

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on
13 July 2010 at 6:42 p.m.

Present: Independent Member: Mr Smith (Vice-Chairman)

Cllrs. Mrs Bracken, Harrod, Mrs. Morris and Waller

Independent Members: Mr. Painter and Mr. Reece.

Town/Parish Representatives: Mr. Austin, Mr. Clarke and Mr. Taylor

Apologies for absence were received from Cllr. Dibsdall, Cllr. Ryan, Mr London and Mr. Riddell.

The Vice-Chairman welcomed Cllr Waller as a new Member of the Standards Committee.

1. **TO ELECT A CHAIRMAN OF THE COMMITTEE FOR THE ENSUING MUNICIPAL YEAR**

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

2. **TO ELECT A VICE-CHAIRMAN OF THE COMMITTEE FOR THE ENSUING MUNICIPAL YEAR**

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

3. **DECLARATIONS OF INTEREST**

None.

4. **MINUTES OF THE LAST MEETING**

Resolved: That the Minutes of the Committee held on 22 April 2010, minutes of the Review Sub-Committee held on 4 May 2010, minutes of the Assessment Sub-Committee held on 4 May 2010, and minutes of the Determination Hearing Sub-Committee held on 10 June 2010 be approved and signed by the Chairman as a correct record.

5. **TRAINING – SAMPLE STANDARDS CASES** (Report No. 5)

Committee Members considered specific cases that had been handled by the Tribunal as part of ongoing training for Members.

6. **COMPLAINTS AND TRAINING** (Report No. 6)

The Monitoring Officer informed the Committee that there had been a significant number of complaints and reviews during May and June. In addition the Committee

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had also undertaken a Determination Hearing. A high proportion of these complaints related to two specific Parish Council's. One of these Parish Councils had submitted 10 complaints and 9 reviews. A training and conciliation session had been organised, by the Monitoring Officer, to take place on the 21 July for the Parish Council concerned.

Members discussed grounds for Assessment Sub-Committee's ruling that a complaint be considered for investigation. A Member noted that in the recent case of the Determination Hearing, Members had felt that investigation was necessary as the nature of the complaint was such that it was important to provide definitive conclusions on the matter so the Members involved could have their name cleared of any allegations. Another Member commented that investigations were costly and should only be undertaken where there was clear prima facie evidence of a possible breach of the code. The Monitoring Officer explained that, in her experience, Subject Members were rarely in favour of a formal investigation finding the whole process stressful.

Members also discussed the current arrangements for processing complaints. It was felt that, as the Monitoring Officer had no power to filter complaints, the process could be overly bureaucratic as all complaints had to be referred to an Assessment Sub-Committee for consideration. It was highlighted that Assessment Sub-Committees frequently ruled that no further action was required as complainants failed to provide enough, if any, prima facie evidence. It was also noted that the ruling of 'Other Action' was sometimes seen as a punishment. However, this was not the case as the Assessment Sub-Committee makes no finding of fact at the assessment level. Furthermore the Monitoring Officer had no way to enforce any rulings under 'Other Action.'

Following a query the Monitoring Officer explained that the Standards for England Website had guidelines of what constituted bullying under the code. In general terms allegations of bullying against Officers were considered more serious than those against other Members, as Officers had no public platform to defend themselves, whereas Members could answer back.

Resolved: That the report be noted.

7. THE FUTURE STANDARDS REGIME (Report No. 7)

Members discussed the future of the regime under the new Coalition Government and the Monitoring Officer said that current indicators suggested that Standards for England would be abolished, but a regime may stay in place. A Member explained that at a recent meeting of independent members a discussion had taken place in relation to more powers being given to local authorities to adopt and set their own Standards regime. However it was unclear how this would affect Town and Parish Councils. Another Member also explained that there was the potential to abolish prejudicial interests. In these circumstances Member's would only have to withdraw on matters that related to prejudicial financial interests. Another Member commented that, in his opinion, it was unfair to ask a Member to withdraw from a debate which directly affected them. The Committee agreed it was important to ensure consistency in relation to Standards arrangements across all local authorities and ensure that

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there were adequate provisions in place to assess complaints made against Members.

It was suggested that the current changes to the regime could provide opportunities for increased working with other local authorities. The Monitoring Officer explained that the Council already had reciprocal arrangements in place, however as the workload of each authority often varied greatly there had been little opportunity for reciprocal working to take place.

The Committee discussed recommendations made by the review published by the Standards for England.

Recommendation 1

The law should say that monitoring officers, rather than standards committees, should receive all allegations and make a decision about whether or not they are within the remit of the Code of Conduct.

Members felt that giving increased powers to Monitoring Officers to take decisions about whether or not they considered a complaint to be within the remit of the Code of Conduct, could create conflicts of interest. It was said that if this work was done by any individual Officer, rather than an Assessment Sub-Committee, the independent position of the Monitoring Officer could be compromised. It was also noted where complaints related to 'tit for tat' political matters it should not be for the Monitoring Officer to make this judgement. The Monitoring Officer explained that she currently undertook some initial work before allegations escalated to formal complaints.

Recommendation 2

For allegations within the remit of the Code the independent chair of the standards committee, acting with the advice of the monitoring officer, should determine what happens to an allegation.

Members agreed that, like in Recommendation 1, this could compromise the position of both the Independent Member and the Monitoring Officer.

Recommendation 3

The vice chair of the standards committee should be an independent member.

Members noted the arrangements for the Standards Committee at Sevenoaks had always had an Independent Vice-Chairman.

Recommendation 4

If the chair is unavailable or has a conflict of interest in relation to an allegation then the independent vice chair should deputise. Standards committees should be able to develop reciprocal arrangements so that their chairs can assess each other's allegations.

Members noted the arrangements for the Standards Committee at Sevenoaks

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allowed for the Independent Vice Chair to deputise. There were already reciprocal arrangements but only where there was a conflict of interest in relation to monitoring officer duties. Reciprocal arrangements would only work where the work load was equal which was rarely the case.

Recommendation 5

Standards committees should undertake retrospective periodic reviews of these decisions to ensure consistency and quality. The national body should also provide oversight via its regulatory role.

This already took place.

Recommendation 6

The current statutory review arrangements should be removed but authorities should be given a discretionary power to allow for the review of particular decisions. This review could be undertaken by the standards committee or a sub-committee of it, by an independent member of the standards committee not involved in the initial decision or by any of these from another principal authority.

Members agreed that the power of review created additional work and needed to be resourced and should be removed. The trend, both locally and nationally, was for the review to find in favour of the decision of the original Assessment Sub-Committee.

Recommendation 7

After completion of a local investigation the chair of the standards committee should decide whether to accept a finding of no breach, and where a breach is found, whether the case should go to a local hearing or to the First-tier Tribunal. Vice chairs should be able to deputise in this role.

Standards committees should be able to develop a wide range of reciprocal arrangements with other standards committees so that their chairs can assess each other's investigations in this way.

Members felt that asking the Chairman of the Committee to decide whether to accept a finding of no breach or refer complaints to the First-tier Tribunal, following a local investigation could undermine the Standards Committee. It was noted that Sevenoaks Standards Committee had worked effectively since its creation and had built a high level of expertise. It agreed that it was important to keep powers within the remit of the whole Committee and not push these out to an individual e.g. the Chairman or the Monitoring Officer.

Recommendation 8

The chair or the vice-chair should have a greater role in case management, making the pre-hearing decisions (For example, setting deadlines for responses to documents, deciding which witnesses should be called to give evidence and dealing with applications for an adjournment) with advice from the monitoring officer.

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It was agreed that it was important to keep powers within the remit of the whole Committee and not push these out to an individual e.g. the Chair or the Vice Chair.

Members also discussed some of the surveys on public perception of the Standards regime. It was noted that additional information would be required on the sample of public consultation, specifically on whether they had had any involvement with complaints made under the Code of Conduct.

Resolved: That the report be noted and Members comments for the future be forwarded to the Standards for England.

THE MEETING WAS CONCLUDED AT 8:03 p.m.

Chairman

