

STANDARDS COMMITTEE

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held in Council Chamber, Civic Centre, Tannery Lane, Ashford on the **6th FEBRUARY 2008**

PRESENT: Mrs C A Vant (Chairman);
Cllr Packham (Vice-Chairman);

Cllrs. Mrs Blanford, Honey, Mrs Laughton, Wood
Mr R Butcher, Mr D Lyward - Parish Council Representatives
Mr J Dowsey, Mr M V T Sharpe – Independent Members.

APOLOGY: Mr A P Mobbs.

ALSO PRESENT: Monitoring Officer, Member Services and Scrutiny Support Officer.

448 **MINUTES**

Resolved:

That the Minutes of the meeting of this Committee held on the 4th December 2007 be approved and confirmed as a correct record.

449 **CONSULTATION ON ORDERS/REGULATIONS RELATING TO THE CODE OF CONDUCT OF LOCAL AUTHORITY MEMBERS**

The Monitoring Officer introduced the report and explained that the Consultation Document from Central Government needed a response by the 15th February 2008. His suggested responses were set out in italic in the report, the questions being in bold type. Refresh training would be given in 2008 as many functions would transfer from the Standards Board for England (SBE) to the Monitoring Officer and the Standards Committee. The Consultation set out the principles, although some issues had not been dealt with at all, and the Monitoring Officer believed these would be subject to further consultation. The Consultation had originally been sent to the Chief Executive and the Monitoring Officer would reply on behalf of the Committee with any references to the first person being changed to the Standards Committee.

The Chairman thanked the Monitoring Officer for the report and suggested that the Committee considered each of the questions and the suggested responses in turn.

Q1. Does our proposal to prohibit a member who has been involved in a decision on the initial assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

Response to Question 1 agreed.

Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

A Member suggested an alternative response allowing the first complainant to which the first complaint was made having jurisdiction as the most appropriate body to which the complaint applied. The Monitoring Officer suggested that the first authority may hold a different view from the second authority and the Member suggested that difficulties could be avoided if both authorities could avoid taking different views.

Response to Question 2 agreed subject to addition of the following: 'An alternative approach may be to have jurisdiction rest with the first authority to which the complaint was made'.

Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

The Monitoring Officer advised in response to a question, about 20 days not being sufficient, that the SBE operated well below that standard at 6 – 8 days and whilst it was only a guideline to press for anything more generous may be unrealistic.

Response to Question 3 agreed.

Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

A Member expressed concern about this question as fairness required that a person was given notification at the earliest possible time. The Member did not agree with the circumstances given in the bullet point examples that were covered by criminal law/other regulatory regimes. The Member gave his view that notification ought to be before the investigation started in all circumstances. Further discussion ensued about the Committee's response to the SBE and views were expressed about:- not delaying beyond the start of the investigation; parts of the investigation being conducted before notifying the Councillor; talking to the parties and finding that the investigation did not need to be pursued; and an overriding need for fairness. The Monitoring Officer agreed to amend the response on behalf of the Committee.

Response to Question 4 agreed subject to inclusion of the following: 'Whilst the principle of making provision for deferring notification in exceptional cases of the nature described in the consultation is understood, the overriding principle should be one of fairness and notification should be at the earliest practicable stage. Delaying notification until after the commencement of an investigation (which would need to include interviews with all parties in any event) sits uneasily against this principle. It is also doubtful whether a data subject request by the member against whom the allegation has been made could be resisted'.

Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

A Member strongly supported the Monitoring Officer's suggested last paragraph in response to this question in that further misconduct was in his view beyond the remit of the Committee. He also commented on the role of the Monitoring Officer as one of Investigator/Mediator/Conciliator and proposed the two latter roles be wrapped into one as conciliation may lead to a solution. The Monitoring Officer explained that he did not envisage himself or any single Officer undertaking both functions, and he would continue to advise the Standards Committee (as long as he was not conflicted out) and investigations would be carried out by another Officer appointed by the Monitoring Officer as at present. He also added that he was not a trained mediator and some external expertise may be needed in certain types of case.

Response to Question 5 agreed.

Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?

The Monitoring Officer advised in response to a question that the Disqualification Rule did not apply to six months suspension or partial suspension from office. A Member was concerned that a case returned to the Adjudication Panel might be returned to the local Standards Committee that could only hand out a lower level of punishment so the Councillor in their view would be under punished or the case might go back and forth between the two organisations and lost in limbo. The Monitoring Officer agreed to include this with the Committee's response.

Response to question 6 agreed subject to inclusion of the following: 'It is noted that it is proposed to provide that the Adjudication Panel may refuse to accept a referral from a Standards Committee eg: where it does not consider the matter would attract a greater sanction than is available to local Standards Committee. This power to refer back to Standards Committees should be used sparingly and within clear guidelines to avoid creating situations where Standards Committees consider they are being forced into applying sanctions they believe are too lenient'.

Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

The Monitoring Officer advised that "independent" meant independent of the Council, so it could not be a Member or Officer of Ashford Borough Council, nor another District Council, County Council, Fire Authority etc. There could be difficulty if the three posts could not be filled. Chairmen could not be "borrowed" from another Council unless there were agreed joint arrangements.

Response to Question 7 agreed.

Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Response to Question 8 agreed.

Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

A Member suggested deletion of some words in the suggested response as successful appeals did not necessarily equate to good decision making. Another Member supported this on a different basis.

Response to Question 9 agreed subject to deletion of the words: '...although may be a disproportionate number of successful appeals against a Standards Committee's decisions might also be an appropriate criterion'.

Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

The Monitoring Officer in response to a question about insurance advised that Borough Councillors could be indemnified (with strict rules) against complaints but Parish Councils would need to consider their own arrangements for indemnities.

Response to Question 10 agreed.

Q11. Would you be interested in pursuing joint working arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Response to Question 11 agreed.

Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

Response to Question 12 agreed.

Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

A discussion ensued about Ethical Standards Officers being able to withdraw references to the Adjudication Panel and the Monitoring Officer clarified that this was not because the original investigation had been less than thorough but because of "further evidence emerging" for example.

Response to Question 13 agreed.

Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Response to Question 14 agreed.

Q15. The ABC Standards Committee expressed no view on Q.15.

Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Response to Question 16 agreed.

Resolved:

- That (i) the Council responds to the consultation by submitting the “Suggested responses” as amended to Communities and Local Government by the 15th February 2008.**
- (ii) the Monitoring Officer submits a further report to the Committee, when further regulation and guidance is available, to finalise constitutional arrangements for undertaking the various functions through an appropriate panel or sub-committee structure.**

MINS: STDX0706