

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on
1st March 2007 commencing at 7 p.m.

Present: Mr. A. Riddell (Chairman)

Mr. P. Hobbs (Vice-Chairman)

District Cllrs. Dibsdall, Loney, Ryan and Tuke.

Independent Member: Mrs. S. Schofield

Town/Parish Representatives: Mr. J. London and Mr. D. Taylor.

An apology for absence was received from Cllr. Mrs. Dunckley and Mr. A. Smith.

Cllr. Mrs. Morris was also present.

644. MINUTES OF THE LAST MEETING

Resolved: That the minutes of the meeting of the Committee held on 20th December 2006 be agreed and signed by the Chairman as a correct record.

645. DECLARATIONS OF INTEREST

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

646. REVISED MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS (SEE REPORT 3 – 01.03.07)

The Chairman advised that this was the end of a long consultation process. The Government had published a draft revised Code of Conduct for Members entitled “Consultation on Amendments to the Model Code of Conduct for Local Authority Members” (the Consultation Paper). The deadline for comments on the Consultation Paper had been requested to be sent to the Department for Communities and Local Government by the 9th March 2007. The Consultation Paper was intended to improve the present Code of Conduct and to resolve some of the issues which had arisen under that Code. It was the Department’s intention to bring the amended Code into force in time for local authorities to adopt it at their annual meetings in early May 2007.

The Vice-Chairman raised a general concern on the quality of the guidance booklets issued after the publication of the Code. He felt that consideration should be given, by the author of the guidance, to the fact that the information should be couched in layman’s terms and not in local authority language. The guidance should be understood by people with very little experience of local authority work. The Committee agreed that the Vice-Chairman’s view should be included in the Council’s response.

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The Committee went through each of the bullet points contained in paragraph 4 of the report and made the following points to be included in the Council's response:

- To delete reference to unlawful discrimination. (paragraph 2(2)(a))

The Committee had no further comment.

- Add a provision specifically proscribing bullying. (paragraph 2(2)(b))

It was suggested that the word “bullying” was school boyish in connotation and the word intimidation was more appropriate. This was agreed by the Committee.

- To allow members to disclose confidential information where such disclosure is in the public interest. (paragraph 3(a)(iii))

It was noted that the existing approach was in contravention of the Human Rights legislation.

The Committee was in agreement with the new proposal.

- Behaviour outside official duties. (paragraphs 4 and 5)

The Committee was advised of the details surrounding the Determination Hearing concerning Cllr. Thake from Dunton Green Parish Council. The Investigator's report made it clear that whether or not a councillor was acting in his/her official capacity as a Councillor or transacting his/her private life, members of the public always considered any adverse behaviour as a reflection on the reputation of the relevant local authority. The Vice-Chairman felt that although many behaviours were not criminal they were however very upsetting to be on the receiving end of. Therefore this type of behaviour, that might bring a local authority into disrepute, should be included in the Code. The Chairman added that it should not require a criminal conviction to be a subject of a complaint and that the public would take decisions on lifestyle issues. Mr. London agreed that behaviour could be considered scandalous but not be criminal. Mr. Taylor stated that the Clerk to Halstead Parish Council advised every Parish Councillor that “once a Councillor, always a Councillor 24/7” even when they were off duty.

The Committee concluded that they agreed:

The Code should go beyond criminal behaviour when considering whether behaviour outside of official duties had brought a council into disrepute. Inappropriate and scandalous behaviour may bring an authority into disrepute.

However, there should be a connection between the behaviour and the Member's office.

- Commission of criminal offence before taking office. (paragraph 4(2))

The Committee considered this a reasonable suggestion.

- Using or seeking to use improper influence. (to amend paragraph 5(a) by adding ‘or attempt to use’)

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The Committee considered this a reasonable approach.

- An authority's resources should not be used improperly for party political purposes. (paragraph 5(b)(ii))

The Chairman advised that this had always been the case and was merely a matter of clarification. The Committee agreed that the words "not be used for party political" needed further definition.

- To add reference at paragraph 5 (b)(iii) to the need for the member to have regard to the guidance set out in the Government's local authority publicity code.

The Government's local authority publicity code was considered to be out of date. As a result it was difficult for the Committee to form a view on this.

- To delete the duty in paragraph 7 of the existing code to report breaches of the code by other members, and add a proscription (at paragraph 2(2)(c)) on the intimidation of complainants and witnesses.

The Chairman stated his sympathy for the "no obligation approach". Mr. London advised of the case for keeping the obligation but was happy to see it deleted. Mr. Taylor felt it would allow more Councillors to get away with breaches against the Code of Conduct. The Vice-Chairman advised that 75% of complaints were not followed up by the Standards Board for England and that the "no obligation approach" might reduce the amount of frivolous complaints to the Board. The Vice-Chairman also felt that many misunderstandings that resulted in complaints to the Board could have been dealt with in the early stages by mediation. The Chairman stated that an authority was able to strengthen the Code of Conduct and that a requirement for Members to draw transgressions to the attention of the Chairman of the Standards Committee or the Monitoring Officer could be included. Also it could be required that the Monitoring Officer be consulted if a Member thought that a transgression had taken place. However, it would not be appropriate for the Monitoring Officer to be asked to mediate in a case and the Monitoring Officer's position in advising the Standards Committee should be safeguarded.

The Committee agreed that while they were somewhat concerned about this change, they had no specific comment to make.

- Gift and hospitality – paragraphs 7(a)(vi) and 8(3).

Cllr. Loney stated that he felt that including gifts and hospitality in Members' interest instead of using a centrally held register was onerous. The Monitoring Officer advised that the gift or hospitality would have to be declared as a personal interest at each appropriate meeting of the Council. Mr. London considered the £25 limit far too low and that it should be raised to £50. The Chairman advised that the limit for Government Ministers was £75 and he strongly opposed the £25 limit. The Vice-Chairman advised that the Kent and Medway Association of Independent Members supported a £50 limit and a centrally held register.

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The Committee agreed that they did not support this amendment to the Code and suggested that the limit for hospitality and gifts be raised to £50 and that the use of a centrally held gifts and hospitality register be continued. Gifts or hospitality should not be registered as a personal interest and there should be no five year rule.

- Body influencing public opinion or policy. (paragraph 7(b)(iv))

The Committee considered that the political party declaration was already included among the interests form which all members had to complete.

- To amend reference in the current code to friends and family by adding reference to any person with whom the member has a close personal association. (paragraphs 7(c)(i) and elsewhere)

The Chairman considered this amendment to be correct in principle but liable to make life difficult. Cllr. Tuke felt a definition of “close” was needed together with an explanation of whether it was past and/or present closeness. The Vice-Chairman felt that the term “personal acquaintances” was too wide a term as you either knew someone personally or they were only an acquaintance.

The Committee agreed to suggest that the term “personal acquaintances” be removed and the use of close personal relationship was preferred.

- Definition of personal interest. (paragraph 8)

The Chairman considered this to be a better definition of personal interest than previously. An interest that previously took in the whole District would be reduced to wards. Cllr. Loney commented that town council areas could include a number of wards and therefore this rule should only apply within warded councils.

The Committee agreed that:

(a) the reduction in interest area should be reconsidered to take into account that some wards contained more than one parish and some town councils contained more than one ward; and

(b) the £25 limit should also be raised to £50 in this instance and should not be regarded as a personal interest.

- Disclosure of personal interests – paragraph 8(4).

The Committee did not have any comments on this proposal.

- Public Service Interests – paragraph 8(2) and 8(7) to create a new category of ‘public service interest’, which arises where a member is also a member of another public body, and for the public service interest only to be declared at meetings where the member speaks on the relevant issue.

The Committee expressed some confusion as to whether the definition of public service interests included not for profit organisations. There could be a problem with definitions and did not want another set of unclear boundaries.

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- Prejudicial interests – (paragraph 9(2)(b)) to simplify and amend the list of exemptions where members should not regard themselves as having a prejudicial interest.

The Committee did not have any comments on this proposal.

- Overview and Scrutiny Committees – (paragraph 10) to provide that members are excluded from overview and scrutiny committees where they are scrutinising decisions, including decisions made by the authority's executive, which they were involved in making.

The Chairman advised that this meant Councillors who had previously been members of the Executive (Cabinet) would have to absent themselves from overview and scrutiny debates on decision taken when they were members of the Executive.

The Vice-Chairman felt, and the Committee agreed, that the proposal lacked clarity and more thought should be given to this issue.

- Participation in relation to prejudicial interests - (paragraph 9 and 11) to provide a clearer prejudicial interest test to apply for public service interests and where members attend to make representations.

The Committee believed there were drafting difficulties with a Member not having a prejudicial interest where they attend and make representations. One view favoured by several members of the Committee was that a Member with a prejudicial interest was simply relieved of the requirement to withdraw from the meeting if s/he stayed for the purpose of making representations.

- Sensitive Information – (paragraphs 8(5) and 13) to provide for sensitive information in respect of private interests not to be included on the register of interests where revealing it is likely to lead to the member or those he or she lives with being subject to violence or intimidation.

The Committee did not have any comments on this proposal.

- Register of members' interests – (paragraphs 12 and 13) to simplify and shorten the registration of personal interests.

The Committee did not have any comments on this proposal.

- Gender neutrality of language – to amend the Code throughout to ensure gender neutrality of language.

The Vice-Chairman considered, and the Committee agreed, that the document needed rewording to remove the use of gender based words. He commended the tax simplification project as it was felt that the suggested draft could be improved upon to take out the reference to he, she, him or her.

The Monitoring Officer reminded Members that they were free to submit their own comments to the Government on this consultation process.

Resolved: That the Committee comments as set out above be collated and

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sent as the District Council's response on the consultation on Amendments to the Model Code of Conduct for Local Authority Members to the Department for Communities and Local Government by the 9th March 2007 deadline..

647. COMPLAINTS INVESTIGATED AND DETERMINED (SEE REPORT 4 – 01.03.07)

The Monitoring Officer drew the Committee's attention to the three case summaries SBE 14013.06 (Cllr. Dee Morris – Swanley Town and Sevenoaks District Councils), 14014.06 (Cllr. Geoffrey Blaxall – Swanley Town and Sevenoaks District Councils) and 14025.06 (Cllr. Roger McInnes – Swanley Town Council) where the three Members had been completely exonerated. She also drew attention to the three case summaries, circulated to the Committee by e-mail, SBE 14258.06 (Cllr. Michael Hogg – Swanley Town and Sevenoaks District Councils), 14012.06 (Cllr. Bryan Harrod - Swanley Town and Sevenoaks District Councils and 14011.06 (Cllr. Frank Parker - Swanley Town and Sevenoaks District Councils) where the Board had found that no action needed to be taken although personal interests had been noted.

On the 6th April 2006 the Ethical Standards Officer (ESO) referred three cases to the Monitoring Officer for investigation and the allegations had been investigated by Mr. Doug Williamson. The cases were SBE 14229.06, 14230.06 and 14228.06. The reports had been finalised on the 30th October 2006 and the Standards Committee had held determination hearings on the 22nd January 2007. The Standards Committee in case SBE 14228.06 had sanctioned the Member to undertake training on the Code of Conduct within six months.

The Chairman thanked all Members and Officers who had been involved in the determination hearings for their efforts.

Resolved: That the report be noted.

648. STANDARDS COMMITTEE PRE-HEARING BRIEFING (SEE REPORT 5 – 01.03.07)

The Chairman advised that a suggestion had been made that a pre-hearing briefing be held for members of the panel at each determination hearing. It was also suggested that any member of the Committee that had not previously taken part in a hearing be invited to sit in on the briefing (and the hearing).

Members noted that only factual matters should be discussed at the pre-hearing briefing and not the merits of a case.

Resolved: (a) That a pre-hearing briefing be held before each Standards Committee Determination Hearing for the benefit of the hearing Members; and

(b) that Members who have not sat on a hearing panel be invited to attend a hearing with the permission of those involved.

649. THE CASE REVIEW NUMBER FOUR (SEE REPORT 6 – 01.03.07)

Delegates to the Standards Board for England's Fifth Annual Assembly (2006) had been presented with a copy of the Case Review number four. The Case Review aimed to reflect on, and inform about, new developments in the interpretation and working of the Code of Conduct and reflected the current transition in the standards framework whereby the Board was evolving into a strategic regulator.

The Monitoring Officer advised that the Board had developed a process to monitor the progress of local investigations and was in touch with monitoring officers about the anticipated length of their investigations and was proactive in pursuing those monitoring officers whose cases had not been completed within six months.

The Chairman drew Members' attention to paragraphs 18 and 19 of the report. The Monitoring Officer stated that these suggested measures might reduce the need for determination hearings. She agreed to look into mediation training but advised that she could not become a mediator as this would conflict her out of taking part in determination hearings.. The Chairman agreed and mentioned that hiring a mediator might be more cost effective than a full investigation process.

The Committee agreed that Mr. Nick Marcar who had previously worked as a Ethical Standards Officer (ESO) for the Standards Board for England, be invited to address the Committee about his experiences as an ESO at a future meeting.

The Monitoring Officer noted that bullying attracted the most severe sanctions and would therefore continue to be investigated by the Board.

The Chairman highlighted paragraph 33 of the report and said that the Committee should congratulate themselves on giving detailed reasons for their decisions especially where the decision did not agree with the findings of the Investigator's report.

Resolved: That the report be noted.

650. TRAINING AND DEVELOPMENT (REPORT NO. 7 – 01.03.07)

The Chairman congratulated the Monitoring Officer in finding so many glowing references in relation to the Code of Conduct training. The Monitoring Officer advised that training on the Code of Conduct had been suspended until after the publication of the new Code.

The Monitoring Officer was questioned on the statistics contained in paragraph 4 of the report especially the low numbers of parish/town councillors and District Councillors that had attended training. The Monitoring Officer agreed to check the statistics as it was thought that more Councillors (and Clerks) had undertaken the training.

It was noted that although it was hoped that as many parish/town councillors and clerks would attend the Code of Conduct training, it was accepted that the knowledge would also be cascaded down through each council.

The Chairman advised that he had attended the District Council's induction training

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for new Councillors in 2003. The Monitoring Officer confirmed that this was being arranged for new Members and if members of the Committee were interested in assisting with any training they should let her know.

The Monitoring Officer also advised that more information was being put on the District Council's website and she would circulate the information to the Committee beforehand to seek their views. Cllr. Loney requested that it be highlighted that each local authority could strengthen its Code of Conduct. Mr. Taylor commented that it would be easier if each parish/town council adopted the same Code for the sake of consistency.

The Committee was informed of road shows organised by the Standards Board for England. There were a number of dates and venues including one in London on 28th June 2007. Details of other dates were available on the Board's website: www.standardsboard.co.uk.

The next Standards Board for England's Regional Assembly would be held on 15th and 16th October 2007 in Birmingham.

At the request of Cllr. Loney, the Monitoring Officer gave a short précis on the developments since the District Council had taken a decision to subject all Members of the Council to enhanced Criminal Record Bureau (CRB) checks with effect from the elections in May 2007. A view of the decision had been sought from the Standards Board for England and that advice stated that it was illegal for the Council to insist on CRB checks for all Councillors. Counsel's opinion had also been sought and that advice stated that the Council did not have the powers to insist on these checks. The decision had therefore been rescinded. Officers had been asked to carry out a full review of all available powers and options and identify the most appropriate course of action for the Council to adopt and to report back to Council within two ordinary meetings.

Resolved: That the report be noted.

THE MEETING WAS CONCLUDED AT 8.55 P.M.

Chairman