

**MINUTES OF A MEETING OF THE STANDARDS COMMITTEE INDEPENDENT
MEMBERS' REGIONAL NETWORK FORUM
HELD AT THE TOWN HALL, ROTHERHAM ON
WEDNESDAY, 29TH OCTOBER 2008 (2.00 pm start)**

Present : M. Wilkinson (Leeds City Council – in the Chair); M. Andrew (Rotherham MBC); C. Bainton (City of York); A. Beckett (West Yorkshire Police Authority); P. Blythe (Kirklees MDC); G. M. Burnett (Richmondshire DC); A. Carter (South Yorkshire Police Authority and South Yorkshire Passenger Transport Authority); J. Clarke (Humberside Fire Authority); B. Cottingham (Hull City Council); D. H. Cuckson (North Lincolnshire DC); J. P. S. Dalglish (North Yorkshire CC); J. Dixon (South Yorkshire Fire and Rescue Authority); M. Goode (Scarborough Borough Council); M. R. Hall (City of York); W. G. Harvie (North Lincolnshire DC); C. Jackson (South Yorkshire Passenger Transport Authority); M. Roberts (Kirklees MDC) and K. Taylor (Scarborough Borough Council).

In attendance : Mr. T. C. Mumford (Assistant Chief Executive, Legal and Democratic Services, and Monitoring Officer, Rotherham MBC)

Guest speaker attending : Mr. R. B. Claxton (Association of Independent Members of Standards Committees in England)

Apologies for absence : M. R. Barker (East Riding of Yorkshire); G. Barnett (Humberside Fire and Rescue Authority); E. Bashforth (Sheffield City Council); A. Bingham (Rotherham MBC); H. Bower and R. Burton (South Yorkshire Police Authority); M. Corry (North East Lincolnshire DC); I. Daines (Rotherham MBC); G. Fleming (North Yorkshire CC); D. Foster (Rotherham MBC); H. Gilbertson (North York Moors National Park Authority); R. Greaves (Leeds City Council); D. Hughes (Humberside Fire and Rescue Authority); J. Jepson (Humberside Fire and Rescue Authority); P. Kelly (North Lincolnshire DC); T. Kendall (South Yorkshire Fire and Rescue Authority); M. Moore (Sheffield City Council); G. Musson (Rotherham MBC); G. Nairn-Briggs (Wakefield MDC); K. Robinson (Hull City Council); J. Ross (North East Derbyshire DC); N. Tapley (North Yorkshire Police Authority); J. Tuke (North Lincolnshire DC); P. Tumpenny (Leeds City Council); K. Waller (Hambleton DC) and J. Ward (Northallerton DC).

The Forum wished Mr. J. Ross a speedy recovery from illness.

34 MINUTES OF PREVIOUS MEETING

Agreed : that the minutes of the previous meeting held on 16 April, 2008 be agreed as a correct record.

35 MATTERS ARISING FROM PREVIOUS MINUTES

Minute 28 – Implementation of the Local Framework : the Standards Board for England had now published guidance about the Regulations for the local assessment of allegations of misconduct.

Minute 29 – Association of Independent Members of Standards Committees in England : the Chairman suggested that, if the Forum was still of the view

that a training session should be developed, then a small working group ought to be established to give detailed consideration to the arrangements. However, no further action was taken.

Minute 31 – Standards Board Assembly – October, 2008 : the Forum members noted that it would be beneficial if more local authority elected members were to attend the annual Standards Board Assembly; the requirement to book places early was also noted, both to gain a place at the Assembly itself and for the selection of workshops to attend.

Minute 32(1) – New Regulations : the Forum agreed that a guest speaker from the Standards Board for England should be invited to attend the next meeting for discussion about the local assessment arrangements.

36 **PRESENTATION ABOUT THE ASSOCIATION OF INDEPENDENT MEMBERS OF STANDARDS COMMITTEES IN ENGLAND**

The Forum welcomed Mr. Bruce Claxton, Chair of the Association of Independent Members of Standards Committees in England (AIMSce), who gave a presentation about the history, the philosophy and the aims and objectives of the Association. Mr. Claxton's presentation and the subsequent discussion referred to the following salient issues:-

- the Association would be responsive to members' professional needs and a principal aim of the Association was to have the role of independent members recognised in the Standards regime;
- the Association was managed by volunteers; although, for example, it did not have the resources to offer legal advice;
- a register of members was maintained by the Association, strictly under the Data Protection rules;
- members of the Association were required to pay an initial joining fee (£15), as well as an annual subscription (£10) for membership;
- members of the Association received a newsletter each month (either by post or by electronic mail); the Association did not have the necessary funds to publish paper copies of the newsletter for the world at large; each month's newsletter was subsequently published on the Association's Internet web site during the following month;
- the Association's Internet web site included an area for members viewing only, accessible by a pin number and a password;
- some local authorities had agreed to pay the membership fees of independent members who were members of AIMSce (it was noted that, subject to decision at the Association's AGM, there was no requirement to pay a second fee if an individual member was replaced by someone else from the same local authority part way through the year);
- AIMSce was considered to be an effective voice for independent members and now received consultation documents issued by the Standards Board for England;

- AIMSce also undertook its own consultation, for example, about the remuneration for independent members and about indemnification for independent members; it was intended that AIMSce would undertake a follow-up survey about remuneration for independent members;

- AIMSce meetings sometimes took place at different venues around the country (eg: Birmingham and Manchester), although it had proved more convenient and often cheaper to travel to London for meetings (generally, Association meetings were held only when necessary);

- every endeavour was made, when sending the responses to consultation documents on behalf of AIMSce, to reflect and include the range of all of the views of its members; however, it was difficult and costly for members to meet together to discuss every consultation paper; comments could be sent to the Chairman either by letter or by electronic mail message.

The Forum noted that AIMSce would shortly be considering a proposed resolution to remove the requirement for prospective members to pay a joining fee and to increase the annual subscription for membership of the Association from £10 to £20 per year.

A copy of Mr. Claxton's presentation was provided for each member attending this Forum meeting, together with application forms for membership of the Association.

Agreed : that Mr. Claxton be thanked for his interesting and informative presentation.

37 STANDARDS BOARD FOR ENGLAND SEVENTH ANNUAL ASSEMBLY – 13TH AND 14TH OCTOBER, 2008

The Forum discussed their experiences at the Seventh Annual Assembly of the Standards Board for England (SBE), held recently at the ICC, Birmingham. The following issues were raised during the discussion:-

- members had enjoyed the Annual Assembly and had gained much useful information;

- a couple of the workshops had not been very informative and had used quite superficial case studies; on occasion, the SBE officials appeared to have been insufficiently briefed to be able to answer questions from delegates to the Annual Assembly;

- the Standards Board for England ought to encourage independent members to lead and present some of the sessions and workshops;

- sometimes, the accommodation for the workshop sessions had been of insufficient size and therefore a number of people had not been able to attend;

- more Elected Members of local authorities ought to be encouraged to attend the Annual Assembly (which may mean fewer places being available for independent members and others);

- it was noted that all local authorities were notified at the same time about the Annual Assembly and places were allocated on a first come, first served basis; local authorities could ensure that they would receive early notification by registering on the SBE Internet web site;
- the cost of attending the SBE Annual Assembly was considered to be expensive;
- the workshop (break-out) sessions ought to be tailored to the experience and prior knowledge of the people attending; perhaps specific sessions could be arranged for new members;
- it had been suggested that more political Leaders of local authorities ought to be encouraged to attend the SBE Annual Assembly;
- every effort should be made to ensure the gender balance of Assembly attendees, as well as representation by the minority ethnic independent members and Councillors.

The Forum Chairman, Mike Wilkinson, explained that he had been a member of the national steering committee which advised on the arrangements for the SBE 2008 Annual Assembly. Therefore, he would be able to feed back these comments to the national steering committee, in readiness for the debate about the arrangements for the SBE 2009 Annual Assembly. Delegates were encouraged to submit their feedback forms to the SBE. All of the Assembly materials were available to view on the SBE Internet web site.

Mike Wilkinson also explained that the fringe meetings, organised at the SBE Annual Assembly, had been very successful and very well attended. The presentation material and speakers' notes for these meetings were to be published on the SBE Internet web site. It was often the case that material to be presented at an Assembly would have to be prioritised, with some material eventually being discarded, in order to fit the time available.

The Forum was reminded that both a new Chairman and a new Chief Executive were in post at the Standards Board for England and these people may bring a fresh approach to the arrangements for the Annual Assembly.

Mr. Claxton (AIMSce) offered the suggestion that AIMSce might consider providing similar seminars and conferences or short training courses for independent members, on a local or regional basis, for people who were unable to attend the SBE Annual Assembly.

38 **DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT –
CONSULTATION ON THE MEMBER AND OFFICER CODES OF
CONDUCT**

Consideration was given to the contents of a letter published by the Government Department for Communities and Local Government, entitled 'Communities in control: Real people, real power: Codes of conduct for local authority members and employees. The consultation paper was being sent

to all principal local authorities and to parish councils. The consultation period would end on Wednesday, 24th December, 2008.

It was noted that this consultation may eventually lead to changes in the codes of conduct, both for Elected Members and for officers, especially in the light of the legal case involving Mr. Ken Livingstone, formerly Mayor of London.

A number of suggestions were made:-

(i) that those chief and senior officers of local authorities, who have decision-making authority delegated to them by their Councils, ought to be subject to a similar code of conduct as that for Elected Members; however, it was noted that a number of such officers already had their own professional standards to which they must adhere, eg: police officers, fire officers and solicitors (as well as school teachers);

(ii) that local authority standards committees ought to investigate cases of whistle-blowing by local authority employees;

(iii) that local authority standards committees ought to investigate the ethical implications, for the local authority, of issues arising from the employee disciplinary procedures (ie: where an issue is thought to have wider-reaching implications for the local authority as a whole).

A comment was made that chief and senior officers of local authorities may ultimately become inundated by codes of conduct to which they would have to adhere. The Forum meeting concluded that there should be a single code of conduct for all qualifying local authority employees.

Forum members were encouraged to respond to the DCLG consultation document, both individually and collectively with their own local authorities' Standards Committees. The responses to the consultation document could be considered at a future Forum meeting.

39 NEW LOCAL ARRANGEMENTS POST MAY, 2008

The Forum members discussed their various experiences, to date, of implementing the new local arrangements for their own authorities' Standards Committees, since May, 2008. The following specific issues were mentioned:-

- a case where a Councillor had been asked to apologise for her/his actions and the assessment panel had decided to take further action if that apology was not forthcoming; the view of the SBE was that the further action should not be taken because the assessment panel has already formed the view that the Councillor has infringed the code of conduct because the apology has already been requested; the SBE considers that the assessment panel must simply decide whether the Councillor has a case to answer (ie: of allegedly infringing the code of conduct) and the assessment panel must not itself make a judgement in the case; Forum members acknowledged that it could be very challenging for assessment panels to avoid judging any element of a case;

- a case where the offending Councillor was asked to undertake further training; the assessment panel had decided that the Councillor's case must be reconsidered if s/he had not undertaken the necessary training within a period of three months;
- what would happen if there was an impasse, where the offending Councillor would not accept the Standards Committee's ruling? the SBE has stated that there should be no negotiation with the offending Councillor; the assessment panel may choose to review the progress of a case, at a later date after its initial assessment, although if the assessment panel was to make a judgment about a case, it may be accused of procedural impropriety;
- an algorithm method had been formulated, for use by assessment panels, which leads either to a specific course of action, or to the assessment panel deciding that the Councillor has no case to answer;
- cases where the offending Councillor had argued that the assessment panel had over-stepped its authority; other cases where offending Councillors don't like the outcomes of the assessment panel meetings and try to challenge the individual members of the assessment panels;
- other examples of cases where the allegations against the Councillor are complex and multi-faceted; the assessment panel may decide upon a course of action in respect of a part only of the allegations, but also decide that other aspects of the alleged conduct are not an infringement of the code and that there is no case to answer; it is essential that the assessment panel receives good quality advice from the local authority's Monitoring Officer;
- assessment panels must strive for consistency and ensure that they properly consider all aspects of an allegation against a Councillor;
- the assessment panel works through a series of prepared questions; one type of decision reached is that, although the assessment panel does not consider that there has been a breach of the code, the case will still proceed to investigation because further details and evidence may appear which may ultimately reveal a breach of the code;
- reference was made to the provision of the notice of the outcome of the assessment panel hearing, both to the complainant and to the Councillor; and also the public notice of the outcome which the local authority usually publishes on its Internet web site;
- another example mentioned was comparable to the 'Livingstone' case; a Councillor had allegedly behaved badly, albeit at a time when s/he was not performing the role of Councillor; it seemed clear that the person's conduct was unethical and would have involved a breach of the code had the person actually been performing the role of Councillor at the time;
- the Standards Board for England had issued advice, during September, 2008, about assessment panels deciding to take 'other action';
- assessment panels ought to apply the 'Clapham omnibus' test (ie: what does the ordinary person in the street think about the Councillor, on witnessing the alleged misconduct) in cases where Councillors may or may

not be performing that public role, for example, when attending a civic function; perhaps assessment panels should adjourn their proceedings and ask the relevant parties to agree to a particular course of action – but would this constitute the tail wagging the dog?

- complaints made against Councillors who, at the time, were canvassing in the lead-up period to an election, had not proceeded to investigation; the generally accepted view (by the SBE and many standards committees) was that sitting Councillors were not performing the role of Councillor whilst canvassing for an election; perhaps, in some cases, the allegations of misconduct during canvassing, were better dealt with by the Police than by standards committees;

- there was some discussion about dealing with complaints against Councillors, where the complainant wished to remain anonymous; should the assessment panel proceed to deal with the complaint, or decide not to? are the allegations so serious as to require Police intervention? in cases of bullying, for example, where one person's word is cast against another, is it possible to respect and comply with the complainant's desire for anonymity? should the complainants be asked to withdraw their complaints if they are not prepared to be identified, nor to experience the whole process of investigation?

- with consideration of anonymous complaints, it was very important that the assessment panels remain both objective and consistent in their decision making;

- the Monitoring Officer will remove the complainant's name from the documents, before reporting the complaint to an assessment panel, in cases where the complainant wished to remain anonymous;

- the issue of anonymity of local authority employees may arise should standards committees be asked to consider 'whistle-blowing' complaints within an authority;

- several authorities questioned whether local authority standards committees were taking a harder line with individual complaints, than the SBE would have done under the 'old system';

- it was acknowledged that the SBE had attracted some criticism, in the early days of the former arrangements, for creating a backlog of complaints waiting to be processed;

- another suggestion was for standards committees to use similar guidelines to Magistrates when dealing with cases; would such guidelines for assessment panels be viewed as helpful assistance, or as a mechanism for constraint?

- the assessment panels ought to acknowledge the resource requirements, in terms of finance and of staff time, of investigating complaints;

- on occasion, the Standards Board for England still appeared to be willing to investigate a case itself, instead of leaving the matter to the local authority standards committee;

- there was speculation, amongst the Forum, as to whether a future Government may decide to alter the current code of conduct and abolish the Standards Board for England;
- it was acknowledged that the conduct of an Elected Member of a local authority was also governed and measured by the law of the land, the electoral ballot box and by the political party system (the party whip);
- a question was asked as to whether it was incumbent upon the independent members of standards committees to be the driving energy of the whole process;
- a comment was made that the position of Vice-Chair of a standards committee must be filled by an independent member, but not by a Councillor;

The Forum acknowledged the usefulness of this type of debate and of the opportunity to learn from each other's experiences with the assessment of complaints.

Agreed : (a) that the discussion of the local arrangements for assessment of complaints shall be a regular item on each Forum meeting agenda;

(b) that a guest speaker from the Standards Board for England shall be invited to attend the next meeting of this Forum for discussion about the local assessment arrangements (Minute 35 above refers).

40 JOINT PARTNERSHIP WORKING BY THE JOINT AUTHORITIES

Alan Carter (South Yorkshire Police Authority and South Yorkshire Passenger Transport Authority) introduced this item by stating that it was important that the Joint Authority independent members were afforded the opportunity of widening their experience and knowledge about the assessment of complaints. The Joint Authorities had received relatively few complaints, when compared to other local authorities, therefore there was an opportunity for the Joint Authorities to learn from the experience of the principal local authorities.

There was a suggestion that the Monitoring Officers of the Joint Authorities and the nearby local authorities should share their knowledge and experience.

Similarly, arrangements should be made for the joint training of independent members of the various local authorities in the area/region.

It was known that both the West Yorkshire and the North Yorkshire Police Authorities were discussing the possibility of establishing joint arrangements. Views were expressed that some authorities might be uncomfortable with the challenge of involving 'outside' members in their assessment processes. There might also be an issue of indemnifying someone who was not actually a member of the local authority which was considering the complaint.

However, an 'outsider' independent member would be able to bring a measure of true and genuine independence to the assessment process, as

that member would not be tainted by any insider knowledge of the local authority, nor of the Councillor who was the subject of the complaint.

The Forum agreed that it would be preferable for there to be a properly established and transparent process for appointing any independent member of one authority to the assessment panel of another local authority.

The Chair reported that Regulations about this issue were soon to be published by the Government, after which there would be guidance notes issued by the Standards Board for England. The SBE had already established a 'reading group' of members to consider the contents of the draft guidance. The Chair invited Forum members to send their comments, about this issue, to him for eventual reporting to the 'reading group'.

41 ANY OTHER BUSINESS

The following two issues were raised as any other business and it was agreed that the Forum members may wish to submit their views and their own authorities' experiences about these issues at future Forum meetings:-

(1) the payment of expenses to witnesses who attended hearings (one local authority already pays expenses to witnesses); there was a question as to whether local authorities had the necessary statutory power to pay such expenses;

(2) the practice of inviting local authorities' internal audit staff to carry out investigations into allegations of misconduct (one local authority had agreed this action in principle, although there had not yet been a complaint/case which required investigation by internal audit staff);

42 DATE AND VENUE OF NEXT MEETING

Agreed : (a) that the next meeting of the Forum be held on a date in April 2009, to be decided (Members will be consulted about suggested dates);

(b) that every endeavour be made to hold future meetings at venues around the Yorkshire and Humberside Region, in the following suggested order, with meetings hosted by the local authorities shown :

Scarborough Borough Council
Kirklees MDC (Huddersfield)
Sheffield City Council
North Lincolnshire District Council (Scunthorpe)

The meeting ended at 4.25 pm