

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on
27th June 2006 commencing at 7.04 p.m.

Present: Cllrs. Loney, Mrs. Parkin, Ryan and Tuke.

Independent Member: Mr. P. Hobbs.

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

Apologies for absence were received from Cllr. Mrs. Dunckley, Cllr. Dibsdall, Mr. Riddell (Independent Member) and Mr. A. Smith (Independent Member).

Cllr. Baker was also present.

111. APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN

Resolved: That Mr. Riddell be elected Chairman of the Committee for the ensuing municipal year.

Resolved: That appointment of Vice-Chairman be deferred until after consideration of Report No. 7 - Independent Members of the Standards Committee.

Resolved: That Mr. Hobbs be elected as temporary Chairman until consideration of Report No. 7 - Independent Members of the Standards Committee, had been completed.

Mr. Hobbs in the Chair

112. MINUTES OF THE LAST MEETING

Resolved: That, subject to the inclusion of an apology for absence from Cllr. Tuke, the minutes of the meeting of the Committee held on 12th April 2006 be agreed and signed by the Chairman as a correct record.

113. DECLARATIONS OF INTEREST

Mr. Hobbs declared a personal interest in the item on Independent Members of the Standards Committee (minute 117 refers) as he was an independent member of the Committee.

Mr. Taylor declared a personal and prejudicial interest in the item on Member Investigations (minute 119 refers) as a Councillor for Halstead Parish Council and advised that, should it be necessary, he would withdraw from the meeting during discussion on this item.

Members were advised by the Monitoring Officer that she would talk about Member investigations in the most general of terms and it would therefore be unnecessary for anyone to leave the meeting during discussion on this item.

114. NEW PROCEDURES AND DOCUMENTATION FOR HANDLING LOCAL INVESTIGATIONS AND A REVISED LOCAL DETERMINATION PROCEDURE (SEE REPORT 4 – 27.06.06)

The Committee was reminded that local investigations into Member misconduct could now be referred to the Monitoring Officer from an Ethical Standards Officer. When the District Council first received this power the Standards Board for England had not brought out a procedure for conducting a local investigation and so the Committee adopted the Peter Keith-Lucas procedure to tide the Council over until either the Standards Board for England produced a procedure or the Committee devised one. The Peter Keith-Lucas model was quite a heavyweight document but had been a satisfactory interim solution. The Standards Board for England had now produced a model and this was set out in Appendix A of the report. Statutory guidance on how local authorities should conduct local investigations was set out in Appendix B of the report. Members' attention was also drawn to the revised Local Determination Procedure which was set out in Appendix C of the report and reflected the fact that the District Council could now conduct local investigations.

It was emphasised that the Council would only get the more minor matters referred for local investigation. The more serious matters would continue to be investigated by the Standards Board for England who may also go on to determine the matter if it was thought that the District Council's sanction powers would not be sufficient.

Members of the Standards Committee would be notified in a confidential memorandum if a matter was referred to the Monitoring Officer for local investigation but the identity of the Member being investigated would not be divulged.

Although matters were referred to the Monitoring Officer for investigation the Standards Board for England felt that the Monitoring Officer should be the adviser to the Committee or hearing panel and so the Monitoring Officer would have power to appoint another Officer of the Council to carry out the investigation. This would sometimes be the Deputy Monitoring Officer and these roles could be swapped if there appeared to be a conflict of interest.

A question was raised on when a councillor was given the chance to answer an allegation against him/her if the Committee or the Standards Board for England decided that there was no case to answer. The Monitoring Officer replied that there was no provision in the procedure whereby a councillor could ask for a case not to go forward if there was no case to answer. Councillors with allegations against them were not notified at referral unit stage but only at the investigation stage and this had been a recognised criticism of the system. The Chairman advised that 75% of cases were not pursued and it would therefore unduly worry councillors if they were informed at an early stage. He suggested that perhaps councillors should be informed that there was a complaint against them when it was decided by the Standards Board for England that an investigation would go forward.

In response to a question regarding the possibility of Freedom of Information request for information received by the Monitoring Officer from the Standards Board for England, the Monitoring Officer replied that she received this information in confidence and would apply the necessary exemption under the appropriate legislation to ensure that confidentiality was maintained. She would however be happy to release general statistics.

Appendix A – How to Conduct an Investigation

In relation to the reference to the recording of interviews on page 7 of the document, Cllr. Loney advised that he had authorised the purchase of a “police” style double cassette recorder for recording determination hearings. This would allow the District Council to retain one tape and to give the other to the interviewee.

Appendix B – Local Investigations – Guidance for Monitoring Officers and Standards Committees

The Committee recognised that this guidance was largely directed at the Monitoring Officer with a small amount of advice for the Committee.

Appendix C – Procedure for Local Determination Hearings of Allegations of Member Misconduct

Members were happy with this straight forward document but expressed doubts about giving the Monitoring Officer authority to make amendments to the procedures and documentation in response to the developing nature of the process. It was suggested that authority could be given to the Chairman and Vice-Chairman of the Committee to make minor amendments and then the changes would be reported to the next meeting of the Committee. It was agreed that the Monitoring Officer would seek the Chairman’s views on this suggestion and would report back to the next meeting of the Committee.

Resolved: (a) That the new procedures and documentation for handling local investigations as set out in the appendices A and B of the report be adopted; and

(b) that a revised Local Determination Procedure as set out in Appendix C of the report be adopted.

115. ETHICAL; GOVERNANCE TOOLKIT (SEE REPORT 5 – 27.06.06)

The purpose of the Ethical Governance Toolkit was to help local authorities to assess how well the ethical agenda was being met and to further improve arrangements. The tool kit had been developed jointly by the Standards Board for England, the IDeA and the Audit Commission. The role of the Standards Board had been to support the development of the tools with the other two organisations.

There appeared to be two routes that a council could take. The self assessment survey and then the full audit via the Audit Commission or the Light Touch Health Check followed by developmental workshops. The full audit was not recommended for district councils as this costs approximately £13,000. The light touch approach would cost approximately £1,000 plus any developmental workshops that may be needed.

Many members of the Committee felt that, although they agreed with the general thrust of the document, the District Council did not need either option and that the Standards Committee could undertake this task in a satisfactory way. The document appeared to impose another level of management training on the District Council which was considered unnecessary.

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It was pointed out that most complaints were lodged against parish councils and there was no approach in the document to improve parish council awareness of the Code of Conduct.

A concern was raised on the potential difficulty in monitoring the progress/benefits of this proposal although it was noted that the system was looked on with approval by the Comprehensive Performance Assessment (CPA) inspectors.

Resolved: (a) That the existence of the ethical governance toolkit be noted; and

(b) that the use of the Light Touch Health Check be approved.

116. COMPOSITION OF HEARING PANEL FOR DETERMINATION OF ALLEGATIONS OF MEMBER MISCONDUCT (SEE REPORT 6 – 27.06.06)

The Committee considered the possible composition of hearing panels for Determination Hearings. The only recommendation from Standards Board for England was that there should be either a three person or a five person hearing panel.

In addition it was recommended that the hearing panel should be chaired by an independent member. It was also a legal requirement that when a parish council matter was determined then there had to be a parish council Committee member on the panel. In addition there had to be an Independent Member on the hearing panel for it to be quorate.

The report set out a number of options for the composition of the hearing panel. After consideration the Committee felt that the most attractive option was a three member panel as this was the simplest and the easiest to achieve.

Members were advised by the Monitoring Officer that it had been difficult to obtain a quorate hearing panel when arranging the two hearings the District Council had been given to determine.

After considerable debate, Members considered that option 4 was the nearest to the ideal as the majority of determinations would involve parish councils and it was therefore important to have a parish council member on the panel. Members were advised that Mr. Riddell had suggested giving the Chairman of the Committee power to make a substitute or to vary the hearing panel in order that the panel was quorate and to enable the hearings to proceed. This suggestion was accepted by the Committee.

Concern was expressed on the possibility of members of a hearing panel not behaving in an apolitical way. The Monitoring Officer reminded Members that the Standards Committee was expected to be above party politics at all times.

Resolved: (a) That Option 4, as set out below, be adopted for the composition of hearing panels for the determination of allegations of Member misconduct;

“The hearing panel shall comprise three members in total, being one independent member, one parish council member and one District

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Council member where appropriate The independent member would chair the hearing panel. Preferably such members will be chosen on a rotational basis.”

(b) that the chairman of a hearing panel for the determination of allegations of member misconduct be given authority to make a substitute or to vary the hearing panel where difficult circumstances were envisaged in order that the panel is quorate and to enable the hearing to proceed.

117. INDEPENDENT MEMBERS OF THE STANDARDS COMMITTEE (SEE REPORT 7 – 27.06.06)

The Committee was asked to consider increasing the membership of the Committee by one independent member, although the District Council was meeting the legislative requirement of having at least 25% of independent members on the Standards Committee. This would bring the number of independent members to four. It was noted that there would be a great deal of work for the independent members and they would have to chair the determination hearing panels albeit on a rotational basis.

The Committee also considered increasing the number of parish and town council representatives as there would also be an increased workload due to the number of parish and town council complaints.

The Chairman advised that at last year's annual assembly held by the Standards Board for England, the matter of the number of independent members on a Standards Committee had been raised. It had been suggested that independent members should comprise the majority, however, the view held by a large number of delegates was that suitably qualified independent members were hard to find and the Chairman concluded that perhaps the addition of one independent member of the District Council's Standards Committee was a reasonable starting point.

The Monitoring Officer informed those present that it had been suggested that, as the Chairman of the Committee was an independent member, it would be sensible if the Vice-Chairman of the Committee was also one of the independent members. She had tried to contact the previous Vice-Chairman of the Committee, Cllr. Mrs. Dunkley, to ask for her views on this suggestion, but had been unable to speak with her.

Resolved: (a) That the membership of the Standards Committee be increased by one independent member and one parish/town council representative; and

(b) that the Vice-Chairman of the Standards Committee be an independent member.

(Mr. Hobbs did not vote on this item as he was an independent member of the Committee.)

Resolved: That Mr. Hobbs be elected Vice-Chairman of the Committee for the ensuing municipal year.

118. REVIEW OF SANCTIONS (SEE REPORT 8 – 27.06.06)

The report gave guidance to members of hearing panels when it came to applying sanctions when carrying out a determination hearing. Members were advised that only fair and reasonable sanctions should be imposed and should be proportionate to the breach. The report set out the penalties that could be imposed and the fact that a combination of sanctions could be imposed and the need to state when sanction was to start and that the start date could be delayed for up to six months. Members were also reminded that the hearing panel did not have to impose sanctions.

When deciding to impose a sanction mitigating circumstances should always be taken into account and the report also set out a series of possible mitigating circumstances. Aggravating factors should also always be considered as these could increase the seriousness of the offence. Members also noted circumstances when it would not be appropriate to impose a sanction.

If the Committee considered that the available sanctions were insufficient when considering the seriousness of the offence, the matter could be referred back to the Ethical Standards Officer as the Standards Board for England had more severe sanctions at their disposal.

The lowest sanction that could be imposed was a censure. However, a censure marked the fact that the Committee was of the opinion that the behaviour had been unacceptable and should not happen again.

In response to a question, the Monitoring Officer assured Members that the imposition of a sanction to suspend a councillor from duties was legal.

Resolved: That the general guidance contained in the report be adopted.

119. MEMBER INVESTIGATIONS – ORAL UPDATE

The Monitoring Officer reminded the Committee that a determination hearing would be held on Monday, 17th July 2006. In respect of District Council matters, the number of cases that had been referred to the Ethical Standards Officer at this time was four and one of those had been referred to the District Council for local investigation.

With regard to parish councils, four cases had been referred for local investigation and one had reached the draft report stage.

In conclusion, the Monitoring Officer drew attention to case SBE13278.05 in relation to District Councillor Lankester. The allegation against Cllr. Lankester had been that he had tried to misuse his office as a District Councillor to secure an advantage for himself. The case had not been proved and the Ethical Standards Officer had taken no action and therefore Cllr. Lankester had been completely exonerated. The details of this matter were available on the Standards Board for England website.

THE MEETING WAS CONCLUDED AT 8.20 P.M.

Chairman