

	<p><b>REPORT TO AUDIT COMMITTEE</b></p> <p><b>TO BE HELD ON 22 MARCH 2016</b></p>
	<p><b>Key Decision</b>                      <b>no</b></p> <p><b>Forward Plan Ref</b>                <b>N/A</b> <b>No</b></p>
<p><b>Corporate Priority: ALL</b></p>	<p><b>Cabinet Portfolio</b>                <b>Cllr. Helen</b> <b>Holder</b>                                    <b>Mallory</b></p> <p><b>Cllr. Michelle</b> <b>Donohue-</b> <b>Moncrieff</b></p>

**REPORT OF THE DIRECTOR (LD) 16/89**

**WARDS AFFECTED: ALL**

**SUBJECT: AUDIT AND STANDARDS COMMITTEES**

**RECOMMENDATION(S):**

That Members support the proposal to add the terms of reference of the Standards Committee to those of the Audit Committee, therefore merging the 2 committees.

**REASON FOR RECOMMENDATION(S):**

To promote the visibility of the ethical agenda within the Council, to achieve a more joined up and streamlined governance role, and to assist the Council in meeting its statutory duty to ensure high standards of conduct.

**HIGHLIGHTED RISKS**

Although the ethical agenda is being promoted via training and through the Standards Newsletter/Briefing, it is arguable that it is not presently included in the work of the Council sufficiently regularly to assist with the duty to promote and maintain high standards of conduct. Maintaining the status quo would likely impact upon the Council's ability to meet its statutory duty, and increase risks around the delivery of effective and joined up governance. A continuation of the present arrangements is also likely to be inefficient.

## 1. INTRODUCTION:

- 1.1 In 2012 the Localism Act 2011 ('the Act') made significant changes to the Local Government Standards regime. This included the abolition of the prescribed Code of Conduct and the Standards Board for England.
- 1.2 Not only did the Act discontinue the requirement to have a stand-alone Standards Committee, it abolished the requirement to have a Standards Committee altogether, and sought to reduce bureaucracy and red tape around dealing with Standards Complaints.
- 1.3 The range of available sanctions upon finding that a breach of the Code of Conduct had occurred was also substantially reduced, and instead the Act brought into being new criminal offences relating to disclosable pecuniary interests only, punishable upon conviction by fines and/or disqualification from holding office.
- 1.4 In their publication 'A plain English guide to the Localism Act' Central Government stated the following under the heading 'Abolition of Standards Board':

*In practice, however, this system of safeguards is ineffective. It is too easy for people to put forward ill-founded complaints about councillors' conduct. Lengthy debates about petty complaints or deliberately harmful accusations can undermine people's faith in local democracy and put them off standing for public office.*

*Through the Localism Act, the Government has abolished the Standards Board regime. Instead, local authorities will draw up their own codes, and it will become a criminal offence for councillors to deliberately withhold or misrepresent a financial interest. This means that councils will not have to spend time and money investigating trivial complaints, while councillors involved in corruption and misconduct will face appropriately serious sanctions. This provides a more effective safeguard against unacceptable behaviour.*

- 1.5 The full DCLG guide can be accessed via the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/5959/1896534.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/5959/1896534.pdf)

- 1.6 The new regime was introduced in 2012 by the coalition government and has significantly changed the landscape for most councils. There is no longer the bureaucracy involved in the former regime's investigation of allegations, and the workload of the Council's Standards Committee has reduced to a large extent, to the point that meetings are often cancelled due to a lack of business to consider.

## **2. CORPORATE AIMS/PRIORITIES AND THE COMMUNITY PLAN**

- 2.1 This report supports all of the corporate aims and the community plan.

## **3. BACKGROUND AND ISSUES**

- 3.1 The Act requires the Council to:
- (a) Promote and maintain high standards of conduct by Members and Co-opted Members;
  - (b) Secure and maintain a Code of Conduct consistent with the Nolan Principles, and which contains the provision the Council deems appropriate in relation to pecuniary and non-pecuniary interests;
  - (c) Establish and maintain a register of interests of Members and Co-opted Members; and
  - (d) Appoint at least one Independent Person whose views must be sought and taken into account prior to any decision regarding an allegation that has been investigated. The Council may also consult the Independent Person on receipt of any new complaints.

### The Standards Committee

- 3.2 In 2012 (shortly prior to the Act coming into force) Members of the Council were of the view that it was appropriate and necessary to maintain a separate Standards Committee to assist in the above requirements (albeit this had to be constituted differently to the previous statutory committee). As a non-statutory committee there could not be an independent chairperson nor could any Co-opted Members vote on any items before the Committee.
- 3.3 Since 2012 the Committee has consisted of 8 Council Members, and 2 non-voting Co-opted Members from Parish Councils within the Borough. The Council's 2 statutory Independent Persons also attend the Committee in a non-voting capacity.
- 3.4 Since its inception, meetings of this Committee have been cancelled 11 times due on the whole to insufficient business.

- 3.5 The table below shows when the Committee did meet, and what business was considered at those meetings:

<b>Date</b>	<b>Business</b>
18 October 2012	Determination of 2 investigations brought under the old standards regime
21 January 2013	Annual report on standards complaints
12 March 2013	Determination of 1 investigation brought under the old standards regime
11 June 2013	Failure of Cllr to comply with decision on 18 October 2012 (complaint under old regime). Reconsideration following contempt of Committee's decision
10 June 2014	Annual report on standards complaints
9 September 2014	Consultation in relation to proposed revision of Council's Code of Conduct
23 December 2014	Matter for decision on complaint referred by Monitoring Officer under new regime
27 October 2015	RIPA inspection report
23 February 2016	Dispensation request and determination of 1 investigation under new regime

- 3.6 Over a 4 year period, 9 meetings of the Standards Committee have gone ahead. 3 of these meetings were to deal with complaints brought under the old regime. Under the new regime, 2 complaints have been determined by the Committee (1 without investigation).
- 3.7 Under the old regime all complaints (including vexatious, mischievous, or trivial complaints) had to be considered and determined by a sub-committee of the Standards Committee. If the complainant was not be satisfied with the sub-committee's decision, they were able to request that this be reviewed by another formally convened sub-committee containing different Members to those who heard the complaint initially. If the complainant remained dissatisfied, they could appeal to the Standards Board for England. Naturally this was resource and time heavy, which was something the change in legislation sought to address.

- 3.8 Due to the nature of the old regime, the Standards Committee were called upon frequently. Under the new regime this is no longer the case.
- 3.9 Under the new regime all complaints are considered at a meeting between the Monitoring Officer (MO) and the Independent Persons. This provides an efficient means of removing vexatious and trivial complaints. It also allows the MO to seek to resolve complaints by way of alternative action (such as by mediation or by suggesting an apology be made) without taking the complaint to an investigation.
- 3.10 There has been cause for an investigation only once under the new regime, with referral to Standards Committee for decision on 2 occasions. Vexatious or trivial complaints have effectively been removed, and where there has been evidence to suggest a breach, alternative action has resolved the complaint in a less adversarial manner.
- 3.11 This part of the new regime has worked well, particularly when taking into account the pressure upon resources, and the reduction in available sanctions for breach. This has also meant that the workload of Standards Committee has reduced substantially.
- 3.12 Due to the new arrangements and the lack of business for the stand-alone Standards Committee, there is a risk that standards and ethics may not be included in the work of the Council sufficiently regularly to assist in achieving the aim of ensuring high standards of conduct.

#### The Audit Committee

- 3.13 The Audit Committee is a key part of the Council's corporate governance structure, providing an independent and high level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.
- 3.14 The purpose of the Audit Committee is to provide independent assurance of the adequacy of the risk management framework and the internal control environment. It provides independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal and external audit, helping to ensure efficient and effective assurance arrangements are in place.
- 3.15 The Audit Committee presently consists of 6 non-executive Council Members and 1 Co-opted non-voting Independent Member (although this role has been vacant for a lengthy period of time following resignation). It meets at least quarterly, with 1 cancellation in the last 6 years.

### Other Authorities

- 3.16 At the onset of the changes made by the Act, some authorities determined not to have a Standards Committee, or indeed any committee with Standards in its terms of reference. Other authorities took the opportunity to add a responsibility for Standards to other pre-existing committees, most commonly to their Audit Committee, so that they no longer had a stand-alone Standards Committee.
- 3.17 Many other authorities initially determined that a stand-alone Standards Committee was appropriate (as in the case of this Council), however over the last few years an increasing number of those Councils have instead added ethical standards to the terms of reference of their Audit Committees, creating Audit and Standards Committees or renaming the merged committees as Governance and Ethics Committees.

### Audit and Standards Committee

- 3.18 As part of the ongoing review of the Council's governance structure, it is now proposed that the Standards Committee is merged with the Audit Committee, to create the Audit and Standards Committee.

## **4. CONSULTATION**

- 4.1 The proposal was initially discussed on 25 February 2016 at the meeting of the Council's Governance Working Group, where it received unanimous support from Group Leaders and Senior Officers.
- 4.2 This report will also be taken to the next meeting of the Standards Committee, and consultation will take place with Parish Councils across the Borough.
- 4.3 The proposal will then be taken back to the Governance Working Group for consideration.

## **5. ASSESSMENT**

- 5.1 There are a number of drivers behind the proposal to create an Audit and Standards Committee, including:
- 5.2 **Visibility of the ethical agenda** – although awareness of ethical standards is being raised via training and through the Standards Newsletter/Briefing, it is important that ethical standards is included in the work of the Council sufficiently regularly to assist with the duty to promote and maintain high standards of conduct. Presently there is a risk that ethical standards is not sufficiently included in the work of the Council. Merging the committees will ensure that the topic has greater visibility and prominence.

- 5.3 **Reduced complaint activity** – the role of the Standards Committee has reduced under the new regime. There is no longer any need to convene a sub-committee to consider complaints, which are instead considered by the Monitoring Officer and the Independent Persons. The MO can seek to resolve complaints informally where a formal investigation is not merited, and can deal effectively and efficiently with the removal of vexatious, trivial, or mischievous complaints.
- 5.4 Since 2012 complaints under the new regime been determined by the Standards Committee on 2 occasions. In addition, the Standards Committee is often cancelled due to lack of business.
- 5.5 **Similarities and synergies – Streamlining governance** – both the Audit and the Standards Committee deal with governance, probity, and transparency of processes, meaning there are a number of synergies between these committees. Merging the committees allows for better and more joined up governance for the Council.
- 5.6 **The Independent Persons** – the Independent Persons already have a role in considering Standards complaints, and as members of any panel of the Appointments Committee which is convened to consider dismissal of a Chief Officer. Should the committees be merged, the Independent Persons could be used to provide independent input to all business before the new committee.
- 5.7 Making use of the Independent Persons in this manner would enable the Council to benefit from their skills and input across a broader area of responsibility, and provide the Independent Persons with a more stimulating role, thus assisting in retention.
- 5.8 **Efficiency** – merging the committees will likely bring a more efficient governance environment. There will also be financial efficiencies, albeit not significant ones. Savings will likely include the additional allowance currently paid to the Chair of the Standards Committee, travel and allowance expenses claimed by and paid to Members and Co-opted Members of the Standards Committee, and wasted officer time and costs associated with the organisation and cancellation of Standards Committees.

## **6. IMPLICATIONS**

- 6.1 A change to the committee structure will require amendment to the constitution and therefore approval by Cabinet and then Full Council.
- 6.2 Following any amendment to committee structures, further work will take place on guidance materials, training and protocols.
- 6.3 All other relevant implications have been considered in the body of this report.

## **7. ACTION PLAN**

- 7.1 Following respective consideration by the Audit Committee and the Standards Committee, and the consultation with Parish Councils, the matter (and any comments and suggestions) will be taken back to the Governance Working Group, then to Cabinet and Full Council.



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**Background Papers:**

N/A

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT David Kitson ON 01723 232323 or e-mail [david.kitson@scarborough.gov.uk](mailto:david.kitson@scarborough.gov.uk)