

STANDARDS COMMITTEE

18 DECEMBER 2009

REPORT OF MONITORING OFFICER COMMENTING ON "POSITION PAPER" DATED 26 OCTOBER 2009 SUBMITTED BY INDEPENDENT MEMBER MR MIKE SHARPE

Mr Sharpe's paper raises three separate points which I comment on below:

A. Training

1. Although training undertaken in 2008 took place prior to finalisation of Regulations and detailed Guidance, the format and content of the training was and remains relevant to the implemented assessment and review procedures. I agree that members viewing and discussing the purpose-made Standards for England training DVD would be a useful exercise to supplement the earlier training and subject to availability this could be done following the meeting on the 18th or perhaps at some other convenient time when all Standards members can attend.
2. Although Mr Sharpe's paper refers to the original proposal to diarise monthly Panel meetings, on further reflection it was decided that this would be an inefficient and unnecessary step because it would have entailed holding many dates in the diaries of every member when only 3 would be needed (if at all) and then cancelling many of the meetings where no business had arisen. In practice the ad hoc meetings approach has proved perfectly practical and no problems have been experienced in arranging such meetings.

B. Public Access to Assessment and Review Panel Meetings

3. Mr Sharpe's paper correctly refers to the provisions of Regulation 8 of the Standards Committee Regulations 2008 which disapplies the provisions of Part 5A of the Local Government Act 1972. This means, for example, that the provisions of the 1972 Act conferring the public right to attend meetings is removed. It is not however a bar to the public attending these meetings. This is why the SBE Guidance accurately quoted by Mr Sharpe ("assessment decisions and any subsequent review..... must be conducted in closed meetings") is legally incorrect. I have raised the matter with SBE's legal department (over the telephone "helpline") and they confirmed to me that "this was a part of the Guidance we did not need to have regard to" because it was written at a time when the consultation papers assumed that closed meetings would be a requirement. Unfortunately the Guidance was never amended to reflect the final form of the Regulations but I was told this would be done in due course. This was explained to Mr Sharpe by the Deputy Monitoring Officer at the Panel meeting in August.
4. The correct legal position on public access to meetings (in the absence of the statutory provisions in the 1972 Act) is that the Panels retain a discretion to allow public access and therefore must make a formal decision at each meeting. This is because the common-law position (acknowledged as long ago as the Admission of Press to Meetings Act in 1908) is that nothing prohibits a local authority from admitting the public to its meetings. This legal position is properly reflected in the

agenda for each Panel meeting which invites the Panel "to consider whether the public should be excluded from the meeting".

C. "Suggestions for Efficiency"

5. Mr Sharpe suggests that officer reports to Assessment and Review Panels are unnecessarily "exhaustive" and that Panels should be "served minimally". I disagree. I do not intend to produce reports which fail to deal as fully as necessary with all relevant matters. Indeed I recently met with a senior Standards for England director and investigator at Ashford (to discuss general issues on the local filtering arrangements) and they were provided with copies of our assessment reports. They described them as "at the upper end" of what they have seen from Monitoring Officers up and down the country in terms of quality. So it would be most unfortunate if the Committee wished to sacrifice that quality. I have also had the opportunity of letting the former Chair of the Standards Board for England (Patricia Hughes) see and comment on the extent and quality of ABC reports to Panels and she was also extremely complementary.
6. I would also suggest to Members that a serious potential disadvantage of producing "minimal" reports to Panels could result in more cases being referred for investigation as Members would have less information at the first stage. This strategy of "front loading" is undoubtedly more time consuming for the Monitoring Officer, but it does save work at a later stage and could avoid the enormous expense of Investigations and Hearings in some cases.
7. Procedures to produce minutes and summaries of Panel decisions are already in place and consume minimal staff resources. The former are placed on the web, the latter are not and do not need to be. All meetings of Council committees, sub-committees, panels etc have formal minutes, even if their decisions also give rise to the need for notices or other forms of decision. There is no need to combine these outputs and in effect create a different system just for these panels. No material benefit would be derived from doing so in any event.

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