

## **7 : REPORT OF THE STANDARDS COMMITTEE**

- 1 The elected members appointed to the Standards Committee had their first meeting on 30 August 2001. The main item of business was to agree a process for appointment of lay, or independent, members to the Committee as required under Government Regulations and enshrined in the Council's Constitution under Article 9. The Constitution says that two independent members will sit on the Committee at any one time, selected by the Monitoring Officer from a pool of members established for the purpose. The Regulations, however, which were published just two days before the Committee met, require that independent members must make up at least 25% of the overall membership of the Committee. To achieve this balance it is necessary to appoint three independent members, not the two originally envisaged. As a consequence the Constitution will need to be amended.
- 2 Following these positions being advertised twice in the local press, six Buckinghamshire residents put their names forward to be considered. Each applicant was then asked to submit details about himself, including relevant experience and interests and how he thought he might assist the work of the Committee. Extracts from the letters of application are appended to this report at Appendix A.
- 3 All six applicants were subsequently invited to attend for interview and five accepted (regrettably the sixth was unable to make either of the dates offered because of prior engagements). Interviews were held with members of the Committee, including the Chairman of the Council and myself, on 19 and 24 September. As I made clear at the time, one of the applicants, David Frost, is known to me through school governor and parish council work.
- 4 The interviewing Panel agreed unanimously that all five were eminently suitable for appointment to the Committee but came to the view that the best overall balance of skills and experience might be achieved by the appointment of the four referred to in the recommendation.
- 5 The first three names on the list would constitute the standing members of the Committee, but the intention would be to invite the fourth member to attend all

the meetings (as an observer) and receive all the papers to enable him to participate fully as and when required. I am very pleased to inform members that all four have indicated their willingness to accept the appointments on this basis.

- 6 Whilst it is a disappointment that no women put their names forward for consideration, the interviewing Panel feel that the Council is very fortunate that five such able and well qualified gentlemen are prepared to give up their time to serve on the Committee and I feel that, with their help, the Standards Committee will be able to adequately fulfill its responsibilities.

### **RECOMMENDED**

- 1 **That paragraph 9.2 of the Council's Constitution be amended to reflect the appointment of three, instead of two, independent members to the Standards Committee;**
- 2 **That the thanks of the Council be conveyed to all six applicants;**
- 3 **That the following residents of Buckinghamshire be appointed to fill the three independent member seats on the Standards Committee:**

**Mr David Frost  
Mr Michael Overall  
Mr Zen Yaworsky**

- 4 **That the pool of independent members be completed by the appointment of:**

**Mr Peter Smith**

- 5 **That the term of appointment be for one year in the first instance, ie 30 November 2002.**

- 7 Other major topics the Committee considered at its meeting were the requirement for a Local Code of Conduct and the enhanced Role of the Monitoring Officer.

## **Local Code of Conduct**

- 8 By the time of the November Council meeting, the Government should at last have issued its Model Code of Conduct, which has been promised for some time. It will be based on the ten principles of public service conduct which were enunciated by the former DETR in the summer of 2000 and subsequently incorporated into Part 5 of the Council's Constitution.
- 9 Once the Model Code has been issued, it will fall to the Standards Committee to prepare a Local Code of Conduct based on it. It is likely that most, if not all, of the provisions contained within the Model Code will be mandatory on local authorities, but it is understood that there will be scope to add to it should a local authority believe that to be necessary or desirable. Once prepared and agreed, the Local Code will need to be formally adopted by the County Council (within six months of the Model Code having been published) and all councillors and co-opted members will be obliged to observe it.
- 10 Earlier drafts of the Model Code indicated that it will contain requirements on the registration of members interests and on the declaration of interests and if necessary withdrawal from meetings. It is expected to be more explicit than the current National Code of Local Government Conduct, particularly in relation to the separation of private and public interests. The Local Government Act 2000, which provides the legislative basis for the Model Code of Conduct, also prescribes the establishment of a Standards Board for England to oversee the members of relevant local authorities in England in relation to issues concerning standards and conduct. The Chairman and Chief Executive of the Standards Board have been appointed and it is expected to be operational by January 2002. The Standards Board has power to investigate written allegations that councillors have failed to observe their Councillors' Code of Conduct; employ Ethical Standards Officers to investigate allegations of misconduct; and provide guidance to local authorities on matters relating to the conduct of local authority members. Where it is found that a breach of the Code has taken place, the Board will have the power to impose penalties ranging from public censure to disqualification as a councillor for a period of up to five years.
- 11 In addition to the adoption of a Local Code of Conduct, local authorities will be encouraged to develop appropriate conventions or protocols as supplementary

guidance for members. Likely topic areas include: member/officer relations; involvement in commercial transactions; and the use of IT at home. The Standards Committee will be able to advise the Council on other areas it thinks it would be useful to cover in this way.

- 12 Once the Standards Committee has had the opportunity to consider and reflect on the Model Code and to give preliminary thought as to how the Local Code might be constructed to best suit the needs of Buckinghamshire, a series of seminars will be arranged to give the wider membership of the Council the opportunity to understand the proposals in detail and agree the terms of the Local Code prior to formal adoption by the Council.

## **The Role of the Monitoring Officer**

- 13 The role and responsibilities of the Monitoring Officer have been significantly widened under Part 3 of the Local Government Act 2000. In addition to the responsibility conveyed under the Local Government and Housing Act 1989, to help ensure that the County Council remains within the law and that its decision making process is fair and reasonable, the Monitoring Officer now has a key role in promoting and maintaining high standards of conduct within the local authority, in association with the Standards Committee. In effect the Monitoring Officer, working in partnership with the Standards Committee, becomes the source of advice and training for members and officers on conduct and the adoption of the Local Code of Conduct referred to above.
- 14 Of particular importance is the role of the Monitoring Officer in ensuring that executive decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available. Jointly with the Chief Officer, the Monitoring Officer has responsibility for maintaining a system of record keeping for all the local authority's decisions (executive or otherwise).
- 15 The Standards Committee also learned that Monitoring Officers are strongly advised to have in place a clear protocol which ensures that members and colleague officers understand the special nature of the role and the need for the Monitoring Officer to have access to all meetings and early reports from

colleagues where there may be uncertainty about vires or proper process within the Constitution. Such a protocol will include a positive duty on colleagues to advise the Monitoring Officer where they believe the Council may have acted, or be about to act, unlawfully. The Association of Council Secretaries has prepared a draft Protocol for local authorities to adopt and this was considered by the Standards Committee at their meeting. We have made a number of changes to the draft to better suit our needs and to put it into "Buckinghamshire speak". Having done this, we would commend it to the Council for adoption as it does neatly set out and clarify the key responsibilities of the Monitoring Officer and the ways in which both members and officers need to assist the Monitoring Officer in the discharge of his functions.

**RECOMMENDED**

**That the Protocol, appended to this report (at Appendix B), which sets out the functions and responsibilities of the Monitoring Officer and how these may be discharged, be adopted.**

**CHERRY ASTON  
CHAIRMAN**