

MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE HELD IN
ROOM 27, WALLFIELDS, HERTFORD
ON TUESDAY, 12 APRIL 2005 AT
7.30 PM

PRESENT:

District Council Members:

Councillor J Warren (Chairman).
Councillor A L Burlton.

Parish Councils' Representative:

Mr B Taylor

Independent Members:

Mr J Morphew, Mr A Walker

OFFICERS IN ATTENDANCE:

Simon Drinkwater	- Assistant Director (Law and Control)
Jeff Hughes	- Head of Democratic Services

716 APOLOGY

An apology for absence was submitted on behalf of Councillor M Wood and Mrs E Woods.

717 CHAIRMAN'S ANNOUNCEMENTS

The Chairman advised that Mrs E Woods, the Town Councils' representative on the Standards Committee, had suffered a fall this morning. The Chairman, on behalf of the Committee, extended best wishes to Mrs Woods for a speedy recovery.

The Chairman reported that, although it had been some time since the last meeting of the Committee, Officers had been working “behind the scenes” on a number of issues. For example, the Monitoring Officer had been reviewing the procedure for local investigation of standards complaints. The outcome of that review was before the Committee at this evening’s meeting for consideration.

The Chairman reported that in September 2004 he had attended the annual conference of the Standards Board. One of the main themes emerging from that conference was the need for code of conduct complaints to be processed more speedily by the Standards Board. The Board was actively pursuing this goal.

The Chairman highlighted the importance of having independent Members on the Council’s Standards Committee. He thanked those Members for their work.

RECOMMENDED ITEM

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718 LOCAL INVESTIGATION OF STANDARDS COMPLAINTS

The Monitoring Officer submitted a report advising that, under new statutory regulations, the Standards Board for England was able to refer complaints of Council misconduct to the Monitoring Officer of a relevant local authority for local investigations.

The Committee recalled that, previously, complaints of Council misconduct were investigated by an Ethical Standards Officer of the Standards Board before being referred for determination to a local authority’s Standards Committee.

The Monitoring Officer advised that the Standards Board had published guidance as to how local authorities should arrange for the conduct of such local investigations.

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The Monitoring Officer commented that, effectively, the latest regulations enabled the Standards Board to refer less serious complaints to relevant local authorities in order for them to be dealt with promptly.

The Monitoring Officer detailed the implications of the regulations and invited the Committee to consider a model procedure for local investigations and an amended procedure for local standards hearings.

The Committee considered the proposed procedure for local investigations in detail.

The Monitoring Officer suggested that Council be recommended to meet the cost of any local standards complaints investigations from its existing budget (including investigations in respect of Town/Parish Councillors within the District).

The Committee noted that the Monitoring Officer would remain as Chief Policy Advisor and the primary contact for Councillors who had enquiries on standards issues. The role of the Monitoring Officer was incompatible with that of the Investigation Officer. Accordingly, the Monitoring Officer would need to appoint another person to undertake investigations.

The Committee noted that an Investigating Officer would be required to produce a full report, setting out their conclusions as to the facts of the matter and whether or not the Councillor did or did not fail to comply with a code of conduct. An area of concern to any Investigating Officer would be the risk of a defamation claim from a Councillor or any other person mentioned in the report. Whilst the likelihood of such a claim was low, if each Investigating Officer had to take out their own legal cost insurance, it would push up their fees considerably.

The Committee supported the Monitoring Officer's

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suggestion that the Council should grant an indemnity against the legal costs of defending any such claims made against an Investigation Officer and any damages that may be awarded.

The Monitoring Officer outlined occasions when it would be appropriate for another legal officer to act as a legal advisor to the Standards Committee. On such occasions, it was likely that an advisor from a neighbouring local authority or a private practice solicitor would be engaged for this purpose. The financial implications in such cases would need to be addressed as and when necessary.

The Committee noted that the Standards Board had recommended that the Monitoring Officer, on receipt of a referred complaint, should notify the Members of the Standards Committee in a confidential memorandum that they were conducting an investigation. They should not inform them of the identity of the Member or the complainant in order to avoid any risk of prejudicing any subsequent hearing. The Committee agreed that it would not wish to be notified in the manner recommended by the Standards Board and that the proposed procedure for local investigations should be amended accordingly. In considering the proposed procedure, the Committee agreed a further amendment to Section 10 to clarify that the narrative thereunder (and also in the heading) related to the process to be followed if a Councillor had “additionally” failed to follow the code of conduct.

The Committee also corrected a number of grammatical errors within the proposed procedure.

In response to a question from a Member, the Monitoring Officer advised that there was no statutory time limit for an Investigating Officer to complete their investigation and report. Clearly, the length of time taken for an investigation depended on the nature of the complaint.

ACTION

The Committee agreed to recommend that the procedure for local investigations, as set out in the Appendices to the Monitoring Officer's report and as now amended, be approved.

RECOMMENDED – that (A) the cost of local investigations of standards complaints be met from existing budgets, **ALC**

(B) an indemnity be provided to Investigating Officers against any claims for defamations and that the Council insures such risks, and **ALC**
AFS

(C) the procedure for local investigations set out in the Appendices to the report now submitted, and as now amended, be approved. **ALC**

RESOLVED ITEMS719 MINUTES

RESOLVED – that the Minutes of the meeting of the Standards Committee held on 9 June 2004 be confirmed as a correct record and signed by the Chairman.

720 CASE SUMMARIES AND RECENT DEVELOPMENTS

The Monitoring Officer submitted a report detailing case summaries issued by the Standards Board for England in relation to District/Town/Parish Councillors that were within the remit of the Committee.

The Committee noted that, since its last review of such cases in October 2003, there had been a further three cases within the District.

The Committee noted the case summaries now submitted.

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The Monitoring Officer also reported on two important court cases, namely:

- Brendon Murphy -v- the Ethical Standards Officer of the Standards Board for England (2004), and
- Regina -v- Standards Committee and also the District Council (2004).

The Monitoring Officer advised that the former of these cases provided an important interpretation of “well-being” which should assist Members in deciding the nature of any interest they may have in any matter. In relation to the second case, the ruling confirmed the importance of proceeding expeditiously when cases were referred to a Standards Committee.

The Monitoring Officer reported that the Standards Board had experienced delays in conducting and concluding investigations, largely as a consequence of staffing difficulties and an exceptional volume of complaints received from Parish Councils in particular. In future, it intended to focus only on the most serious allegations of misconduct with the introduction of a more rigorous referral process. It was hoped that this would ensure that only allegations concerning the most serious behaviour, with the potential to damage the reputation of Local Government, were considered for investigation.

The Monitoring Officer advised on the “rules” that would be applied in order for an allegation to be considered for investigation. If all of the rules now detailed were satisfied then further criteria would be applied to determine the nature of the investigation.

The Committee agreed to receive the report on this matter.

RESOLVED – that the report be received.

721 INDEMNITIES FOR MEMBERS AND OFFICERS

The Monitoring Officer submitted a report advising that Members and Officers of the local authorities could incur personal civil and criminal liability as a result of their actions, both within the Authority and as a result of their actions carried out on behalf of a wide range of outside bodies.

The Committee noted that Members and Officers enjoyed statutory immunity from civil liability where they acted within the powers of the Authority in good faith and without negligence. This immunity did not, however, apply where they went beyond the powers of the Authority or acted in bad faith or negligently. Where acting on outside bodies to which they may have been appointed by the Authority, the statutory immunity referred to did not protect such appointees from criminal liability as a consequence, for example, of fraud or a corporate killing where they exercised managerial responsibility.

The Monitoring Officer advised that local authorities had a broad power to give officers an indemnity against such liabilities as part of their terms and conditions of employment. Members had no such contract of employment and the ability of the Authority to grant such an indemnity to Members had so far rested on a single court judgement which only covered the instance of an authority agreeing to underwrite a Member's legal costs being represented before an external auditor.

The Committee noted that the Government had recently introduced new statutory regulations which gave a specific power for authorities to grant indemnities and/or to take out insurance, to cover the potential liability of Members and Officers in a wide range of circumstances. It was up to each authority to decide whether or not to grant such indemnities or to take out such insurance and to decide the extent of such indemnities and insurance.

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The Committee noted the range of powers now available to the Authority and the Monitoring Officer's recommendations in relation to the terms of such indemnities and insurance as detailed in the report now submitted. The Committee made a number of grammatical corrections to the proposed terms of indemnity.

The Committee further noted that, in relation to potential breaches of the code of conduct for Members, the power to grant an indemnity now detailed by the Monitoring Officer applied only to Members of the District Council. Members of Town and Parish Councils who might be subject to investigation by the Monitoring Officer and the Standards Committee would need to seek an indemnity from their own authority.

In response to comments from Members, the Monitoring Officer undertook to advise all Councillors, through the medium of the Members Information Bulletin, of the issues now detailed in relation to a potential conflict between their role as a Member of the Authority and any role as a Trustee.

The Monitoring Officer clarified that an indemnity would be sought for Members for their own errors or omissions based on advice not only from officers but also external consultants.

The Monitoring Officer stated that Members' failures to comply with the Council's other protocols/codes (for example the planning code conduct) could be not indemnified.

The Committee agreed that the Executive should be requested to recommend Council to grant an indemnity to Members and to Officers of the Authority in the terms set out in the Appendix to the report now submitted and as now amended and instruct the Assistant Director (Financial Services) to seek to secure insurance to cover the Authority's liability under this indemnity (insofar as he was

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of the opinion that such insurance would be financially prudent and insofar reasonable cover was available). The Committee clarified that it felt that the Authority should not indemnify the costs of pursuing a defamation action.

The Committee also agreed to request the Executive to recommend Council to confirm that appointment to a position with an outside organisation, which comes within the indemnities now detailed, should be treated as an appointment as a representative of the Authority for the purposes of the code of conduct for Members.

RESOLVED – that the Executive be requested to recommend Council to (A) grant an indemnity to Member and to Officers of the Authority in the terms set out in the Appendix to this report (as amended) and instruct the Assistant Director (Financial Services) to seek to secure insurance to cover the Authority's liability under this indemnity, insofar as he is of the opinion that such insurance would be financially prudent and insofar reasonable cover is available,

ALC/AFS

(B) approve appointments to outside organisations, that come within these indemnities, as appointments as a representative of the Authority for the purposes of the code of conduct for Members, and

(C) confirm that no indemnity be given to meet the costs of pursuing a defamation action.

722 WORK PROGRAMME

The Monitoring Officer submitted a report inviting the Committee to consider its future work programme and training requirements, including the needs of Town and Parish Councillors.

The Monitoring Officer reminded the Committee of its

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previous work programme approved in October 2003.

The Committee noted the Monitoring Officer's suggestion that it should next meet in June 2005 to receive training on standards issues and to consider significant legal developments in standards of conduct. A further meeting should be held in December 2005 to consider reports from the Standards Board for England.

The Committee noted that the Standards Board was currently undertaking a consultation exercise on "A Code for the future". Copies of the consultation document would be (re) circulated to all Members of the Committee. A meeting would be held to formulate a response to the document before the consultation deadline of 17 June 2005.

The Monitoring Officer reported on the details of a training course organised by Dacorum Borough Council to be held on 7 July 2005. Members of the Committee interested in attending should notify the Monitoring Officer accordingly.

The Committee approved the work programme now detailed.

RESOLVED – that the work programme for the Standards Committee, as detailed in the report now submitted, be approved.

ALC

The meeting closed at 9.15 pm.

NPS\Standards 12 Apr 2005\Minutes 12 April 2005

Chairman
Date