides indicative timescales for conclusion of investigations currently underway. Completion timescales are later than previously reported to the committee. This is primarily because the Investigating Officer has experienced delays in securing dates for interviews with some key people. Upon completion of an investigation the Hearings Sub-Committee is responsible for determining whether it accepts a finding of no failure to observe the Code of Conduct, or that the matter should be referred for consideration at a hearing or to the Adjudication Panel for determination. The timescale for holding a hearing to consider the outcome of a local investigation is normally within three months from completion of that investigation.

<b>Complaint reference</b>	<b>Date complaint received</b>	<b>Indicative timescale for completion of investigation</b>
DU/MO/113 complaint relating to Councillor Reckless	20/11/09	Due to conclude end of December 2010
DU/MO/116	10/12/09	Due to conclude end of

complaint relating to Councillor Chitty		December 2010
DU/MO/117 complaint relating to Parish Councillor Skudder  <b><i>NOTE: this is an error and should refer to a complaint relating to Parish Councillor Yvonne Forrest.</i></b>  <i>Note Added:</i>  <i>29 November 2010.</i>	27/01/10	Due to conclude end of December 2010
DU/MO/119 complaint relating to Councillor Chitty	11/02/10	Due to conclude end of December 2010
DU /MO/123 complaint relating to Councillor Mackinlay	07/09/10	Referred for investigation by Monitoring Officer – 12 October 2010
DU/MO/124 complaint relating to Councillor Ruparel	13/09/10	Referred for investigation by Deputy Monitoring Officer – 22 October 2010
DU/MO/125 complaint relating to Councillor Sutton	13/09/10	Referred for investigation by Deputy Monitoring Officer – 22 October 2010
DU/MO/126 complaint relating to Councillor Mackinlay	13/09/10	Referred for investigation by Monitoring Officer – 12 October 2010

### 3. Protocol to assist ward councillors handling ward work

- 3.1 The Standards Hearing Panel on 16 September 2010 decided to seek a view from each Group Leader on the development of a protocol or written guidance to assist Councillors in handling ward work. This has been prompted by two issues arising during consideration of the investigating officer's report on a particular complaint against a Member of the Council.
- 3.2 The Standards Hearing Sub-committee also asked the Director of Regeneration, Community and Culture if he would review whether or not Members should be involved in evidence gathering for potential enforcement action and if so, to provide guidance to councillors on this.

- 3.2 Group Leaders have responded and indicated that they were happy for a protocol to be drafted but one Group Leader asked that any protocol that is presented should not be compulsory but simply be just "guidelines" for councillors to follow if they so desire. Two Group Leaders asked that Group Leaders be given the opportunity to see the protocol once it has been drafted, prior to it being agreed by this committee.
- 3.3 The Director of Regeneration, Community and Culture has responded that elected Members, as with members of the public, are asked to be vigilant and to inform officers where they believe people are undertaking activities which may require planning permission but where they believe planning permission has not been obtained. It is generally only in this way that officers are made aware of issues which they can then seek to resolve by inviting a planning application, asking for the activity to cease and for any structures to be removed or to take enforcement action.
- 3.4 The Director noted that it was helpful if elected Members or members of the public could provide as much information as possible which may include a written statement of the planning situation, any information on times when visitors or deliveries are made to a location and, on occasions, photographs, plans or maps. At no time should anyone put themselves into a situation where they may be in danger themselves or to others nor should they get involved in taking intrusive photographs at any time.
- 3.5 Member's of the Council's Planning Committee received a briefing from the Development Manager on 27 October 2010 in respect of gathering evidence relating to enforcement proceedings.
- 3.6 It is suggested that the proposed draft protocol is added to the committee's work programme for consideration at its next meeting on 2 February 2011.

#### **4. Financial and legal implications**

- 4.1 The cost of local investigations are met from within existing budgets.
- 4.2 The Standards Committee (England) Regulations 2008 and associated SfE guidance prescribe the procedures relating to allegations of member misconduct.

#### **5. Recommendations**

- 5.1 To consider and comment on the work programme for 2010/11.
- 5.2 To note the position on complaints referred for investigation by the Referrals Sub-Committee.
- 5.3 That the draft protocol on ward work is added to the committee's work programme for consideration at its next meeting on 2 February 2011.

## **Background papers**

Standards for England Guidance on “Local Assessment of Complaints” and “Determinations”.

## **Lead officer contact**

Peter Holland, Committee Co-ordinator

Telephone: 01634 332011 Email: [peter.holland@medway.gov.uk](mailto:peter.holland@medway.gov.uk)