

**TITLE OF REPORT: UPDATE ON PROGRESS AND WORK PROGRAMME**

REPORT OF THE MONITORING OFFICER

**1. SUMMARY**

- 1.1 To update Members on the Work Programme agreed by the Standards Committee and other outstanding matters.

**2. FORWARD PLAN**

- 2.1 This report does not contain matters referred to in the Forward Plan.

**3. BACKGROUND**

- 3.1 Following the ongoing approval of the Work Programme by the Standards Committee at its last meeting, the Monitoring Officer considers it appropriate to ensure that the Committee continues to be updated on progress, changes in priority and matters outstanding.
- 3.2 Following the appointment of the Corporate Legal Manager on 10 May 2010 and Annual Council confirming the designation of the post of Corporate Legal Manager as the Council's Monitoring Officer on 20 May 2010, the post of Senior Lawyer was recruited to on 16 August 2010. This post has now been designated as Deputy Monitoring Officer.

**4. ISSUES**

**4.1 *Work Programme***

- 4.1.1 The amended and updated Work Programme is attached at Appendix 1. The intention of this continues to be that it operates similar to the Forward Plan, to ensure that Members are adequately able to monitor and review the work of the Monitoring Officer.
- 4.1.2 Members are requested to review and add to the work programme at each meeting of the Committee.
- 4.1.3 The Standards Committee is requested to consider and approve this.

**4.2 *The future of the Standards Regime***

- 4.2.1 Members may recall that there used to be a requirement to submit quarterly and annual returns to Standards for England as the regulator for the local referrals process. This requirement has since been suspended. However, Members will note at Appendix 2 an overview of the Code of Conduct complaints.

- 4.2.2 Members may be aware of the changes to the Standards Regime proposed by the Localism Bill. The Localism Bill was published in December 2010, although there is clearly some way to go before the Bill is passed into law. The Report sets out below some of the key items that are proposed in the Bill.
- 4.2.3 Any existing Code of Conduct cases that have commenced will proceed to their conclusion. The Standards Committee in its current statutory form will remain in place until all outstanding cases have been dealt with.
- 4.2.4 The main provisions of the Bill relevant for Standards are contained in chapter 5 of the Localism Bill. Further provisions are set out in Schedules.
- The Bill abolishes the standards regime overseen by Standards for England.
  - Councils will be under a duty to promote high standards of conduct. The new arrangements for standards to help them comply with this duty will be part voluntary and part mandatory, with criminal sanctions where certain interests are concerned.
  - Standards for England will no longer exist and none of its functions transfer to any other body.
  - There will no longer be a requirement for relevant authorities to adopt a code of conduct for their Members or to appoint Standards Committees and there will be no mandatory enforceable code of conduct for Members that they have to undertake to follow when they take up office.
  - A Council may publicise its adoption, revision or withdrawal of a code of conduct in any manner it considers appropriate.
  - Matters relating to standards will be the function of the Council (not the Executive) and the adoption of any voluntary code must be done by the Council as a whole.
  - Councils can create a voluntary code either by revising an existing code or adopting a new one.
  - Where a Council has adopted a code, it can put in place any procedure it wishes to deal with complaints and take any action it sees fit, but this may exclude suspension or disqualification as these sanctions are expressly forbidden by provisions relating to how the council deals with failure to register or declare interests. If an authority chose to have a standards committee, it would be regarded as an “ordinary committee” of the authority and, therefore, not need to have independent representation.
  - The arrangements regarding interests and criminal sanctions will be dealt with by way of Regulations issued by the Secretary of State and the main requirement to maintain a register will remain with the Monitoring Officer.
  - Regulations will be able to specify the interests to be registered; the requirements for disclosure; participation in decision-making; dispensations; sanctions and access and publicity arrangements for the register.
- 4.2.5 Changes to the common law pre-determination rules
- Although not a code of conduct matter, it is also worth noting the changes proposed in the Bill to the rules about “predetermination”, which have developed in case law. Currently, if a Member participates in decision-making, with a closed mind, this may be a ground upon which a decision can be judicially reviewed. Case law has established that it is acceptable for a member to have a predisposition towards making a particular decision about a matter before hearing the arguments, but must not have decided which way to vote in advance. Recent court decisions have recognised more clearly than in the past the role that local politics and campaigning can play in the decision-making process and have recognised that elected Members would be entitled, and indeed expected, to have, and to have expressed, their views on local issues, including, for example, planning issues. Under the provisions in the Bill, a decision maker is not to be taken to have had, or have appeared to have had, a closed mind

when making the decision just because the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter, relevant to the decision. Whilst this doesn't remove consideration of pre-determination, it will be interesting to see how this develops.

#### 4.2.6 Conclusion

The proposals in the Localism Bill for changes to the conduct regime for local authority Members will make significant changes to the current arrangements. Decisions will need to be made by the Council in due course to implement the changes and the Standards Committee will have a role in contributing to that debate.

### **4.4 Training**

4.4.1 Members may recall that Code of Conduct Training was undertaken on 19<sup>th</sup> July 2010. Further Training will be arranged following the elections this year.

### **4.6 Revision of the Constitution**

4.6.1 The Monitoring Officer is the guardian of the Constitution and has to ensure that it adequately reflects the governance arrangements of the Council.

4.6.2 Work on the Constitution Review for 2010/11 has now commenced.

## **5. LEGAL IMPLICATIONS**

5.1 There are no specific legal implications arising from this report. Legal implications will be dealt with when each of the work programme matters are brought back to the Committee.

## **6. FINANCIAL AND RISK IMPLICATIONS**

6.1 None.

## **7. HUMAN RESOURCE AND EQUALITIES IMPLICATIONS**

7.1 None.

## **8. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS**

8.1 None, although clerks of the parish councils will receive copies of this report.

## **9. RECOMMENDATIONS**

9.1 That Members note the updates in this report and agree the work programme.

## **10. REASONS FOR RECOMMENDATIONS**

10.1 To ensure good governance within the Council.

## **11. ALTERNATIVE OPTIONS CONSIDERED**

11.1 None.

**12. APPENDICES**

12.1 Appendix 1: Work Programme – **TO BE TABLED AT THE MEETING**

12.2 Appendix 2: Update on Code of Conduct Complaints [**PART 2 DOCUMENT**] – **TO BE TABLED AT THE MEETING**

**13. CONTACT OFFICERS**

13.1 Katie White x 4315  
katie.white@north-herts.gov.uk  
Monitoring Officer