

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

Minutes of the meeting held at County Hall, Northallerton on Wednesday, 5 August 2009.

PRESENT:

County Councillors Philip Barrett, David Jeffels, J W Marshall, Peter Popple and Geoff Webber.

Independent Members: James Daghish, Dr Janet Holt and Henry Cronin.

Apologies were received from County Councillor Peter Sowray and Independent Member Ms Gillian Fleming.

COPIES OF ALL DOCUMENTS CONSIDERED ARE IN THE MINUTE BOOK

1. ELECTION OF CHAIRMAN

RESOLVED –

That Mr James Daghish be appointed Chairman of the Standards Committee until the first meeting of the Committee following the Annual Meeting of the County Council in 2010.

MR JAMES DAGLISH IN THE CHAIR

2. MINUTES

RESOLVED –

That the minutes of the meeting held on Monday, 18 May 2009, having been printed and circulated, be taken as read and signed by the Chairman as a correct record.

3. ELECTION OF VICE-CHAIRMAN

RESOLVED –

That the appointment of the Vice-Chairman to the Standards Committee be deferred for consideration at the next meeting of the Committee.

4. PUBLIC QUESTIONS OR STATEMENTS

RESOLVED –

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

5. APPOINTMENTS TO SUB-COMMITTEES

CONSIDERED –

The report of the Monitoring Officer inviting Members to make appointments to the Committee's Complaint Assessment Sub-Committee, Complaint Review Sub-Committee and Complaint Determination Sub-Committee.

The report outlined how the Standards Committee (England) Regulations 2008 had seen the introduction of local determination in respect of complaints against Members and how the Sub-Committee framework had been established to determine complaints, make findings and impose sanctions (where appropriate). Details of how the Sub-Committees had been appointed previously were provided in the report, and Appendix 1 to the report outlined the membership of those Sub-Committees from the previous County Council.

Members discussed the appointments to the Sub-Committees to determine who should serve upon them.

RESOLVED –

That the Committee makes the following appointments in accordance with the requirements set out in the report:-

Complaint Assessment Sub-Committee

Membership

1. Gillian Fleming (Chair) – (Independent Member).
2. Henry Cronin (Independent Member).
3. County Councillor Philip Barrett (Elected Member).

Substitutes

The remaining Members of the Standards Committee.

Complaint Review Sub-Committee

Membership

1. Janet Holt (Chair) – (Independent Member).
2. John Marshall – (Elected Member).
3. Peter Sowray – (Elected Member).

Substitutes

The remaining Members of the Standards Committee.

Complaint Determination Sub-Committee

Membership

1. James Daghish (Chair) – (Independent Member).
2. Gillian Fleming – (Independent Member).
3. David Jeffels – (Elected Member).

Substitutes

The remaining Members of the Standards Committee.

- That the references to “the Standards Board for England” in the Complaint Sub-Committee’s Terms of Reference set out in Appendix 2 to the report, be replaced with “Standards for England”;
- That all Members, including Substitute Members, be recommended to undertake an appropriate level of training, where appropriate, before serving on any of the Sub-Committees.

6. LOCAL ETHICAL FRAMEWORK DEVELOPMENTS

CONSIDERED –

The report of the Monitoring Officer briefing Members on developments in relation to the local ethical framework.

The Monitoring Officer highlighted the following developments:-

The Standards Board – “A New Look”

The Standards Board for England had announced that from July there would be a new look and feel to its communications with the Board’s role being developed from a focus on complaint handling to being the strategic regulator of standards among local politicians. It was also to be renamed and would be known as “Standards for England” (“SFE”).

Standards Committee (Further Provisions) Regulations 2009

These were attached as an Appendix to the report and it was stated that the Regulations came into force on 15 June 2009. The Regulations had the following effect:-

- Allow the Standards for England to suspend a relevant authorities local assessment functions.
- Enable authorities to establish joint Standards Committees to deal with all or any functions of a Standards Committee.
- Amend the powers of Standards Committees to grant dispensations to Members with a prejudicial interest.

Joint Standards Committees

The Monitoring Officer highlighted how the Standards for England (SFE) had produced guidance on Joint Standards Committee and a copy had been appended to the report. The SFE had recognised that there would be different reasons for authorities wanting to create joint Standards Committees and had produced three model governance structures as follows:-

- Model A: A joint Standards Committee to receive written allegations and requests for a review and to decide what action to take in relation to them.
- Model B: A joint Standards Committee to carry out the functions in Model A together with receiving and considering final investigation reports and conducting hearings, making findings and imposing sanctions.
- Model C: A joint Committee to carry out all of the functions of a Standards Committee.

In relation to the model joint procedures set out above the Monitoring Officer noted that Model C was not intended for large authorities such as the County Council, and therefore would not be considered as a possible joint structure. She stated that she would undertake some exploratory work to determine whether either of the two remaining models would be of any benefit to the County Council's Standards Committee and would produce a report in line with that to a subsequent meeting. Members suggested that Model B should also be excluded from the Monitoring Officer's consideration as this was considered to be unfeasible in terms of the County Council's Standards Committee. Therefore, they requested that any investigation should consider possibilities in relation to Model A.

Dispensations

The Monitoring Officer highlighted recently produced guidance from the SFE on dispensations. The new regulations clarified that Standards Committees could grant a dispensation where the number of Members prohibited from voting on an item of business because of prejudicial interests would upset the political balance of that meeting to such an extent as to prejudice the outcome of voting, rather than, as previously provided, only at the time that the allocations to political groups were made.

The new regulations also clarified paragraph (a) in terms of granting a dispensation where more than 50% of Members were affected by adding that this related to Members prohibited from voting on the business, rather than just participating.

It was noted that dispensations could also be granted in terms of speaking only, where this was appropriate.

The Monitoring Officer stated that the County Council's protocol for the granting of dispensations, produced at Appendix 4 to the report, would need to be amended to reflect the guidance published by SFE and those amendments were highlighted in Appendix 4.

Members queried whether details of timescales for submitting applications for dispensations should be set out in the protocol, as these currently were not, and it was noted that on previous occasions the Standards Committee had been required to meet at very short notice due to dispensations being required for a Committee to take place within a very short period of time. It was suggested that, where possible, Members should be requested to submit their applications for dispensations in a timely manner, allowing the Standards Committee sufficient time to be called and issue the dispensations, where appropriate, without having to do this at the last minute. The Monitoring Officer indicated that not all dispensation requests could be foreseen until immediately prior to some meetings, therefore, it was difficult to provide such an instruction within the protocol. It was suggested, therefore, that the forthcoming Standards Bulletin be updated to provide a reference to this matter, requesting, where possible, that Members provide applications for dispensations in a timely manner, rather than waiting until the last available time.

SFE Guidance on "Other Action" by Monitoring Officers

The Monitoring Officer reported on guidance relating to the option open to a Standards Committee in assessing a complaint to refer the matter to the Monitoring Officer for "Other Action". The guidance document had been produced by the SFE about the option of other action, in order to clarify what it was, what it could involve, when it was appropriate and what to do if it did not prove successful. The guidance

acknowledged the reluctance to refer a complaint for other action without knowing whether the subject member or any other members of the authority would co-operate with the proposed approach. It was suggested, therefore, that the Complaint Assessment Sub-Committee may adjourn to ask the Monitoring Officer to determine whether the Member(s) would co-operate or alternatively the Standards Committee could agree as a matter of general process that the Monitoring Officer sought views on other action when a complaint was received. Given the disadvantages which existed in adjourning meetings of the Sub-Committee, it was recommended that the Committee should agree that, as a matter of general process, when appropriate, the Monitoring Officer should seek views on other action when a complaint was received. Where there had been a direction for other action, the Monitoring Officer would submit a written report to the Standards Committee/Sub-Committee within three months of such a referral being made. It was suggested that it would be appropriate for the Sub-Committee to receive the information regarding compliance with the other action, rather than the Standards Committee, as they were the body who had agreed that this action be taken. To keep the Standards Committee informed, it was suggested that a report be submitted to the Standards Committee, anonymously, outlining forms of other action taken and the compliance with that action. Appendix 6 to the report outlined the amendments required in the complaint assessment procedure for the other action procedure to be adopted.

The Monitoring Officer noted that the following parts of the new local ethical framework had not yet come into force:-

- Application of code to Members private conduct.
- New codes of conduct for Members and officers.

RESOLVED -

- (i) That the contents of the report be noted;
- (ii) That the Monitoring Officer investigate model A in respect of possible joint Standards Committees arrangements, as indicated in the recently produced SFE guidance, and that a report be submitted to a subsequent meeting of the Standards Committee to outline a way forward on this matter;
- (iii) That, subject to the comments highlighted above, the Committee's dispensation request procedure be amended as set out in Appendix 4 to the report;
- (iv) That, subject to Members comments set out above, the Committee's complaint assessment procedure be amended as set out in Appendix 6 to the report.

7. STANDARDS BULLETIN

CONSIDERED –

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

The Monitoring Officer outlined how the Bulletin had been updated to take account of the developments in the ethical framework, outlined at this meeting, and would be provided to Members and senior officers of the County Council.

It was noted that the article relating to dispensations would be altered to draw to Members' attention the need to submit applications for dispensations in a timely manner.

A Member referred to the publishing of Members Interests on the County Council's website, noting that, if requested, not all details provided by Members had to be published on the website and he asked why that was the case. In response the Monitoring Officer outlined the procedure for the register of interests by Members stating that those had to be kept in a public register, held by the Monitoring Officer, which was accessible by the public. There was no legal requirement to publish these on the web-site, however, this was becoming more prevalent among local authorities and it was considered best practice to provide the details on the web-site. She noted that there were some issues relating to data protection in publishing Members information in this manner, and accordingly all Members are requested to agree to their details being included on the website. Some Members had expressed concern regarding sensitive issues being published in that manner. For that reason, some information was not being published on the website, and accordingly, an advisory note was provided alongside those non published details advising members of the public to contact the Monitoring Officer if they had queries. It was noted that in exceptional circumstances and with the agreement of a Member and the Monitoring Officer, very sensitive details could be excluded from publication in the official register of interests held by the Monitoring Officer. The Monitoring Officer noted that the annual return to the Standards for England had indicated that it was good practice for Members interests to be provided on the Authority's web-site.

RESOLVED –

That, subject to the comments highlighted above, the bulletin be updated and then circulated to Members of the Authority.

8. AGENDA FOR NEXT MEETING

The Chairman noted that there had been a number of changes in Membership of the Authority following the County Council elections in June 2009 and, therefore, suggested a number of issues should be addressed at the next meeting of the Standards Committee to take account of that. He suggested that the following items be submitted to the next meeting of the Committee:-

- A review of what the County Council already had in place in terms of Standards (protocols, etc) to determine where there were any gaps, if any.
- Consider examples of good practice from other Local Authorities.
- Consider the information contained within the Annual Return statistics published by Standards for England.
- Continue with the Standards Committee's review of communications.

RESOLVED –

- That the above items be included on the agenda for the next meeting of the Standards Committee.

(The Chairman accepted the above issue as an urgent item because of the need to determine this matter before the next meeting of the Committee).

SL/ALJ