

Standards Committee

Friday, 8 February 2008

Present: Mr Ellwood (Independent Chair), Councillor Alan Cain (Vice-Chair) and Councillors Judith Boothman, Keith Iddon and Thomas McGowan

Officers in attendance: Andrew Docherty (Director of Governance - Monitoring Officer), Carol Russell (Head of Democratic Services) and Ruth Hawes (Assistant Democratic Services Officer)

Also in attendance: Alan Cornwell (Reserve Parish Council Member)

08.S.01 WELCOME TO HEAD OF DEMOCRATIC SERVICES

The Chair welcomed the new Head of Democratic Services, Carol Russell.

08.S.02 APOLOGIES FOR ABSENCE

Apologies for absence were submitted on behalf of Mrs Joan Geddes (Parish Council Member) and Reverend John Cree (Independent Member). The Committee sent their best wishes to Reverend Cree.

08.S.03 DECLARATIONS OF ANY INTERESTS

There were no declarations of interest by Members relating to the items on the agenda.

08.S.04 MINUTES

RESOLVED – That the minutes of the meetings of the Standards Committee held on 30 November 2007 be confirmed as a correct record and signed by the Chair.

The Committee noted that the two Parish Council's discussed at the last meeting had now confirmed their adoption of the revised code of conduct.

08.S.05 CONSULTATION ON ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND

The Committee considered the consultation paper from the Department for Communities and Local Government enclosed with the agenda. The paper sought views on the detailed arrangements for putting into effect the orders and regulations to provide a revised more locally-based ethical regime for the conduct of local Councillors in England.

Q1. Does our proposal to prohibit a member who has been involved in a decision on the 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?

Yes, it provides an appropriate balance. The three sub-committees would be workable on that basis. The Committee though was strongly of the view that the Guidance should support Monitoring Officers taking a proactive approach to liaising with complainants and Members to see whether complaints can, in appropriate cases, be resolved without being referred to the Committee.

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?

It is not clear how practically two standards committees would go about reaching such an agreement - particularly in a more difficult case. Inevitably there would be delay if each Committee has to meet to consider the view of the other. The alternative would be to attempt to hold separate meetings simultaneously in a single venue. It may well be more practical for the decision to be delegated to the Monitoring Officers involved. Alternatively it might be that cases involving dual hatted Members would be best retained by the Standards Board for filter and allocation.

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 Committee agreed that this should be a matter for guidance and agreed that the aim should be to make decisions as quickly as possible with 20 working days generally being a reasonable target. However at certain times, e.g. elections it would be difficult to meet this target and that should be acknowledged in the Guidance. It would be preferable not to have a statutory time limit.

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?

The Committee felt that Councillors should generally know as soon as possible if an allegation has been made against them and be provided with a summary of that allegation. However, the Committee also agreed that the circumstances set out in the consultation paper would justify a decision not to provide such a summary until sufficient investigation had been undertaken.

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?

The circumstances set out may merit a case being referred back to the standards committee. There was though no strong feeling that these circumstances needed to be prescribed in Regulations.

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?

Yes, the sanctions should be increased. An increase to six months suspension or partial suspension would be sufficient.

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 Committee agreed that having independent chairs represents best practice. However, the Committee felt that it would be preferable at this time for Guidance to recommend this rather than for it to be prescribed. The Committee had some concern that when recruiting new independent members the number of potential candidates would be reduced if there was a requirement that they should have chairing skills and experience. The Committee also questioned whether a new independent member with limited experience of the role should take on that chairing responsibility in any event.

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?

Yes, confidentiality should be preserved.

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?

The criteria set out in the consultation document were considered to be sensible.

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 principle that the local authority whose Member is being complained against should be responsible for the costs of dealing with that complaint clearly has merit. However, these new responsibilities ought to be full funded in the first place.

Q11. Would you be interested in pursuing joint 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?

The Committee would be interested in discussing joint working and, indeed such discussions are already happening within Lancashire. The Committee does have experience of using a legal adviser from a neighbouring local authority, but have had no experience of sharing Standards Committee members. The Committee considered a parish representative from any parish within a joint committee's area would satisfy the requirement.

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?

Yes, the Adjudication Panel should have the powers which are available to the Standards Committee.

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?

Yes, in the circumstances described.

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?

Yes the Committee has made a decision under the dispensation regulations. In that case 50% of the membership of Council were affected by the particular matter and the Committee did not therefore feel constrained by the regulations. However, if the situation had been that only one or two fewer Members had shared the interest then the political balance of the meeting could have been affected. Such a situation is plainly unacceptable and the Committee welcomed this overdue proposal to reform the law.

Q15. Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

No comment.

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

The Committee questioned whether any meaningful consideration could be given to consultation responses in time to allow regulations to be implemented by the 1st April. There seems to be no rational basis for choosing that date given that many Councils have elections in May and that most will be reappointing Standards Committees at annual meetings to be held in that month. The Committee indicated that it would welcome the production of early Guidance but felt that more time should be given to allow decisions to be made about joint working and to allow for the recruitment of new independent members.

RESOLVED – That the comments be submitted to the Department for Communities and Local Government by Friday 15 February 2008.

08.S.06 THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 - ARRANGEMENTS FOR CHORLEY

The Committee considered the arrangements for Chorley arising from the Local Government and Public Involvement in Health Act 2007.

RESOLVED – That the number of independent and parish members on the Committee be increased.

08.S.07 LANCASHIRE STANDARDS CONFERENCE

The Committee noted that the Lancashire Standards Conference would be held on 31 March at Woodlands Conference Centre, Chorley. All members of the Committee were invited to the event with the main issue on the agenda being the potential for joint working across the authorities in Lancashire. Members would confirm their attendance to the Democratic Services Officer.

RESOLVED – That members of the Committee and relevant officers attend the Conference and feed back to the next meeting.

08.S.08 FEEDBACK FROM VISITS TO PARISH COUNCILS

Members updated the Committee on visits to Parish Councils and noted that most of the visits were planned for the next few months. There was a query in relation to Anglezarke Parish Council that would be investigated by the Monitoring Officer.

RESOLVED – That the update be noted.

08.S.09 WORK UNDERTAKEN TO PROMOTE THE CODE OF CONDUCT

Officers advised that the two Parish Council's who hadn't notified the Council that the revised code of conduct had been adopted had been chased up, along with outstanding financial and other interests forms and confirmation of the names of parish councillors.

A training session was held on 14 January entitled "ethical decision making". The handouts were sent to Members who didn't attend and the presentation had been uploaded to the loop and sent to all Parish Council clerks. Several clerks have been in contact since to request the presentation electronically.

RESOLVED –

- 1. That the update be noted,**
- 2. That copies of the flow chart on interests from the "ethical decision-making" be sent to the Standards Committee mentors to be distributed to their respective Parish Councils.**

08.S.10 THE NUMBER OF ANY ALLEGATIONS REFERRED TO THE STANDARDS BOARD SINCE THE LAST MEETING

2.

08.S.11 THE NUMBER OF ANY ALLEGATIONS REFERRED BACK TO THE MONITORING OFFICER WHERE THERE IS NO FURTHER ACTION TO BE TAKEN

1.

08.S.12 BRIEF RESUME OF DETAILS REGARDING ANY ALLEGATIONS REFERRED BACK TO THE MONITORING OFFICER WHERE ACTION IS TO BE TAKEN EITHER BY THE COMMITTEE OR MATTERS BEING REFERRED TO THE ADJUDICATION PANEL

The Standards Board were satisfied with the training undertaken in respect of the determination hearing held in March 2007.

08.S.13 NEWS FROM THE STANDARDS BOARD/ADJUDICATION PANEL

This was taken as item five on the agenda.

08.S.14 STANDARDS COMMITTEE WORK PROGRAMME

The Committee considered the work programme and noted there was a need to be flexible with the work programme until the Regulations were published.

RESOLVED – That the work programme be noted.

08.S.15 DATE OF NEXT MEETING

The meeting scheduled for 6 March 2008 had been cancelled. The meeting would be held on 28 March 2008 at 10.00am.

Chair