

## **STANDARDS COMMITTEE**

Minutes of a meeting of the Standards Committee held on  
2<sup>nd</sup> November 2006 commencing at 7 p.m.

Present: Mr. A. Riddell (Chairman)  
Mr. P. Hobbs (Vice-Chairman)  
District Cllrs. Dibsdall, Mrs. Dunckley, Loney, Mrs. Parkin and Tuke.  
Independent Member: Mr. A. Smith  
Town/Parish Representatives: Mr. J. London and Mr. D. Taylor.

An apology for absence was received from Cllr. Ryan.

### **387. MINUTES OF THE LAST MEETING**

Resolved: That the minutes of the meeting of the Committee held on 27<sup>th</sup> June 2006 be agreed and signed by the Chairman as a correct record.

### **388. DECLARATIONS OF INTEREST**

There were no declarations of interest in respect of any matter discussed or voted on during the meeting.

### **389. REPORT OF THE MONITORING OFFICER (SEE REPORT 3 – 02.11.06)**

The Monitoring Officer presented the second Annual Report of the Monitoring Officer to the Committee. The purpose of the Monitoring Officer's Report was to provide an overview of the work of the Monitoring Officer in the past calendar year and to provide an opportunity to review and learn from experience. The Monitoring Officer's Report set out the Monitoring Officer's statutory responsibilities, summarised how these duties had been discharged during 2006 in accordance with the Council's Constitution and legislative requirements and drew attention to those issues that would require attention in the next calendar year.

She advised the Committee of the work being undertaken on the Council's Constitution and that Cllr. Loney as the responsible Portfolio Holder was undertaking work on this. In relation to the Constitution, the Council's scheme of delegations to Officers was being continually reviewed and had recently been amended to reflect the implementation of new legislation.

The Monitoring Officer was pleased to report that she had no unlawful decision making by Cabinet or Council to report this year.

Nineteen complaints had been received by the Ombudsman which was a small reduction on last year and the biggest category was planning with thirteen complaints. However, the Ombudsman had issued no reports against the District Council.

Two complaints had been settled with a small amount of compensation being awarded. The Ombudsman had found that the District Council had responded



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promptly to any queries that he raised. The Council's average response time to complaints was 17.4 days and this was well within the target of 28 days. The Ombudsman also found that Officers of the Council were always helpful and courteous.

The report also set out the importance of good governance within the organisation and the need to continue to develop and enhance good governance. Next year work would begin on the Ethical Governance Toolkit and it might be possible to pair up with another authority on this matter.

This year the Monitoring Officer introduced a training manual to help members understand and comply with the ethical agenda. Each Member would be issued with a manual on completion of a training workshop.

A new Code of Conduct for Employees had been introduced by the Personnel and Development Team this year and financial interests had to be declared which could conflict with the Council's interests. Hospitality also had to be recorded and any relationship with external contractors.

The Committee was advised that the Chief executive had overall responsibility for the Staff Confidential Reporting Policy and in the last year there had been no findings to report.

With regard to complaints and determinations, this year the Standards Board for England had investigated a matter against a Councillor from Dunton Green Parish Council who was also a District Councillor. In April 2006 the Councillor was exonerated and was found not to have misused his position to gain an advantage.

Another case in July 2006 had been determined by a hearing panel of the Standards Committee. Breaches of the Code had been identified amounting to seeking to improperly influence a decision and failing to withdraw from a meeting when the Councillor had a personal and prejudicial interest. The Councillor was censured and was required to do appropriate training which he had since undertaken.

Towards the end of December 2005 a number of complaints had been received involving Members from the District and Swanley Town Council. Results of these complaints had been received in 2006 and in most cases the Ethical Standards Officer had reached the view that no breach had been found or where there had been a breach, no action was considered necessary. The Chairman requested that more information clarifying the Swanley situation be included.

*(Further Information: Please note that corrections were made to the Monitoring Officer's Report 2006 that was submitted to Council on 14<sup>th</sup> November 2006.)*

Twelve parish council complaints had been received in 2006, five of which had been referred for local investigation.

In respect of the District Council only four complaints had been received with one being sent for local investigation. One had been determined locally as minuted above.

Legal updates to train officers on new legislation had been listed in the report. These



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updates had taken place at lunch time and Cllr. Loney, the Portfolio Holder, had attended some of the sessions.

In addition to the training programme for Members managed by personnel and development, the Monitoring Officer had embarked on an extensive training programme this year and it was planned to continue this until the end of the year and to restart in Spring 2007. Training on changes to the Code of Conduct would also take place next year.

Some concern was raised on how much of the Monitoring Officer's responsibilities came under the remit of the Standards Committee. The Monitoring Officer replied that the Committee was not responsible for everything in the Report but it was an overview of the functions of the Monitoring Officer. The audit functions were covered under the terms of reference of a number of committees. The Chairman commented that perhaps this share out of audit responsibilities could be looked at in the review of the Constitution. It was suggested that the role of the Standards Committee could also be enhanced. The Committee noted that it was the responsibility of the District Council to decide which functions it allocates.

Mr. Smith advised that at the Fifth Annual Assembly of the Standards Board for England the idea was floated that the Standards Committee should check everything the authority does. The Chairman commented that legislation may not allow this at the present time.

Cllr. Tuke informed the Committee that the creation of audit committees had been advocated by CIPFA and that most, but not all, of the District Council's audit committee functions were currently the responsibility of the Overview and Scrutiny Board.

The Chairman requested that the Monitoring Officer look into this matter when reviewing the Constitution.

In response to a question regarding what was being done to raise the public profile of the Standards Committee, it was noted that Tonbridge and Malling Borough Council had a small leaflet publicising their Committee. It was suggested that the District Council could do the same or perhaps have a page on the District Council's website. Recent press reports on the activities of the District Council's Standards Committee and their inaccuracy was referred to. The Monitoring Officer agreed to look into the possibility of an educational leaflet and a page on the website and bring ideas back to the next meeting of the Committee. The Committee was advised that there was already a great deal of information on the website relating to the ethical agenda.

Cllr. Dibsall referred to the part of the report on Ombudsman complaints and stated it would be useful to see statistics on complaints received by the Council under the first stage of the complaints procedure. The Monitoring Officer agreed to include this in the report that was submitted to Council and agreed, if possible, to tabulate the information for the purpose of comparison.

The Monitoring Officer also agreed to clarify the information in relation to Swanley Town Council and to set out the figures for training.



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Resolved: (a) That, subject to the changes suggested above, the Monitoring Officer's Report 2006 be endorsed; and

(b) that it be recommended that Council note the amended Monitoring Officer's Report 2006.

390. "A QUESTION OF STANDARDS" – PRESCOTT'S TOWN HALL MADNESS AND THE STANDARDS BOARD FOR ENGLAND'S RESPONSE (SEE REPORT 4 – 02.11.06)

The Committee was advised that an article had been published by the Cornerstone Group entitled "Prescott's Town Hall Madness" where the Group had been very critical about the Standards Board for England and the regime that had been implemented. The regime was said to:

- Deprive councillors of the right to speak for the communities which elected them
- Create a climate of fear in town halls and council chambers
- Transform the relationship between councillors and officials
- Poison relations between councillors and within councils generally
- Cut off councillors from their electors to a degree unprecedented in the history of local government

The Group had also been highly critical of the common law provision of "predetermination". The abolition of the Standards Board for England and the Monitoring Officer role had also been advocated.

The Standards Board for England had responded by saying that the examples given by the Group were misconceptions of the personal and prejudicial interest test and that to constitute a prejudicial interest there must be some factor that would positively harm the Member's ability to judge the public interest objectively. The Board also answered all other points of criticism raised in the article. With regard to Monitoring Officers, it was noted that they rarely clamp down on Members and it would be for the Standards Committee to take decisions on sanctions being imposed against Members for breaches in ethical behaviour.

The Standards Board for England made the point that they did remove politically motivated allegations from the process and as a result only 18% of complaints got through this sifting process.

The Standards Board for England recognised that the rules and regulations surrounding the personal and prejudicial interest did need clarification and this would be recognised in the changes to the Code of Conduct.

Mr. London commented that the most difficult interest to judge was those relating to planning matters and perhaps a relaxation of the rules regarding planning matters might assist. He also commented that he continued to carry leaflets containing guidance on interests published by the Standards Board for England. Cllr. Mrs.



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Parkin referred to the Government's recently published White Paper which stated that such a relaxation was being considered.

Mr. Hobbs felt that as a result of their response, the Board was shown in a bad light because they simply answered each criticism rather than taking a more strategic viewpoint. Cllr. Tuke agreed and commented that the paper was empty of any underlining or supporting data.

Resolved: That the report be noted.

### 391. ASSOCIATION OF INDEPENDENT MEMBERS OF STANDARDS COMMITTEES IN ENGLAND (AIMSCE) (SEE REPORT 5 – 02.11.06)

Mr. Smith presented his paper on this issue to Members. He had attended a fringe meeting at the Fifth Assembly that had been extremely well attended and it had quickly become clear that the proposal was going to be forced through. Members were asked to vote for the adoption of a constitution that had transpired and was going to be changed immediately. There had been no vote on the set up of the AIMSCE only on the acceptance of the constitution and the voting slip for this stated that you had to be a member of the AIMSCE to be able to vote and to be a member you had to pay a subscription. At this point things got very heated and although there were 80 or so people at the meeting and 29 of those were in favour, the constitution was accepted. The revamp of the constitution would take place at the first annual general meeting that would be held at the House of Commons in June 2007. Mr. Smith concluded by saying that he felt if members did not join the AIMSCE then they risked being pushed aside.

The Chairman commented that the District Council would have to pay approximately £50 every three years to the Kent group to keep them in such things as stationery, etc. It was noted that the Kent group was not associated with the AIMSCE. Mr. Smith stated that other groups would probably have to become branches of the main body or they would cease to exist. It was noted that independent members might have to pay a subscription to the AIMSCE and that the District Council might be asked to pay this for them. Cllr. Tuke asked if it would be "vires" in that the Council would be paying a subscription for membership of a body not under its control? The Monitoring Officer advised that such payments could probably be made under Well Being legislation.

Mr. Hobbs advised that he had joined the Kent group without being asked to pay and that the group thought that the AIMSCE proposal was dead in the water.

Resolved: That the report be noted.

### 392. FIFTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES – BRIDGING THE GAP (SEE REPORT 6 – 02.11.06)

The Monitoring Officer reported that she had attended the Assembly with Cllr. Mrs. Parkin and Mr. Smith. They had been advised that the new Code of Conduct would be in place before local elections on 3<sup>rd</sup> May 2007. Many delegates had felt that not enough time had been allowed for implementation of the new Code. However, local authorities were being urged to adopt the new Code as quickly as possible.



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Independent chairmen of standards committees had been advocated which the District Council already had in place.

The financial implications for local authorities of the move towards more local investigations and a more strategic role for the Standards Board for England was recognised but no particular solution was put forward except the possibility of partnership arrangements and the need to think creatively. There was also discussion on how local authorities were going to cope with the filtering process currently undertaken by the Board together with the appeals process.

The volume of complaints received by the Board remained the same year to year.

The full findings of the report commissioned by the Board, the National Study of Standards Committees, was still awaited.

In conclusion, the Monitoring Officer stated that two members of the Committee were welcome to attend the next annual Assembly and any members interested in attending should get in touch with the Monitoring Officer.

Mr. Smith stated that attending the Assembly had been a great training experience and he stressed a very strong feeling that Monitoring Officers were struggling to cope. He had been struck by the discrepancies in size, choice of sanctions, use of sanctions, number of complaints received etc. in Standards Committees across the country. The Standards Board for England appeared not to be very consistent in their approach. However, he thought the Council's Monitoring Officer had got things about right regarding the Committee and the fact there was an independent Chairman and a number of independent members etc. Mr. Smith asked how you obtained allowances for independent members and the Chairman replied that an application had to be made through the Independent Remuneration Panel that the District Council shared with Tonbridge & Malling and Tunbridge Wells Borough Councils.

Cllr. Mrs. Parkin agreed with everything Mr. Smith had said, that she was in support of more independent members and was concerned about the burden of work being devolved to Monitoring Officers.

The Chairman noted that devolution should be welcomed as a way of keeping costs down and the ability to filter complaints more efficiently.

Resolved: That the report be noted.

### **393. DEVOLUTION – ANNUAL REVIEW 2005/06 FROM THE STANDARDS BOARD FOR ENGLAND (REPORT NO. 8 – 02.11.06)**

The Committee was advised that devolution was about local authorities taking greater ownership of the ethical agenda. The Standards Board for England was moving towards being a strategic regulator with local assessment of complaints although the Board would still continue to handle larger, more serious complaints. This meant that local authorities would have a much higher case load in future. The powers of local authorities would grow and the Standards Committee would be able to impose high penalties for breaches of the Code. As a consequence it was envisaged that the new Code of Conduct would be simpler, clearer and locally



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owned. The Board would support Standards Committees and Monitoring Officers.

The Standards Board for England intend to publish a new training DVD and the new rules surrounding personal and prejudicial interests would be covered. It was noted that regulating conduct in private life would only be possible if it involved unlawful activities. Training would also address the issue of bullying.

The Monitoring Officer drew attention to the Standards Board for England's website which had a Case Alert which might assist with decisions on appropriate sanctions. It was noted that a new Case Review had been published (No. 4) and a summary of the Review would be the subject of a report to the next meeting of the Committee.

Mr. Taylor, who had been part of the Hearing on 1<sup>st</sup> November 2006, stated that he was very concerned at the time lapse between the alleged breach and when the matter came to hearing. One incident was 15 months ago and this was too long for those involved to be able to remember events with any accuracy. It was questioned whether devolution would speed up the process.

The Monitoring Officer reported that she had placed adverts for a new independent member of the Committee in a better newspaper than previously used and she was therefore hoping for a better response.

Cllr. Tuke referred to paragraph 16 of the report and enquired about the specific nature of the help with training as he felt that more intense training would result in fewer complaints to the Standards Board for England. The Monitoring Officer responded that a training DVD had been promised but no specifics had been forthcoming.

Resolved: That the report be noted.

### **394. THE OMBUDSMAN'S ROLE (SEE REPORT 7 – 02.11.06)**

The Committee was advised that the Association of Secretaries and Solicitors had been given a short talk on the role of the Ombudsman and current issues by the Assistant Ombudsman. It was noted that delay was the cause of the largest number of complaints received. Education admissions were the cause of major complaints and were very often highly complex. Neighbour complaints concerning planning issues were increasing and planning related complaints had always been the cause of high numbers of complaints.

The handling of complaints by local authorities must be of a very high standard or an authority could be disadvantaged when trying to get the Ombudsman to accept local settlements. The Ombudsman's office had been looking at ways of improving the way they interact with the public as it had been noted that many decisions of the Ombudsman came as a complete shock to the complainant.

Resolved: That the report be noted.

### **395. TRAINING (REPORT NO. 9 – 02.11.06)**

The Monitoring Officer reported that the training was going very well and hopefully the weekly training workshops would in time result in a reduction of complaints. As at 11<sup>th</sup> October 2006, out of 54 District Councillor, 22 had attended workshops. Out of



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29 parish and town councils, 10 had attended workshops. The workshops would be run until the end of the year and would restart in Spring 2007 and would include the changes in the Code of Conduct.

The Chairman requested that the remaining town and parish councils be encouraged to attend the workshops and stale repetition should be avoided.

Following a remark from Cllr. London, the Monitoring Officer stated that training for new Members on the Code of Conduct would commence after the elections.

The Chairman, on behalf of the Committee, congratulated the Monitoring Officer on her excellent training programme.

Resolved: That the report be endorsed and noted.

### **396. NEW COMPLAINTS RECEIVED FROM THE STANDARDS BOARD FOR ENGLAND (ORAL REPORT NO. 10 – 02.11.06)**

The Committee determined the Cllr Baker case in July 2006 when the Councillor was censured after reporting himself to the Board. The breaches related to the rules surrounding personal and prejudicial interests and trying to improperly influence a decision. Cllr. Baker was also required to undertake training on this subject. The Monitoring Officer confirmed that Cllr. Baker had undertaken this training and his understanding of the Code seemed to be very good.

Two cases had been determined by the Standards Committee on 1<sup>st</sup> November 2006. Cllr. Thake of Dunton Green Parish Council had been suspended for one month with effect from 1<sup>st</sup> December 2006 together with a requirement for him to undertake training. Cllr. Thake admitted to failing to declare a personal and prejudicial interest at a meeting of the Parish Council. He was also found to have brought the Parish Council into disrepute by his actions in a car park owned by the Parish Council towards a group of mothers picking their children up from school when he gave out false information and displayed abusive behaviour.

The second case determined on 1<sup>st</sup> November 2006 related to Cllr. Gaywood, a District Councillor and a Hartley Parish Councillor. Cllr. Gaywood had been found in breach of the District Council's Code of Conduct as he had failed to declare a personal interest in relation to a planning application near to his home at two meetings of the Development Control Committee and one Development Control site meeting. No breach had been found in relation to non-declaration of any prejudicial interest and no improper use of position to gain advantage. Cllr. Gaywood was censured by the Committee. Also a number of recommendations had been made by the Committee in relation to the promotion and maintenance of high standards of conduct by the Members and co-opted members of the Authority:

The Monitoring Officer reported that there were three more cases in the pipeline and these would be heard together in January 2007.

The Chairman drew the Committee's attention to the misinformation that had been published in the Chronicle and asked the Monitoring Officer to read it to members. Mr. Hobbs reported that the reporter, Mr. Ian Reid, had approached him at the Hearing on 1<sup>st</sup> November 2006 and had asked for a copy of the papers. Mr. Hobbs



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had explained the process to him and asked that he leave the hearing until it was declared open to the public. It was declared open to the public shortly afterwards. Mr. Hobbs advised that in future, it might be for the best if members of hearing panels remain aloof from the press and any public attending determination hearings.

The Chairman asked the Committee if they would like him to respond to the inaccuracies in the article in consultation with the Leader of the Council and the Chief Executive.

A number of members of the Committee felt that any response should come from the Chairman.

Mr. Hobbs felt that the Committee should not respond and should only ever respond if the conclusion of the hearing had been misrepresented.

It was suggested that all Members of the Committee be e-mailed a draft response and that they be asked to make up their minds on who the response should come from. The Chairman was happy to give a response.

The Monitoring Officer thanked the Panel for their hard work at the Hearing on 1<sup>st</sup> November 2006.

Further to the meeting of the Committee (27.06.06) the Monitoring Officer brought forth a problem with the procedure for hearings to the attention of the Committee. The procedure stated that "...the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent, at least two weeks before the hearing, to:...". This timeframe had been found to be a problem in relation to the last hearing in that it had not been possible to prepare the documents in time to meet this publication deadline.

Mr. Hobbs also stated that all documentation in relation to hearings such as evidence and pre-hearing process papers, must be sent out with the agenda for the hearings for panel members and other appropriate people such as the subject of the allegation.

Resolved: That paragraph 4(j) of the Procedure for Local Determination Hearings of Allegations of Member Misconduct be amended to read as follows:

"Use all reasonable endeavours to arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent, at least two weeks before the hearing, to:"

THE MEETING WAS CONCLUDED AT 8.46 P.M.

Chairman



