

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

Minutes of the meeting held at County Hall, Northallerton on Monday, 18 May 2009.

PRESENT:

Mr James F S Daghish (Chairman).

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

Independent Members: Ms Gillian Fleming, Dr Janet Holt, and Henry Cronin.

Apologies were received from County Councillors David Jeffels and Brian Marshall.

Mr Brian Clark prospective candidate as an Independent Member to the Standards Committee of the Yorkshire Dales National Park Authority was in attendance at the meeting to observe the proceedings.

COPIES OF ALL DOCUMENTS CONSIDERED ARE IN THE MINUTE BOOK

239. MINUTES

RESOLVED –

That the minutes of the meeting held on Thursday 23 April 2009, having been printed and circulated, be taken as read and signed by the Chairman as a correct record.

240. 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.

The Chairman, Mr James F S Daghish, declared a personal and prejudicial interest in the following item (Minute Number 241 – Independent Member Appointment). He left the room and took no part in the discussion, consideration or vote on this item. The Vice-Chairman, Ms Gillian Fleming took the Chair.

241. INDEPENDENT MEMBER APPOINTMENT

CONSIDERED –

The report of the Monitoring Officer requesting the Committee to make a recommendation to full Council in respect of the appointment of an Independent Member to the Standards Committee.

The report highlighted the recruitment process undertaken to appoint an Independent Member to the Standards Committee as Mr James Daghish appointment was due to end at the time of the Annual County Council meeting in June 2009.

Details of the recruitment process undertaken, and the Appointment Panel interviews that took place in relation to this, were provided.

RESOLVED –

That it be recommended to full Council, for approval, that Mr James Daghish be re-appointed to the Independent Member position currently held by him upon the expiration of his term of office on 17 June 2009, to serve until the Annual Meeting of the County Council in 2010.

242. ANNUAL REPORT OF THE STANDARDS COMMITTEE

CONSIDERED –

The report of the Monitoring Officer presenting Members with the draft Annual Report of the Standards Committee for comment before it was submitted to the next meeting of the County Council for approval.

The report provided details of the work carried out by the Committee during the period June 2008 to May 2009, provided details of the Terms of Reference of the Standards Committee and outlined potential future work.

The report referred to the increased workload for the Committee and the officers involved, particularly following the introduction of the new ethical regime and it was expected that those work commitments would increase.

Members discussed the need to raise the profile of the ethical regime and it was suggested that further information should be provided to re-emphasise how the County Council addresses issues relating to standards and ethics. The Chairman stated that he had discussed the matter with the Monitoring Officer and noted that given the public disquiet currently, relating to issues with national politicians, it would be an appropriate time to restate how the Local Authority addresses standards issues. The Monitoring Officer stated that the Annual Report was a statutory document and, therefore, could not provide political content, but did emphasise the County Council's monitoring of standards and the ethical regime. She suggested that the use of the ethical statement at the beginning of the report would help to re-emphasise that position. Members welcomed this and also suggested that further articles be placed in future additions of the North Yorkshire Times to re-emphasise the County Council's action in addressing these matters. Members were wary that publishing material relating to good standards in North Yorkshire County Council, so close to the election, could be seen as political and suggested that care was taken in relation to that.

An Independent Member suggested that further information should be added to the Annual Report in respect of the role of Independent Members, the appointment of an additional Member following the increase in the size of the Committee and the Chairmanship of the Committee and Sub-Committees by Independent Members. She also suggested that it would be helpful if the names of Independent Members and their terms of office were also included.

The Chairman suggested that reference to the Committees input into Audit Committee in terms of Corporate Governance should be included in paragraph (c). He also suggested that reference should be made to induction training in the future workload. He further suggested that the Officer Code of Conduct should be referred to as a potential item for the future workload, but noted that this may not be introduced within the next 12 months.

An Independent Member asked whether the Annual Return could be made part of the Annual Report in an attempt to reduce the amount of time officers were having to spend on completing two documents. She considered that it may also be useful for Members of the Council to have an insight into the level of detail required in the

Annual Return, by providing this as part of the Annual Report. The Monitoring Officer stated that she would provide details of the Annual Return to the next meeting of the Standards Committee for Members to observe what was required in terms of information for that.

The Chairman referred to informal meetings that had taken place involving himself, leaders of the political groups and the Chief Executive, but he suggested that these required some formality and that the matter should be addressed over the coming year.

The Chairman questioned the merit of attaching the Annual Return to the Annual Report as he considered that the information may not be relevant to the Council.

RESOLVED –

That, subject to the alterations highlighted above, the draft Annual Report be approved and presented to the next meeting of North Yorkshire County Council.

243. EMPLOYEE SURVEILLANCE PROCEDURES

CONSIDERED –

The report of the Monitoring Officer highlighting the Council's arrangements re: employee surveillance and asking the Committee whether there was any need to add this area to the Work Programme.

Ms. Bamflower of Trading Standards attended the Committee to highlight how the service used the Regulation of Investigatory Powers Act 2000 (RIPA) as part of its processes. She noted that there was a reporting structure in place which required a report every six months to Trading Standards on the use of this by Directorates and that the report was also presented to the Chief Executive. Details of the procedures for the authorisation of covert investigations were provided within the report.

An Independent Member of the Committee highlighted how a number of concerns had been raised, nationally, regarding the use of this by local authorities and he asked how it was used by the County Council. In response it was explained that, within Trading Standards, a framework was in place to ensure that the power was utilised without breaching human rights. Examples of its use were provided including tracking "Cowboy" builders, counterfeiters, etc and that it was utilised around 20 to 30 times per year. In terms of employee surveillance this had been used around six times since 2001 and related mainly to circumstances of theft where evidence was being gathered for the Police. In terms of surveillance of employees, regarding computer use, it was noted that a system was used by the Internal Auditor under the Data Protection Act. It was emphasised that for either surveillance process to be used a test of necessity had to be implemented. Members asked how the use of the powers were monitored. In response it was stated that an inspection of the use of these powers was carried out by National Inspectors, with one due on the 24 June 2009. The previous inspection had been carried out three years ago and had resulted in a favourable report for the County Council. In terms of authorisation the minimum level for the use of these powers was at Assistant Director or Head of Service level. It was noted that a current review was giving consideration to a Code of Practice for the use of RIPA which would see authorisations being granted at a higher level than at present.

A Member noted that, previously, exercises were carried out to obtain information regarding the under age purchase of certain goods such as alcohol or cigarettes, using young people under the approved age to go into shops and attempt to purchase these goods. He asked whether this process was still carried out. In

response it was stated that this was used occasionally, however, a more targeted approach was now undertaken ensuring that more preventative work took place.

It was noted that an Annual Report was produced on the authorisations made for the use of the powers and these were considered at Director level involving the appropriate Assistant Director and Head of Service. The Chairman asked whether the Assistant Director/Head of Service level was appropriate for the authorisation of the use of the powers and wondered whether that should rise to Director level. It was also asked when the issues had been discussed with Corporate Directors and the Chief Executive whether there was any feedback provided to those operating the processes. In response it was stated that there was no formal feedback to the operation level however the process was overseen by both Legal Services and Trading Standards. The Monitoring Officer stated that the operation of RIPA worked well in North Yorkshire and any concerns encountered would be raised at Corporate Director level and with the Monitoring Officer.

A Member raised concerns that local Members did not know of the operations taking place in their particular area and asked whether it would be appropriate for Members to be briefed when the powers were being used in their Division. In response the Monitoring Officer emphasised that the vast majority of operations undertaken through these powers were required to be covert and it would not be beneficial to any party to brief local County Councillors of their use in that area. She emphasised that a tight protocol and legal framework were complied with, in the use of these powers, to ensure that the County Council did not compromise its position in respect of these. It was not expected that local Members would be informed of the use of these powers, due to this. The Member concerned expressed his dissatisfaction with the position outlined. Another Member of the Committee suggested that information should be provided to local Members after the operation had taken place as it would be useful to know what had happened.

It was emphasised that the remit of the Committee was to ensure that there was a clear procedure for the use of these powers and that they were being used appropriately. It was also suggested that further discussions should take place on whether the reporting mechanism for their use should be at a higher level.

RESOLVED –

That the contents of the report be noted, together with Members comments on those.

244. INVESTIGATIONS AND DETERMINATIONS PROTOCOL

CONSIDERED –

The report of the Monitoring Officer highlighting revised draft procedures for the local Investigation and Determination of Complaints.

The report indicated that draft revised versions of the Complaints Investigation and Determination procedures had been prepared, on the basis of the relevant Standard Boards guidance documents, to which there was a statutory duty to have regard. With work continuing to shape and simplify those procedures, so that they could be presented to the next meeting of the Committee, a short pro-tem procedure, under the new local regime, for each of the Investigations and the Determination stages, incorporating, by reference, the procedures for Investigations and Determinations set out in the legislative framework and the Standards Board Guidance were provided, as at interim measure. Details of those interim procedures were provided as part of the report.

Members were requested to comment on the interim documents provided.

In respect of the documents provided it was suggested that paragraph 1.5 should be altered to read the Standards Board for England rather than "SBE".

Members debated paragraph 3.2 of the interim procedures as there was some concern over the beginning of the paragraph which stated "regard should also be had..." Members suggested that the paragraph should state "follow legal requirements..." however it was not clear whether the procedures had to follow the Standards Board's Local Investigation and Determination toolkits. It was suggested that the toolkits should be followed, as the subsequent full procedure was likely to require that. Members expressed concern that a particular Investigation or Determination may not be able to follow the toolkit and suggested further clarification of that issue should be sought.

Members suggested that the heading of each of the procedures should include the word interim, which was not currently shown.

Members emphasised the need for each of the procedures to state that it had to be ensured that the Standards Boards guidance was complied with.

RESOLVED –

That, subject to the comments outlined above, Members approve the draft interim Complaints Investigation and Determination procedures, attached as an appendix to the report and agreed that they be published on the County Council website, subject to the alterations outlined, and in any other ways considered appropriate.

245. COMMUNICATIONS STRATEGY

CONSIDERED –

The report of the Monitoring Officer providing a review of the Standards Committee's Communications Strategy.

Details of the Communications Strategy and its Action Plan were provided within the report for Members information and comments. The Action Plan had been annotated to indicate where action had been undertaken and it was noted that the majority of items on the Action Plan had now been actioned.

It was noted that the Communications Strategy had yet to be incorporated as an integral part of the County Council Communication Strategy and further discussions in relation to this were to take place with the Communications Unit.

It was also noted that the profiles and photographs of Members had not yet been included on the Standards Committee web page but the process had been started and it was expected to be completed shortly.

Members suggested that an article should be placed in a future issue of the North Yorkshire Times to respond to the public's fears and anger in relation to the recent issue relating to MPs expenses and to allay their fears in respect of how this issue related to the County Council.

Members suggested that the Strategy's principles as outlined at 2.6 of the Strategy should be highlighted in County Council publications to promote openness. In response the Monitoring Officer stated that further consideration as to how to use the principles would be given at a future meeting of the Standards Committee with the possibility of these being used alongside the ethical statements.

Members referred to the SWOT analysis and considered there was still a limited officer/public awareness of ethical issues within the County Council. It was noted

that there was reasonable knowledge at a senior level within the County Council but below that the knowledge waned and it was asked whether anything was being done to address that. In response the Monitoring Officer acknowledged that this was a difficult issue, but noted that the Strategy was now slightly out of date and there was a need to re-focus on this matter to determine whether it should be updated. She suggested, therefore, that communications both externally and internally be given further consideration at subsequent meetings of the Committee.

Members expressed surprise of the lack of officer awareness of ethical issues within the County Council and suggested that issues in relation to this were included in induction training both for officers and Members. The Monitoring Officer stated that the issues of standards, conduct and ethical matters were being driven forward throughout the County Council in a number of ways and re-emphasised that further consideration would be given to this matter at subsequent meetings of the Committee.

It was asked how the ethical framework was addressed on the intranet. In response it was noted that work was on-going in relation to the publication of the ethical framework and ethical issues on both the internet and the intranet but it was intended to provide a link to the standards pages, from there, similar to that on the current website.

The Monitoring Officer highlighted how much of the information contained within the Communications Strategy was now out of date and therefore there was a need to update this. She stated a report would be brought to the next meeting of the Committee to take account of the issues raised by Members and of the need to update matters within the Strategy. Consideration would then be given to the revised Strategy.

RESOLVED –

That a report be submitted to the next and subsequent meetings of the Standards Committee to undertake an update of the Committee's Communications Strategy to take account of the issues raised by Members.

246. STANDARDS STATEMENTS – USE/FUTURE USE

CONSIDERED –

The report of the Monitoring Officer updating Members regarding the use made of the various Council statements regarding standards issues. Details of the following statements were outlined in the report:-

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.

Full details of how these statements had been utilised to date were also provided.

It was noted that the statements were now fully embedded into working practices and were published in key messages and the County Council's Conduct pages on the website. Details of their possible future use were also highlighted in the report. It was expected that update reports on the use of the statements would be provided to subsequent meetings of the Standards Committee.

In response to Members questions, the Monitoring Officer stated that the Council's Ethical Statement for Stakeholders was working satisfactorily. The statement was included in the procurement manual and documentation and was utilised across

Directorate. This development had been overseen by the Corporate Procurement Group. Consideration was being given to partnership arrangements with a view to incorporating the Statement on the agenda for partnership meetings, however, this could not be addressed simply as the County Council was only one of the partners involved in those meetings. Consideration was being given to a standardised statement to address this matter therefore, rather than imposing the County Council's statement on those partners.

RESOLVED –

That the report be noted.

247. DISPENSATION ISSUES

CONSIDERED –

The report of the Monitoring Officer updating Members regarding the use made of the dispensations granted by the Committee.

Details of the use made of dispensations granted by the Standards Committee to Hambleton Area Committee, the Yorkshire Coast and Moors County Area Committee and the Craven Area Committee were all outlined in the report. It was noted that the dispensations granted to Area Committee representatives on Craven Area Committee, Hambleton Area Committee, Richmondshire Area Committee and the Yorkshire Coast and Moors County Area Committee in respect of Community Fund allocations had not been required to be used as relevant applications requiring the use of the dispensation had not been considered at those Committees following the granting of that.

It was noted that a number of the dispensations had been granted in relation to the imposition of car parking charges in a number of Districts throughout North Yorkshire and the dispensations had been required by Area Committees to make a response to those, where a number of dual-hatted Members served both on the Area Committee and the District Council. It was suggested, therefore, following the forthcoming Local Government elections, dual-hatted Members on all Area Committees be contacted, where there was more than 50% of the Members on those Committees that were dual-hatted, requesting them to apply for general dispensations in respect of car parking charges issues, as these were likely to become more prevalent. In respect of this Members suggested that further consideration should be given to this matter at the first meeting of the Area Committee's Chairman and Vice-Chairman to determine a way forward.

RESOLVED –

- (i) That the report be noted;
- (ii) That the principal of inviting dual-hatted Members on all Area Committees, where more than 50% of the Members are dual-hatted, after the elections, to apply for general dispensations in respect of car parking charges interests be agreed, subject to further discussion on this matter at a forthcoming meeting of Area Committee Chairmen and Vice-Chairmen.

248. MEMBERS' ATTENDANCE AT COMMITTEES

CONSIDERED –

The report of the Assistant Chief Executive (Legal and Democratic Services) on the record of the number attendances of Members of the County Council at meetings of

the County Council and its Committees for the period 1 April 2008 until 31 March 2009.

A Member raised concerns that the facts presented within the report were misleading. She suggested that the reasons for Members non-attendance were not outlined, Members commitments were not provided, how many Committees Members were on or how long Members were in the meeting. It was stated in response that the report had been provided to the Standards Committee in response to an issue raised previously by the Independent Remuneration Panel which had highlighted that no check was made on Members' attendance at Committees. The Standards Committee, therefore, had taken on the duty of monitoring these. It was recognised that the figures could be misleading, however, it was difficult to obtain the full details of Members attendance and provide them in a meaningful report. It was explained that, in the past, the details provided within the report had been sent to the leaders of the political groups within the County Council, identifying particularly low attendance at meetings, to obtain reasons for that. This provided an opportunity to give reasons as to why Members had been unable to attend meetings. It was considered, therefore, that the basic facts were not relied on as appropriate details were sought in respect of this. The Committee felt generally that the report gave some accountability to the public's expectation of Members attending meetings. Members emphasised, however, that a great deal of work was carried out in local communities, and for outside bodies, by Members, which could not be reflected within this report. That was acknowledged by those present.

It was suggested that the action taken previously, to write to Group Leaders and Independent Members with attendance of less than 50%, to provide them with the figures and seek guidance as to why certain Members had attendance figures of less than 50%.

RESOLVED –

- (i) That the report be noted;
- (ii) That copies of the statistics be circulated to the Leaders of the Political Groups of the County Council and reasons be sought as to why some Members had attendance records of less than 50%.

249. 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 Members of the Authority.

The report highlighted the following issues:-

- Draft Standards Committee (Further Provisions) Regulations 2009.
- SBE Guidance on "Other Action" by Monitoring Officers.
- Complaints received.
 - New complaints - one had been received in the period since the last meeting against a County Councillor who may have breached the Code. A meeting of the Assessment Sub-Committee was being convened to consider this.

- Previous complaints – three complaints were made in January 2009 arising from the same set of circumstances but following assessment by the Complaint Assessment Sub-Committee and a review of the decision to take no action by the Complaint Review Sub-Committee it had been ultimately decided that no action should be taken.
- Standards Board Monitoring.

RESOLVED –

That the report be noted.

250. STANDARDS BULLETIN

CONSIDERED –

The report of the Monitoring Officer presenting, for consideration, a draft Standards Bulletin.

Details of the Bulletin were appended to the report and it was noted that there had been a slight change to the format as the ethical statement by the Leader and Chief Executive has now been used as a foreword to the Bulletin.

It was noted that examples of good practice by Standards Committees throughout the country were being sought and those findings were expected to be published in July 2009 and would be shared with the Standards Committee subsequently.

Members noted that the administration of the Adjudication Panel for England was not to be merged with the Tribunal Service as an Executive Agency of the Ministry of Justice as outlined in the Bulletin, as this was just a transfer from one Government Department to another.

Members referred to the Adjudication Panel Case outlined and was surprised to see the determination had not been regarded as bullying. The Monitoring Officer stated that the issue had been seen as bad manners and bad behaviour but had not been regarded as bullying.

It was asked whether, following the local Council elections, new Members would receive instructions on Standards Issues, as part of their induction training, in a useable format. The Monitoring Officer stated that a sheet of information signposting where appropriate Standards information was available would be provided to new Members. It was suggested that a paragraph relating to that could be included in the Bulletin and it was stated that this would be provided. It was noted that essential contacts and links would also be provided in Members' Handbooks. Members suggested that the Annual Report should also be referred to within that.

RESOLVED –

That, subject to the issues outlined by Members above, the Bulletin be circulated to Members of the Authority.

251. STANDARDS COMMITTEE INDEPENDENT MEMBERS' REGIONAL NETWORK FORUM – MINUTES OF 29 OCTOBER 2008

CONSIDERED –

The Minutes of the meeting of the Standards Committee Independent Members' Regional Network Forum held on 29 October 2008. The Chairman, who was present at that meeting, stated that the Minutes were a fair reflection of what took place. He noted that a subsequent meeting of the Forum had taken place at Scarborough, in April 2009, and provided brief details of the issues raised at that meeting including:-

- Standards Board for England - presentation relating to a number of issues within the New Ethical Framework.
- The role of the Local Government Ombudsman in the processes of Standards Committees.
- Dealing with anonymous complaints.

He noted that the representative of the Standards Board for England had recommended Members viewing the website for Hereford City Council.

RESOLVED –

That the Minutes be noted.

252. STANDARDS WORK PROGRAMME 2009

CONSIDERED –

The report of the Monitoring Officer outlining the Committee's future Work Programme. Details of the Work Programme for Committee Meetings taking place in September and November 2009 were provided in the report.

It was noted that a further report on an update on the Communications Strategy would be required at the meeting of the Committee taking place on 21 September 2009.

RESOLVED –

That the Standards Committee's Work Programme be noted.

SML/ALJ