NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

Minutes of the meeting held at County Hall, Northallerton on Monday, 1 September 2008.

PRESENT:

Mr James F S Daglish (Chairman).

County Councillors Brian Marshall, J W Marshall, Caroline Seymour, Jim Snowball and Peter Sowray.

Independent Members: Mrs Gillian Fleming and Dr Janet Holt.

Apologies were received from County Councillor David Jeffels.

The Chairman welcomed County Councillors Seymour and Snowball to this, their first meeting of the reconstituted Standards Committee.

COPIES OF ALL DOCUMENTS CONSIDERED ARE IN THE MINUTE BOOK

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206. MINUTES

RESOLVED –

That the minutes of the meeting held on Monday, 2 June 2008, having been printed and circulated, be taken as read and signed by the Chairman as a correct record.

207. PUBLIC QUESTIONS OR STATEMENTS

The Assistant Chief Executive (Legal and Democratic Services) reported that no notice of any public question or statement to be made to the Committee had been received.

208. COMMUNICATION STRATEGY

CONSIDERED –

The joint report of the Monitoring Officer and the Head of Communications updating Members in respect of issues arising out of the results of the Citizens Panel survey on standards matters, in light of the Standards Committees Communication Strategy. Andrew Darling of the Communications Unit highlighted the main issues in the report as follows:-

- The June edition of County Talk, the staff newsletter, was to include an article on ethical conduct.

- The August edition of NY Times included an A-Z guide to Council Services including details relating to “Ethical Standards and the Monitoring Officer”.

- Consideration should be given to further articles within the NY Times explaining recent changes to how complaints were investigated and determined.

- Guidance had recently been provided from the Standards Board for England for local authorities' press officers on how to manage local media interest in Code of Conduct investigations and hearings.

- The Council's newly developed intranet would include information on Ethical Standards and the Code of Conduct.

- Further consideration was required in respect of additional media activity and the use of the ethical statements of the Council's Leader and Chief Executive.

In response to the report Members noted that the template for press releases regarding local reviews and investigations had been produced on a national basis, with the relevant local information being placed into that template. This template had been provided for use in respect of specific complaints.

Members considered that it would be a good idea to have a further article in the NY Times, in the near future, with ethical and conduct issues explained in a journalistic style. It was suggested that the article could be generated to coincide with the advertising for the vacant Independent Member position and it was hoped that this could be placed within the next edition of the NY Times. In response to this it was noted that the deadline for articles to be placed in the forthcoming issue may now have passed and checks would be made, with the editor, to determine the timescales for such articles. Should the deadline for articles be tight it was suggested that priority be given to the advertisement for the Independent Member position, as an appointment was to be made in November, therefore applications would be required as soon as possible, with an article published as soon as the NY Times could accommodate that.

Members welcomed the recent article in the County Talk newsletter and suggested that follow up articles would assist staff in keeping up to date with the developments on the ethical regime.

Members suggested that it would be useful to see the changes that were being developed on the website in relation to the ethical regime, and how links were being incorporated to enable the user to move to standards issues. It was noted there was no specific guidance from the Standards Board in relation to the development of website pages and, therefore, these were being developed "in-house". It was suggested that details of the web pages and amendments being made could be provided to Members of the Standards Committee and it was stated that this action would be welcomed.

Members suggested that better use could be made of the agreed statements in respect of ethical standards within the County Council and in response it was stated that consideration would be given to a wider use of these.

It was suggested that the message that, generally, the County Council had good ethical standards should be promoted as widely as possible through a variety of sources. It was suggested that the NY Times was the most appropriate publication for promoting these as it was provided to all households in the County. Articles within the NY Times could use the Councils general statement in respect of Ethical Standards as a way of introducing the subject.

It was suggested that other publicity could be generated through newsletters issued by Parish Councils, which were the source of local information for many smaller communities. Various other mechanisms could be utilised including suppliers, contractors, Area Committees, etc. It was suggested that libraries could be utilised to have notices and newsletters put in place highlighting the ethical stance of the County Council and the role of the Standards Committee.

Reference was made to the possibility of the statements on the ethical position of the Council being placed as a foreword to the Constitution, particularly where this appeared on the County Council's website. In response to this matter it was stated that, for these to be included in the Constitution, they would have to be formerly adopted by the full County Council. It was suggested, therefore, that these could be placed prominently on the web pages that referred to the Constitution and County Councillors. It was noted that the statements would be placed on the County Council's website shortly.

RESOLVED –

(i) That an advertisement for the vacant position of Independent Member on the Standards Committee be placed in the next issue of the NY Times, with a complimentary article being provided alongside that, if this could meet the appropriate deadline, otherwise the article could be placed in a subsequent edition of the publication;

(ii) That the issues raised within the report be noted and further reports be brought to subsequent meetings of the Standards Committee.

209. LOCAL CODE OF CORPORATE GOVERNANCE

CONSIDERED –

The joint report of the Corporate Director – Finance and Central Services and the Assistant Chief Executive (Legal and Democratic Services) inviting the Committee to comment on a draft of a revised Local Code of Corporate Governance. The Corporate Director – Finance and Central Services attended the meeting in respect of the report.

Initial considerations had been given to the contents of the draft Code at a meeting of the Audit Committee held on 26 June 2008 and an opportunity had been provided to the Standards Committee to submit further comments before the Code was submitted to County Council, for formal adoption, on 8 October 2008. Any comments from the Standards Committee would be submitted to the Audit Committee, before the finalised draft plan was submitted to County Council. Views and opinions on the Code were also being sought from key officers.

Members highlighted the following comments in relation to the report, for submission to the Audit Committee:-

- Core Principle Three could include details of the County Council's Procurement Policy.

- Paragraph 4.7 – alter "legalisation" to read "legislation".

- Paragraph 4.8 – it was suggested that rather than "maintaining" the first sentence should read "improving high standards of Member conduct". It was also suggested that reference should be made to the Standards Committee being monitored by the Standards Board.

- Paragraph 4.15 – refer to the publication of annual reports by the Standards Committee, the Independent Audit Committee and the Scrutiny Committees.

- Paragraph 5.3 – it was suggested that reference was made to the Standards Committee monitoring a number of key indicators, for example Ombudsman's complaints, request in line with Freedom of Information, etc. This could be covered by the inclusion of reference to the monitoring of key ethical indicators.

- It was also suggested that a sentence be included to provide the details of the current constitution of the Standards Committee.

A Member noted that, at a recent Standards Board focus group, details of a governance statement issued by Hull City Council had been highlighted and this had used a flow chart to present the information in a "user friendly" way. It was stated that details of this would be provided to the Corporate Director – Finance and Central Services as a guide for potential development of the County Council's Code of Corporate Governance.

RESOLVED –

That the comments on the draft revised local Code of Corporate Governance, as highlighted above, be incorporated into the Code and that the report be noted.

210. LOCAL ETHICAL FRAMEWORK DEVELOPMENTS

CONSIDERED –

The report of the Monitoring Officer briefing Members on developments regarding the locally managed ethical framework.

The report outlined how the various recommendations on the new local ethical framework had been submitted to and agreed by both the Executive and full Council. It was noted, however, that the issue of indemnity for Independent Members had still to be clarified and written confirmation on that issue was currently being sought.

The Standards Board had now issued the final part of its suite of guidance documents relating to local Standards Committee determinations. A new determinations toolkit had also been made available.

It was noted that, as part of the powers available to the local determination process, Members could be suspended and it was the view of the Standards Board that Councillors' allowances should be ceased in line with that suspension. For that to take place, in respect of County Councillors, it was stated that the County Council's scheme of Members Allowances would have to be altered. Details on full suspensions and partial suspensions were provided. The Committee was asked to consider whether it would wish to make representations to the Council's Members Allowances Scheme to determine whether the Council should have the ability to withhold any part of a Member's Basic Allowance, Special Responsibility Allowance, Co-optees Allowance or Travel and Subsistence Allowance for any period and whether the Council should have the ability to require repayment of any allowance already paid in respect of any period during which the Member concerned was suspended or partially suspended. Members discussed the appropriateness of this measure and how suspensions could be introduced. It was emphasised that an investigation would have to be undertaken and determination of that issue have taken place for a Member to be suspended. Members asked the matter would be addressed should a suspended Member appeal against that decision. In response it was stated that it would be appropriate for the suspension of allowances to take place during the time of suspension and appeal and, should the appeal prove successful, then the allowances could be repaid. It was noted that allowances for Members were set by the Independent Remuneration Panel and the proposals from

the Standards Committee would have to be put to that Panel for them to determine whether they considered this appropriate. A resolution from the full County Council would subsequently be sought as a result. It was suggested that the recommendation put to the Independent Remuneration Panel requested that Members' allowances were suspended when a Member was suspended following an investigation and determination of a complaint and that Members who appealed against a determination had their allowances suspended, with these being reimbursed should the appeal be successful. It was stated that the Monitoring Officer in discussion with the Chairman and Vice-Chairman would create an appropriately worded recommendation to the Independent Remuneration Panel for them to consider in relation to this matter.

Details of the composition of the Standards Committees Sub-Committees were provided. It was noted that further to the previous meeting three additional Members of the County Council had been appointed to the Standards Committee which provided a potential for them to be part of the Sub-Committee structure. The Sub-Committee structure highlighted at Appendix 1 to the report gave details of the Membership of the Sub-Committees. In respect of the details provided it was suggested that:-

- County Councillor Jeffels replaced County Councillor Brian Marshall on the Determination Sub-Committee.

- James Daglish be replaced by the new Independent Member to be appointed in the near future.

Members agreed with the appointments to the Sub-Committees in line with the changes highlighted above.

In terms of the substitute arrangements for Sub-Committees it was stated that the Chairman and Monitoring Officer would be utilised to identify substitutes, when required, in an attempt to prevent accusations of possible political collusion in terms of the Membership of the Sub-Committees and the complaints that they were required to investigate. It was suggested that it would be helpful to remove the numbers placed at the side of Substitutes within the structure so as not to cause confusion in respect of the choice of substitutes. It was also suggested that Members be allowed to substitute on the different Sub-Committees to give them experience of the different aspects of the process which in turn would develop the potential for substitutions.

It was reported that amendments had been made to the local assessment criteria for assessing and reviewing complaints following the previous Standards Committee meeting. Issues relating to the withdrawal of complaints and requests for confidentiality had been taken account of with additional paragraphs being placed into the local assessment criteria in relation to those factors. Alterations had also been made to paragraph eight of the criteria to make them consistent with the rest of the document.

It was noted that the Standards Board was requesting views on how to include the possibility for other action within the local assessment criteria. It was noted that a complaint could not be re-considered for investigation should other action be the conclusion of the initial investigation. It was asked, therefore, whether the hearing could be adjourned to await further information in respect of whether additional action had been adhered to. In response it was stated that this was not a good idea as this could be seen to be negotiating with the Member in terms of co-operation with the proposed other action and that would not be appropriate. It was suggested that this should be fed back to the Standards Board as a concern, as any type of other action would require compliance with the Member for this to be effective, as the current

legislation would not allow a further investigation of the matter. It was suggested that the majority of factors considered to be other action were included in the sanctions set out by the Standards Board for Standards Committees to impose on Members following investigation. It was considered, therefore, that it was unlikely that any other actions would be required, as the vast majority of these were covered by the available sanctions. It was suggested that this issue was outlined in the assessment criteria, but representations be made to the Standards Board advising them that it was difficult to undertake other actions to address the situation without going through the whole process.

Members suggested that in paragraph seven – underlying motivation should replicate vexatious in the reply to the question stated.

In terms of compliance with the local framework it was noted that powers were in place to ensure that Members did comply, however, should this prove to be a problem, the matter could be referred to the Standards Board for them to take appropriate action.

The Monitoring Officer stated that she would supply Members with key documents, guidance and information including the final version of the local assessment criteria for their information.

It was asked whether it was considered necessary to continue to have substitute Members assigned to the Committee following the recent provision of additional Members. It was considered that there was no need to alter the current format of the composition of the Committee.

RESOLVED –

(i) That Members note the contents of the report;

(ii) That Members recommend to the Independent Remuneration Panel in respect of Council Members allowances scheme that:-

(a) The Council should have the ability to withhold any part of a Members Basis Allowances, Special Responsibility Allowance, Co-optees Allowance or Travel and Subsistence Allowance payable for any period where, or in respect of duties from which, she/he was suspended or partially suspended under Part III of the Local Government Act 2000; and

(b) That the Council should have the ability to require payment of any allowance (or part thereof) already paid in respect of any period during which the Member concerned was suspended or partially suspended under Part III, ceases to be a Member of the Authority or is any other way not entitled to receive the allowance in respect of that period.

(iii) That the Committee appoints Members of the Committee to the following Sub-Committees:-

(a) The Complaint Assessment Sub-Committee.

(b) The Complaint Review Sub-Committee.

(c) The Complaint Determination Sub-Committee on the basis set out in Appendix 1 to the report, subject to County Councillor David Jeffels replacing County Councillor Brian Marshall on the Determination Sub-Committee and the incoming Independent Member, in respect of the

position yet to be filled, replacing James Daglish on the Assessment Sub-Committee.

(iv) That subject to the comments outlined above Members agreed the suggested amendments to the local assessment criteria for the Standards Committee as set out in Appendix 2 to the report.

211. STANDARDS TRAINING PLAN

CONSIDERED –

The report of the Monitoring Officer updating Members on standards training issues.

The report outlined that a practical training session was planned for the Committee on Tuesday, 30 September 2008 at 10.00 am.

Full training on the new Code of Conduct for Members was given as part of the Members Seminar on 10 May 2007 which was attended by 18 Members. The remaining Members were invited by letter to attend one of the two other training sessions held in March 2008. A letter requesting information on Members training in respect of the new Code was sent out to coincide with the training events and details of the responses to those letters were provided in the report.

Refresher Standards training for Members was planned for early 2009 on a date where it was hoped to maximise attendance. Training was also planned for County Council officers and was hoped to undertake this in October 2008.

Details of the full training plan were set out in Appendix 1 to the report.

New Members of the Committee were requested to advise the Monitoring Officer of any other training requirements that they would find helpful.

It was noted that plans were in place to have an induction training programme in place in time for next years County Council elections.

RESOLVED –

(i) That the report be noted.

(ii) That the newly appointed Members of the Committee were satisfied that their needs could be met through the training plan outlined within the report.

212. USE OF ETHICS' STATEMENTS

CONSIDERED –

The report of the Monitoring Officer updating Members regarding the use of the various Council statements regarding Standards issues.

The report provided Members with details of the following statements:-

CEO and Leader General Ethics Statement.
Council Statement re Standards.
Council's Ethical Statement for Stakeholders.
Statement re: role of Senior Managers in Ethical Framework.

Details of how these had been used to date where provided within the report.

The report concluded that there was more to be done in utilising the agreed statements and this would be given priority over the coming months as the new local ethical framework was embedded within the Authority. A further report would be brought to a future meeting of the Committee explaining the ways in which the Standards' Statements had been used to promote the ethical framework.

Members suggested that the proposed article for the NY Times could use the Council's Statement as an introduction to the issue. It was suggested that the CEO/Leaders Statement could also be used as a foreword to the County Council's Standards bulletin.

It was noted that the Statements were to be published on the web pages that related to Standards issues, with changes to be implemented on the intranet in autumn 2008, to accommodate these Statements. It was suggested that the Statements also be placed on the Council and Democracy pages of the internet to give the ethical position a higher profile.

It was stated that an update on the progress made on placing the Statements on the website and intranet would be submitted to the meeting of the Standards Committee taking place early in 2009.

RESOLVED –

That the report be noted.

213. INDEPENDENT MEMBER APPOINTMENTS

CONSIDERED –

The report of the Monitoring Officer outlining the arrangements for the appointment of Independent Members to the Standards Committee.

The report outlined the recruitment process being undertaken to fill the vacant Independent Member position and also highlighted that a recruitment process would be required later in the year to take account of the position currently held by Mr Daglish, whose term of office would cease at the Annual Council meeting in 2009. It was recommended that two separate recruitment processes were undertaken in respect of these positions.

In terms of the current vacancy, details of the recruitment process set out by the Standards Committee (England) Regulations 2008 were outlined in the report.

It was stated, therefore, that an appropriate advertisement would be placed in a local newspaper and on the Council's website (and publicised in any other ways the Monitoring Officer and Chair of the Committee deemed suitable), after which the Chair of the Committee and the Monitoring Officer would undertake a short listing of the applicants. Subsequently a meeting of the Committee would be required to interview the shortlisted candidates. The Standards Committee would then recommend to the County Council, at its meeting on 17 December 2008, which candidate should be appointed. It was suggested that the meeting of the Standards Committee that had been set aside for training purposes, scheduled for 10 November 2008 could be utilised to undertake the interview process.

It was noted that, previously, the full Committee were involved in the interview process, but following the new appointments to the Committee it was suggested that a Panel be drawn up from the Members of the Committee so as not to make the interview process too daunting for the applicants.

In terms of the newspaper advertisement it was suggested that the NY Times would be appropriate for this. In relation to publication deadlines it was suggested that an advertisement be submitted to the Editor of the NY Times as soon as possible to ensure that the next edition of the publication could contain this advertisement. It was suggested that a closing date of between ten days and a week before the Panel Meeting, be set for applicants.

Members discussed the potential qualities that would be required from the applicants.

It was suggested that the interviewing panels should consist of two County Council Members and two Independent Members. The following Members indicated their willingness to take part in the process:-

James Daglish, Dr Janet Holt, Gillian Flemming, County Councillor Peter Sowray and County Councillor Brian Marshall.

RESOLVED –

(i) That the independent Member position currently held by Mr Daglish be subject to a separate recruitment process early next year;

(ii) That Members approve the process set out in this report for the appointment of an additional independent Member to the Committee;

(iii) That it be agreed that the Standards Committee meeting scheduled for 10 November 2008 should be used for independent Member interviews, involving a panel of Members drawn up from those who had indicated a willingness to participate.

214. LOCAL GOVERNMENT CHRONICLE AWARDS 2009

CONSIDERED –

The report of the Monitoring Officer informing Members of the new category of 'Standards and Ethics' in the Local Government Chronicle Awards 2009.

The report set out details of the award and that the closing date for entries was 3 October 2008. It was suggested that the County Council had a good story to tell in terms of its standards' history and its proactive approach to the implementation of the ethical framework since the inception of the regime and, therefore, it would be of benefit to put an entry forward in respect of the award.

RESOLVED –

That a submission for the Local Government Chronicle Awards in the category of 'Standards and Ethics' be supported by the Committee.

215. COMPLAINTS AND FINDINGS/GUIDANCE FROM THE STANDARDS BOARD

CONSIDERED –

The report of the Monitoring Officer updating Members on the development of the ethical agenda and any complaints received about County Councillors.

The report outlined the following:-

Local Ethical Framework

This matter had been the subject of a separate report on the agenda for this meeting.

Complaints Received

During the period since the last meeting of the Committee the Monitoring Officer had received no new complaints about County Councillors that may have breached the Code.

Standards Board Monitoring

Details were provided of how the Standards Board would be monitoring local ethical framework arrangements via an on line information return system. Returns were to be made by authorities on a quarterly basis. Details of the first quarterly monitoring returns from throughout the country were provided. It was noted that the Standards Board were also considering the introduction and content of an annual return.

An Independent Member stated that she had recently attended a Working Group for the Standards Board which had split into four focus groups to look at issues relative to the new Local Ethical Framework. Consideration had been given to the Standards Boards quarterly return and proposals for annual reports. She outlined some of the issues and concerns that were raised within the groups and noted that further consideration would be given to the issues raised.

RESOLVED –

That the report be noted.

216. STANDARDS COMMITTEE WORK PROGRAMME 2008

CONSIDERED –

The report of the Monitoring Officer providing details of the Committee's Work Programme.

The current Work Programme for the Committee was attached at Appendix 1 to the report and incorporated action points from the Ethical Audit Action Plan.

A suggested addition to the Work Programme was the utilisation of the Council's procedures for employee surveillance under regulatory powers in the Regulation of Investigatory Powers Act 2000 (RIPA) and under the Data Protection Act 1998. Details of how RIPA could be utilised by Local Authorities was outlined in the report. It was suggested that this item could be considered to determine whether proper practices were in place in respect of information gained and held.

In response to this it was suggested that there may be some overlap with the Audit Committee in determining this matter and it was suggested that the issue be discussed further before the item was placed on the Work Programme. It was stated, however, that an appropriate protocol ought to be in place in respect of RIPA. It was suggested that the Corporate Governance Group may be an appropriate body to discuss this matter further. In respect of this it was requested that the issue be discussed further with the Corporate Director – Finance and Central Services to determine whether RIPA was currently being discussed elsewhere.

RESOLVED –

That the report and review the Standards Committee's Work Programme be noted.