

STANDARDS COMMITTEE

21st July 2009

PRESENT:-

District Council Members

Conservative Group

Councillor Harrison and Murray.

Labour Group

Councillor Mrs. Mead.

Parish Members

Mr. R. Buxton (Hatton Parish Council), Mr. K. Fairbrother (Castle Gresley Parish Council) and Mr. K. Overton (Willington Parish Council).

Independent Members

Mr. P. Dawn, Mr. R. Pearson, Mr. P.B. Purnell, Mrs. K. St. Clair and Mr. D.R. Williams.

MATTERS DELEGATED TO COMMITTEE

SC/5. **APPOINTMENT OF CHAIRMAN**

RESOLVED:

That Mr. D.R. Williams be appointed Chairman of the Committee for the remainder of the municipal year.

SC/6. **APPOINTMENT OF VICE-CHAIRMAN**

RESOLVED:

That Mr. P. Dawn be appointed Vice-Chairman of the Committee for the remainder of the municipal year.

SC/7. **MINUTES**

The Open Minutes of the Meeting held on 13th May 2009 were taken as read, approved as a true record and signed by the Chairman.

SC/8. **NEW MEMBERS**

The Chairman welcomed District Councillor Murray and Mrs. K. St. Clair (Independent Member) to the deliberations of the Committee.

SC/9. **TRAINING PRESENTATION – LOCAL ASSESSMENTS OF COMPLAINTS**

The Monitoring Officer gave a presentation to the Committee on this matter, which was particularly beneficial for the new Members and for those Members who had had little participation to date in the process.

SC/10. INFORMATION FOR POTENTIAL COMPLAINANTS

At the last Meeting, Members discussed the information provided to potential complainants to assist them in deciding whether to lodge a complaint with the Council. The following information was included on the Standards and Behaviour section of the Council's website, which was reproduced for Members:-

- Information for Potential Complainants.
- Complaint Form.
- Procedure for Local Assessment of Complaints.
- Procedure for Local Determination Hearings.
- Legal Notice of Change of Process.
- Sanctions available to the Standards Committee.

To date, this information had appeared to be sufficient to enable complaints to be lodged. Members noted that there were other links from the text within the information for potential complainants and in any event, the Monitoring Officer was also available to provide support as appropriate.

Minor amendments to emphasise particular points were suggested to the complaint form and the explanation of the Adjudication Panel for England would also be expanded. It was felt that the monitoring information attached to the form may be irrelevant and unnecessary and in any event, this information was not submitted to the Initial Assessment and Review Sub-Committees. Accordingly, clarification would be sought on a corporate basis as to whether this information was required. It was noted that the former 'Standards Board for England' was now known as 'Standards for England' and this would be amended accordingly.

RESOLVED:-

- (1) That, subject to the comments outlined above, the level of information currently provided to potential complainants be noted.***
- (2) That a further report be submitted to the next Meeting following clarification of the monitoring information.***

SC/11. MONITORING OFFICER 'OTHER ACTION' GUIDANCE

It was reported that Standards for England had now issued guidance on 'Other Action', which discussed what this involved, when it was appropriate and what to do if it was unsuccessful. It also addressed the role of the Monitoring Officer, adjournment of Assessment Committee Meetings and explained why 'Other Action' closed the opportunity to investigate.

Members were reminded that the Monitoring Officer had been directed to undertake 'Other Action' on two occasions under the Local Assessment framework and the guidance confirmed the process and procedures that were undertaken and supported the way in which these directions were undertaken. A referral for 'Other Action' did not mean that the Member had been found to have done anything wrong. Therefore, it was very important that the action

proposed did not imply this and accordingly, it could not take the form of requiring the subject Member to apologise.

In the 'Other Action' guidance, Standards for England had set out factors that may be considered when the Sub-Committee was contemplating referring matters for 'Other Action'. A copy of the guidance was attached to the report. It was suggested that those items found on page 7 of the guidance at paragraph 23 could be adopted by the Committee to act as the assessment criteria, which would detail the matters that a Standards Sub-Committee (Initial Assessment) or Standards Sub-Committee (Review) would take into account when deciding what action, if any, to take. They included:-

- The same particular breach of the Code by many Members, indicating poor understanding of the Code and the Authority's procedures;
- A general breakdown in the relationships, including those between Members and Officers, as evidenced by a pattern or allegations of minor disrespect, harassment or bullying, to such an extent that it becomes difficult to conduct the business of the Council;
- Misunderstanding of procedures and protocols;
- Misleading, unclear or misunderstood advice from officers;
- Lack of experience or training;
- Interpersonal conflict;
- Allegations and retaliatory allegations from the same Members;
- Allegations about how formal meetings are conducted;
- Allegations that may be symptomatic of governance problems within the Council, which are more significant than the allegations in themselves.

The process following a referral with a direction to the Monitoring Officer to take 'Other Action' was outlined to the Committee.

Following the decision at the last Meeting to convey the Committee's dissatisfaction to the Department of Communities and Local Government, it was suggested that the information could also be forwarded to the Local Government Association with a view to lobbying on the Council's behalf.

RESOLVED:-

- (1) That the guidance issued by Standards for England in relation to 'Other Action' be noted.***
- (2) That the assessment criteria as set out in the guidance at paragraph No. 23 be adopted and kept under review, with a further report to the Committee if necessary.***
- (3) That the correspondence with the Department of Communities and Local Government also be forwarded to the Local Government Association.***

SC/12. THE STANDARDS COMMITTEE (FURTHER PROVISIONS) (ENGLAND) REGULATIONS 2009

It was reported that these regulations came into force on 15th June 2009 and permitted Standards for England to suspend the Initial Assessment functions of an authority, enable authorities to establish Joint Standards Committees and amend the powers of the Standards Committee to grant dispensations to Members who would otherwise be unable to take part in authority business because of a prejudicial interest.

The Regulations enabled Standards for England to exercise its power under the Local Government Act 2000 to direct that a local authority's Standards Committee's Initial Assessment functions were suspended where:-

- The Standards Committee had failed to comply with guidance on the conduct regime available on the Standards for England website and contained in the Local Standards Framework Guide for authorities issued by Standards for England;
- The Standards Committee had failed to comply with a direction given by Standards for England;
- The Standards Committee or the Monitoring Officer had failed to carry out functions in relation to the conduct of Members in a timely or appropriate manner; or
- The Authority or Standards Committee had invited Standards for England to give a direction.

The Standards for England decision on whether to suspend a Standards Committee Initial Assessment function would be taken on a case by case basis and informed by information gathered by Standards for England about the performance of the Standards Committee and the authority's Monitoring Officer. If Standards for England was satisfied that any of the circumstances mentioned above applied, it may suspend the Initial Assessment function of that authority, even if the authority in question was not failing in the discharge of that Initial Assessment function. When direction under the 2000 Act was in place, either Standards for England or, with its consent the Standards Committee of another relevant authority in England, would undertake the Initial Assessment function on behalf of the Standards Committee which was the subject of the suspension. Before giving a direction to suspend, there was a requirement for Standards for England to give notice to the authority concerned that it intended to give such a direction. Copies of the notice must be sent to the Chairman of the Standards Committee and to the Monitoring Officer of the authority concerned, giving reasons and asking for any observations. The authority must publish details of any directions made in a local newspaper or other appropriate publication. The process following the receipt of a written allegation from a suspended Standards Committee was outlined to Members.

The Regulations also provided that two or more relevant authorities may establish a Joint Standards Committee, which would be able to deal with any or all functions of a Standards Committee. However, there could be no concurrent function. The Joint Committee's Terms of Reference were outlined and finances would need to be shared as agreed with the authorities involved.

Finally, in light of concerns raised by some relevant authorities about the provisions of the current dispensation regulations, these Regulations revoked the earlier dispensation regulations and replaced them with new provisions to clarify the rules which applied to Standards Committees when granting dispensations to local authority Members. The circumstances where a Standards Committee may grant a dispensation to a Member or Co-opted Member of an authority were as follows:-

- Where more than 50% of the Members who would, but for the granting of any dispensations in relation to that business, be entitled to vote at a Meeting are prohibited from voting; or
- Where the number of Members prohibited from voting at a Meeting but for the granting of any dispensations in relation to that business, upset the political balance of the Meeting to the extent that the outcome of voting would be prejudiced.

The provision in the Regulations ensured that any previously granted dispensations were disregarded for the purposes of working out whether the two circumstances above applied. In order to obtain a dispensation, a Member must submit a written request for a dispensation to the authority's Standards Committee, which must conclude that having regard to the above circumstances and all other circumstances of the case, it was appropriate to grant the dispensation. The Regulations provided that a dispensation could only be granted in respect of business arising in the period of four years following the grant of the dispensation. They also specified that a dispensation could not be granted to allow a Member of an Overview and Scrutiny Committee to participate in the scrutiny of the decision of another Committee of which he or she was involved. As was currently the case, records of dispensations granted must be kept by the authority.

An explanatory note along with an application form for a dispensation was circulated which would be placed on the Council's website.

RESOLVED:-

That the provisions of the Standards Committee (Further Provisions) (England) Regulations 2009 be noted.

SC/13. **LOCAL CODE OF CORPORATE GOVERNANCE – REVIEW OF SELF ASSESSMENT**

The Committee received a report which outlined the background and process which had led to the submission of a Review of Self Assessment document and Action Plan and which also invited the Committee to consider the document and report to Full Council on progress.

A revised Local Code of Corporate Governance was adopted by the Council on 3rd July 2008, at which time it was reported that a Self Assessment audit had been carried out by officers to provide evidence of how the Council had fulfilled or intended to fulfil its commitment to corporate governance. In approving the Code, Full Council had agreed that the Standards Committee should receive half yearly reports on progress in relation to compliance with

the six core principles on which the Code was based. This would ensure that this Committee had a pivotal role in promoting and maintaining high standards of conduct throughout the authority.

On 19th May 2009, officers had met to review the assessment undertaken on 6th November 2008 and a report showing the progress that had been made in the last six months, with a re-calculation of the score where justified, was attached to the report. An external review of the Authority's corporate governance arrangements had confirmed that the Council's local Code complied in full with best practice, as set out in the national framework and guidance for the production of the Code and its contents. The review stated that the Council had identified those areas where it wished to improve and how these should be addressed. The review concluded that the next stage was for the Council to consider how it could go beyond policies and processes and embed good corporate governance into all Council activity. This was an area considered by the senior officer group on 19th May 2009, which believed that this could be achieved by developing examples of good practice and utilising the Comprehensive Area Assessments to these ends. Current examples of good practice were outlined to the Committee.

Members discussed the contribution which the Standards Committee could make to core principle No. 3, which concerned promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour. It was suggested that consideration be given as to how the Chairman of the Committee could input into the assessment process to ensure that any areas that had been highlighted by the Standards Committee from a governance perspective were identified.

RESOLVED:-

- (1) That the Council be recommended to note progress in achieving the action points set out in the Self Assessment of performance under the Local Code of Corporate Governance.***
- (2) That further consideration be given to the Committee's input into the assessment process, as outlined above.***

SC/14. **SUMMARY OF COMPLAINTS TO STANDARDS SUB-COMMITTEES**

Members were reminded that that the Local Assessment regime introduced by The Standards Committee (England) Regulations 2008 relating to the assessment of complaints had been operative since 8th May 2008. A summary of the complaints received was attached to the report without naming the complainants and the subject Members.

Regulation 8(5) required a Sub-Committee to produce a summary in writing of its consideration of an allegation or a review of a decision. The written summary must record the main points considered, the conclusions as regards the allegation or review of the decision and the reasons for that conclusion; be prepared having regard to any relevant guidance issued by Standards for England; be available for inspection by members of the public at the offices of the authority for a period of six years beginning with the date of the Meeting;

and be given to any parish council of which any Member who was the subject of an allegation referred to in the written summary was a Member.

The financial implications were outlined, indicating that at its Meeting held on 19th March 2009, the Finance and Management Committee had agreed to carry forward £25,000 into 2009/10 for use in relation to the Local Assessment regime, subject to the final outturn figures.

Ongoing reports would be submitted to the Committee on further complaints received, but these would now only refer to outstanding cases.

RESOLVED:-

That the summary of complaints considered by the Standards Sub-Committees be noted.

SC/15. **LOCAL GOVERNMENT ACT 1972 (AS AMENDED BY THE LOCAL GOVERNMENT [ACCESS TO INFORMATION] ACT 1985)**

RESOLVED:-

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

MINUTES

The Exempt Minutes of the Meeting held on 13th May 2009 were duly received.

COMPLAINTS TO STANDARDS SUB-COMMITTEES (Paragraphs Nos. 1 and 2)

The Committee noted the Decision Notices relating to Meetings of the Standards Sub-Committee (Review) and Standards Sub-Committee (Consideration) since the last Meeting.

D.R. WILLIAMS

CHAIRMAN