

## STANDARDS COMMITTEE

**MINUTES** of a **MEETING** of the **STANDARDS COMMITTEE** held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **9<sup>TH</sup> MARCH 2004**

**PRESENT:** Cllr. Davidson (Vice-Chairman in the Chair for Minute No. 458);  
Mrs C A Vant (Chairman for remaining items) – Independent Member;

Cllrs. Cooling, Hubert, Mrs Larkin, Wickham

Mr D Lyward – Substitute Parish Council Representative  
Mr B N Lowry – Independent Member

In accordance with Procedure Rule 1.2 (iii) Councillor Hubert attended as substitute Member for Councillor Yeo.

**APOLOGIES:** Cllr Yeo, Mr J M G Clarke, Mrs K McNicol

**ALSO PRESENT:** Cllrs. Cowley, Davison, Wells  
Monitoring Officer, Head of Democratic Services, Principal Solicitor (Strategic Development), Member Services Officer.

The Head of Democratic Services reported that Mr J Holborow, one of the Independent Members of the Committee, had resigned from 1<sup>st</sup> March 2004 as he had accepted a voluntary political appointment with a neighbouring Constituency which would debar him from future membership. Members agreed not to consider filling the position of a fourth Independent Member until the future format of the Standards Committee had been reviewed.

### 458 ELECTION OF CHAIRMAN

**Resolved:**

**That Mrs C A Vant be elected as Chairman of the Standards Committee for the remainder of this Municipal Year.**

### 459 MINUTES

**Resolved:**

**That the Minutes of the meeting of this Committee held on the 25<sup>th</sup> June 2002 be approved and confirmed as a correct record.**

### 460 LOCAL DETERMINATION OF CODE OF CONDUCT COMPLAINTS BY STANDARDS COMMITTEE

The Monitoring Officer reported that since June 2003, regulations had been in place allowing the Standards Board's Ethical Standards Officers (ESOs) to refer back to the Monitoring Officer and Standards Committee, determinations of Code of Conduct complaints. These regulations covered the circumstance where ESOs had completed investigations into a complaint and had prepared a report to go back to a Standards Committee or Sub-Committee.

The purpose of the report was to familiarise Members with the procedure for local determination of Code of Conduct complaints, including recommending the adoption of a Pre-Hearing Procedure and a Local Determinations Hearing Procedure.

The Monitoring Officer also highlighted the training session on the conduct of local hearings that would take place on the 24<sup>th</sup> March 2004. He hoped that as many Councillors and Independent Members of the Standards Committee as possible would attend.

The Committee discussed the report and the recent development of further draft regulations from Government, which would lead to more referrals back to the Monitoring Officer for investigation and report to Sub-Committees of Standards Committees. This would bring a whole new dimension to the work of the Standards Committee and the Monitoring Officer, and as yet there had not been time to analyse the considerable implications in any detail. The Chairman, on behalf of the Committee, expressed concern about the extent of additional Officer work required to resource investigation work. The Monitoring Officer confirmed that he had drawn the matter to the attention of Management Team

With regard to the forming of Sub-Committees, Members sought clarification that the role of the Standards Committee itself would not be diminished in any way. The Monitoring Officer confirmed that the Local Government Act 2003 had included provision for such Sub-Committees to be established and that it would in fact be appropriate to do so, in order to hear individual matters, rather than to have hearings before the full Committee. The formation of Sub-Committees consisting of five Members was deemed an appropriate number, however, this would require a complete revision of the current Articles of the Constitution and Terms of Reference and Membership of the Committee.

**Resolved:**

- That**
- (i) the Pre-Hearing Procedure and the Local Determinations Hearing Procedure be adopted.**
  - (ii) the conduct and reporting of the pre-hearing process be delegated to the Monitoring Officer.**
  - (iii) the Committee hear the first three referred matters as full Committee.**
  - (iv) the Head of Democratic Services submit a report to the Selection and Constitutional Review Committee recommending:-**
    - (a) a change to the Terms of Reference of, and Delegations to the Standards Committee to enable it to establish “Borough matter” and “Parish matter” Sub-Committees to hear individual matters.**
    - (b) each of the Sub-Committees referred to in (a) above consist of five Members. Three Borough Councillors and two Independent Members for the determination of Borough matters, and two Borough Councillors, two Independent Members and a Parish Councillor for the determination of Parish matters.**
    - (c) further to (a) above (if approved), the Monitoring Officer be delegated authority to determine the allocation individual matters to individual Sub-Committees.**
    - (d) changes to the Council’s Constitution, the Terms of Reference and Membership of the Standards Committee and the proposed Sub-Committees to reflect the new arrangements.**

**NB: None of the Sub-Committees referred to above have to be politically balanced**

**461 DRAFT GOOD PRACTICE PROTOCOL FOR COUNCILLORS DEALING WITH PLANNING MATTERS**

The Monitoring Officer introduced his report, which included:- the draft Good Practice Protocol; its background; the need for it; its aims and scope; and methods by which compliance should be monitored. The Local Government Association had recommended that there should be a Protocol

dealing specifically with planning matters, so in proposing this draft the Committee would follow good practice.

The Committee considered each page of the report in turn and the Chairman invited Members to raise points of concern and questions for clarification. The following comments were made:-

- The Council could not require Parish Councillors to follow the Good Practice Protocol. If adopted however, all Parish Clerks would be provided with a copy of the Protocol, and it was hoped that they would act in accordance with this and would be recommended to do so, so far as relevant to a Parish Council's position as a consultee rather than a determining authority
- Legal action or a complaint of maladministration could be made to the Ombudsman, for example when a Planning Committee had reached a decision with "biased" Councillors speaking or voting, or if decisions were being made on the basis of party political factors
- In response to a question, the Monitoring Officer clarified that he had written to all Members and Parish Clerks reminding them of the need for all Borough and Parish Councillors to register an interest in any charitable, fraternal organisation of which they were a member.
- Concern was expressed as to the correct protocol for Ward Members who were also Members of the Planning Committee, meeting with Applicants, Objectors etc. Whilst attention was directed to paragraphs (a) and (e) on page 27 of the report, Members were advised to always seek advice at the earliest possible opportunity, as individual circumstances were always different.
- With regard to planning decisions taken against the Officers advice, concern was expressed that Planning Officers were occasionally put in the position of having to establish reasons why Councillors wanted to vote against the Officers advice, when they did not agree with that decision. The Monitoring Officer believed there was a balance to be struck whereby although it was not the role of the Planning Officer to "invent" reasons for doing so, they were the professionals at the Committee to give advice. It was their job to put the genuine views of Councillors into the correct planning language. Members should not be afraid to disagree with a proposal if they felt it appropriate, simply because they could not formulate their reasons for doing so in the correct professional terminology.

**Resolved:**

- That (i) the draft Protocol be approved for further consultation with the Strategic Planning Manager, the Planning Committee and the Executive.**
- (ii) a further report be submitted to this Committee upon the outcome of the consultation.**

**Recommended:**

- That (i) the terms on which Ward Members may request elevation of a delegated planning decision to the Planning Committee be amended, so that the ground for the request is that the Ward Member "Considers the application raises issues of significant local importance".**
- 

(DWS)

MINS: STDX0411