

STANDARDS COMMITTEE

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held in the Council Chamber, Civic Centre, Tannery Lane, Ashford on the **23rd SEPTEMBER 2004**

PRESENT: Cllr. Davidson (Vice-Chairman in the Chair for Minute No. 209);
Mrs C A Vant (Chairman for remaining items) – Independent Member;

Cllrs. Cooling, Mrs Larkin, Wickham

Mr J M G Clarke –Parish Council Representative

Mr B N Lowry – Independent Member

Mr D Lyward – Parish Council Representative

Mrs K McNicol – Independent Member

ALSO PRESENT: Monitoring Officer, Deputy Monitoring Officer, Head of Democratic Services, Head of Corporate Governance, External Relations Manager, Senior Member Services Officer.

209 ELECTION OF CHAIRMAN

Resolved:

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

210 MINUTES

Resolved:

That the Minutes of the meeting of this Committee held on the 9th March 2004 be approved and confirmed as a correct record.

211 GOOD PRACTICE PROTOCOL FOR COUNCILLORS DEALING WITH PLANNING MATTERS (Minute No 461/03/04 refers)

The Monitoring Officer advised that consultation had taken place with the Strategic Planning Manager, the Planning Committee and the Executive. A proposed final document, which incorporated some minor textual changes and now included a short section on planning obligations, was presented to the Committee for approval.

In response to a question, the Monitoring Officer advised that all Members had been given the opportunity to attend training on the Code of Conduct. Specific training had not been provided on the planning protocol, although training had been available to Members on issues associated with the Planning Committee and probity issues. Statistics on attendance levels were not available at the meeting.

A Member referred to Planning Committee meetings where the Committee wished to make a decision that was different to the Planning Officer's recommendations. For example, the advice was to permit, yet the Committee wished to refuse the application. He asked whether this put the Planning Officers under undue pressure at the meeting to find an alternative recommendation. The Monitoring Officer referred to the provisions of the Constitution which were mentioned in the protocol to defer a decision to the following meeting in those circumstances (although there were some exceptions) and referred to section (h) on page 12 of the report. He was not aware that the Planning Officers were placed under any intolerable pressure, and was confident that they would advise the Committee if they believed further information was required before a decision should be taken.

In response to a suggestion, the Monitoring Officer was reluctant to summarise the protocol document for Parish Councils, as it was important for Parish Councillors to be aware of the content of the whole document.

In respect of the protocol for Ward Members to request that a planning decision be made by the Planning Committee instead of by an Officer under delegated powers, the Monitoring Officer explained the reason why the Constitution had already been amended and adopted by the Council so as to ensure that such requests related to 'issues of significant local importance'. This directly affected Ward Members rather than Parish Councillors. It was suggested that this could be an item for the next Parish Forum meeting on the 26th October 2004.

The exact figures on the percentages of planning decisions that were upheld on appeal were not available, however, the Monitoring Officer believed the current figure to be significantly higher than 10 years ago. There was no third party right to appeal planning decisions and in his opinion, this was not contrary to human rights.

Recommended

- That (i) the good practice protocol for Councillors dealing with planning matters be approved and adopted**
- (ii) subject to (i) above, the protocol be provided to all Parish/Town Councils who should be encouraged to comply with its provisions.**

212 LAND OWNERSHIP INTERESTS AND ASHFORD'S FUTURE DEVELOPMENT

In view of the ongoing Masterplanning work in relation to Ashford's Future, the Monitoring Officer had written to all Councillors and Parish Clerks to remind them about their Council's Code of Conduct and the need to be alert to possible conflicts between this work and their personal interests. A copy of the letter was attached to the report.

The letter had generated some lively responses. The Monitoring Officer reported that he was in the process of advising 3 Parishes. Two Borough Councillors had been advised that they had a sufficient personal interest in the growth of Ashford and had been advised not to take part in certain discussion forums.

The Monitoring Officer clarified that the letter was aimed at Councillors who had a personal interest beyond their views on a particular development, eg owning land that may be under consideration for development or a proposed development close to their own dwelling.

Resolved:

That the information report be noted.

213 SUMMARY OF ALLEGATIONS OF MISCONDUCT MADE TO STANDARDS BOARD FOR ENGLAND

The Monitoring Officer reported details of allegations of misconduct made against Borough and Parish Councillors within the Borough which the Standards Board for England had either (a) investigated and determined or (b) chosen not to investigate. These were set out in a table attached to the report.

The Monitoring Officer advised that personal details of the case in part (a) of the table had been included, as they would be available on the Standards Board's website. The cases in part (b) did not include personal details as it would be inappropriate to do so. There were 3 outstanding Parish or Town Councillor cases, which were the subject of ongoing investigations, and these would be reported to the Committee once a decision had been made.

In response to a question as to the likelihood of the 3 outstanding cases being referred back for local determination, the Monitoring Officer advised that this was unlikely for the first 2 cases. Regulations were still awaited on referring whole cases back for local investigation.

Resolved:

That the information report be noted.

214 REPORT ON LOCAL GOVERNMENT OMBUDSMAN COMPLAINTS

The External Relations Manager reported summaries of complaints where the Ombudsman had made a ruling against the Council, either with an official report, or under the terms of 'local settlement'. In line with the Local Government Ombudsman's standards and the Council's own recommended practice on customer care, the summaries had been made anonymous so that neither the complainants nor the sites could be identified. No issues of probity had been raised.

14 other complaints had been made to the Ombudsman since April 2004 – 6 had been rejected on the grounds of 'no or insufficient evidence of maladministration' and one on the grounds of 'Ombudsman's discretion'. Two were 'premature complaints' and 5 complaints were outstanding. Details of those complaints would be reported to the Committee once a decision had been reached.

In response to a question the External Relations Manager advised there was an upward trend in the number of complaints and gave details on the numbers of complaints in certain years.

In respect of the case where the Ombudsman had ruled 'maladministration with injustice' it was clarified that this meant that the Council had not followed its internal processes and procedures correctly, and as such injustice had been caused. This particular case dated prior to 2000, since then the Council had employed 2 dedicated enforcement officers.

In response to a question concerning the Private Sector Housing Complaint, the External Relations Manager advised that the Ombudsman had made recommendations that the responsibilities of 'Care and Repair' and the Council were clearly defined. The Housing Manager was dealing this with recommendation.

In response to a query concerning the number of complaints received and on how Ashford compared with other local authorities, the External Relations Manager explained that this information could be made available to the Committee. The national trend for complaints was increasing and in comparison to other authorities, the number of complaints against Ashford Borough Council was around the average.

Resolved:

That the report be received and noted.