

## Position Paper (Final)

- I. Ashford Borough Council (ABC) Standards Committee - how we handle Panels now
- II. Legal Constraints - the 2008 Regulations and Guidance
- III. Suggestions for Future Improvements

### Standards Committee Current Procedures

1. ABC Standards Committee members last received formal training in the 'Local Filter' mechanism at a training session entitled '**Handling Standards Complaints**', delivered by Peter Keith-Lucas on 6.2.08.
2. Although most of that day was dedicated to the law and practice of 'hearings', one exercise simulated the 'Local Filter' function. This concentrated on application of the Code of Conduct to various scenarios, rather than the constitutional basis of what have now become 'Assessment Panels'. Those who were there may remember, or may have taken notes.
3. Unfortunately this training was based on consultation documents available up to February 2008. It took no account of the actual Regulations (commencement date 8<sup>th</sup> May 2008) nor of the Guidance issued by the Standards Board for England (SBE) dated 10<sup>th</sup> August 2008.
4. There is therefore a need for Standards Committee Members to keep abreast of the current position. This will be particularly apposite if SC Members are serving on an Assessment, Hearing or Review Panel for the first time.
5. The current Monitoring Officer Protocol was tabled before the Standards Committee on 28<sup>th</sup> July 2008. It envisages Panels meeting monthly to deal with the flow of complaints (no Panel if there are no complaints recently received) The Panels draw their membership from Standards Committee Members of the three categories - Independent, ABC Elected Members, Parish Members.
6. It also denotes the Panels as Sub Committees of the Standards Committee, and to this end appears to fit them within Part 5A of the Local Government Act 1972 (as considerably amended). Under this Protocol the Sub-Committees therefore are supposed to publish notice of meetings and agendas, table reports summarising the business of the Panel, abide by the public access provisions of Part 5A, and produce minutes of proceedings, among other things.
7. Since I chaired an Assessment Panel on Tuesday 25<sup>th</sup> August 2009, I came up against the vexed question of the legal basis of public access to ABC meetings, and whose decision it rightly is to exclude the public from Assessment Panels.
8. This is partly why I have put down my thoughts and conclusions in writing, to settle such questions for future occasions.

### Legal Constraints

- A. The Standards Committees (England) Regulations 2008 is the Statutory Instrument prescribing a comprehensive system of operating Panels and Standards Committees. Some of its paragraphs are carried forward from the earlier 2002 Regulations, but the 'Local Filter' is dealt with fully and, to my mind, exhaustively.
- B. The key point is that Regulation 8(5) disapples the whole of Part 5A of the Local Government Act 1972 from the Assessment Panel procedure.
- C. There are thus explicit reasons for my position of taking Assessment Panels outside the established and familiar framework of ABC Sub-Committees / Committees.
- D. To quote the SBE Guidance:
- a. *"Initial assessment decisions, and any subsequent review of decisions to take no further action on a complaint, must be conducted in closed meetings. These are not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.*
  - b. *"Such meetings may have to consider unfounded and potentially damaging complaints about members, which it would not be appropriate to make public. As such, a standards committee undertaking its role in the assessment or review of a complaint is not subject to the following rules: **rules regarding notices of meetings; rules on the circulation of agendas and documents; rules over public access to meetings; rules on the validity of proceedings**"*
- E. These points are amplified by the 'Explanatory Note' at the back of the 2008 Regulations in relation to Regulation 8.

### Suggestions for Efficiency

As a Member of the Authority, I can appreciate that running extra Sub-Committees, with agendas, minutes and officer time writing exhaustive reports, has already added to expenditure under the Local Filter machinery.

- i. I suggest that the solution is in the Authority's hands: to service the Panels minimally, so that the 'deliverable' of a short meeting of 5 persons is no more than the 'written summary' of Regulation 8 (5) (c). This 'written summary' takes the place of 'minutes', and is bound by certain procedures as to who should receive it at what stage. It could feasibly be published on the ABC website instead of the current 'minutes'. Likewise the Officer time on 'pre-assessment reports and enquiries' may be strictly limited to the matters specified on page 10 of the Guidance.
- ii. Further efficiency would, I suggest, follow from encouraging all members who are likely to serve on the Panels to acquaint themselves with the training materials and guidance on the Standards for England website. I should like to offer a 45-minute session of group discussion of these training materials at the formal conclusion of this Committee meeting.

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