

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

Minutes of the meeting held at County Hall, Northallerton on 28 November 2011, commencing at 10.30 am.

PRESENT:-

Mr Henry Cronin (Chairman).

County Councillors J W Marshall, Peter Pople and Peter Sowray.

Independent Members: Hillary Bainbridge, Hillary Gilbertson and Dr Janet Holt.

Apologies were received from County Councillors Philip Barrett, David Jeffells and Geoff Webber

It was noted that Dr Holt's details on the Membership page showed that she had been appointed to 2011, whereas, at an earlier meeting, she was re-appointed to serve on the Committee until 2013. The error was acknowledged and it was stated that the Constitution page would be changed accordingly.

COPIES OF ALL DOCUMENTS CONSIDERED ARE IN THE MINUTE BOOK

98. MINUTES

RESOLVED –

That the minutes of the meetings held on 16 May 2011 and 17 June 2011, having been printed and circulated, be taken as read and signed by the Chairman as a correct record.

99. 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.

100. LOCAL ETHICAL FRAMEWORK DEVELOPMENTS – THE LOCALISM ACT 2011

CONSIDERED –

The report of the Monitoring Officer updating Members in respect of the proposed changes to the National Standards Regime.

A presentation was provided to the Committee highlighting the following:-

- The Localism Act 2011.
 - Changes.
 - The new Standards Framework.
 - Members' Code of Conduct.

- Complaint handling.
- Independent Persons.
- Disclosable pecuniary interests.
- Register of Members Interests.
- Disclosure of interests.
- Sensitive interests.
- Dispensations.
- Offences.
- Bias and predetermination.

Within the presentation the following main points were highlighted:-

- The new standards provisions were likely to be in force from April 2012.
- Standards Committees remained non-Executive.
- The new regime abolished Standards for England.
- There was a requirement for a Members' Code of Conduct to be in place, with a return to pecuniary and non pecuniary interests.
- The County Council would define its own Code of Conduct.
- A framework would be developed to make arrangements for failures to comply with the Code of Conduct, with the current, beaucroatic and lengthy system being abolished and a more appropriate framework being developed to meet the needs of the Authority, by the Authority.
- The views of an independent person would be sought in respect of complaints.
- An independent person would be required for the Standards Framework and the criteria for that were set out, which precluded the current Independent Members sitting on the Standards Committee. Members questioned whether there would be a need to have a separate Independent Member appointed for each complaint, particularly as their involvement in previous complaints could preclude them from deliberations. In response the Monitoring Officer indicated that the sharing of a panel of Independent Members for Local Authorities in North Yorkshire and maybe beyond was currently being considered.
- It was noted that currently there had been no indication of sanctions that could be brought about in terms of upheld complaints and it was expected that further information would be provided in relation to that.
- A Register of Interests would be established and monitored by the Monitoring Officer. It was noted that the publication of the Register of Interests on the Authority's website would now be statutory.
- The criteria for disclosable pecuniary interest were set out and it was noted that there was still an opportunity provided for Members to apply for dispensations under certain circumstances. It was noted there was no provision included for Members to leave the room when they had disclosed a pecuniary interest, but the particular local authority could chose to include that in their advice to Members.
- Issues relating to individual Member decisions were outlined.

- The non publication of sensitive interests remained as in the existing Act.
- In terms of dispensations it was noted that currently these could be granted where 50% of the membership was unable to partake in the meeting, whereas the new Act required a greater proportion of the meetings Members to be precluded before a dispensation would be considered.
- Some failures to declare interests were now deemed to be a criminal offence and prosecutions could take place in relation to this.

Following the presentation Members discussed the changes to the Standards regime provided through the Localism Act 2011, in depth and highlighted the following issues:-

- The Chairman noted that the new provisions allowed the new system to be locally driven and less beaurocratic in nature than the present system whilst retaining independence to the Authority through the Independent Member system. He raised concerns however that the new independent scrutiny of Standards was much smaller than at present he sought the views of the Committee on how to move forward in the development of a new standards regime for the Authority do this could be fed into the process for developing a new regime.
- It was noted that Standards for England ended in January 2012 and there was a requirement for any complaints arising over the next two months to be dealt with through local determination.
- Clarification was sought on bias and predetermination and the Monitoring Officer stated that Members, as at present, could express their views on issues, but if they made it clear that when they came to the meeting they would go with an open mind, take account of the evidence provided and vote accordingly, they could still partake in the meeting. She emphasised that Members were allowed to have, and express a view, on situations as long they stuck to the parameters outlined they could still participate fully in the democratic process. She noted that previous Standards Bulletins had provided clarification of what was considered to be predetermination and stated that there had to be specific evidence that a Member had a closed mind to the issue then this did not amount to predetermination and was predisposition.
- A Member expressed his disappointment that, initially it appeared that the Standards regime would be made much simpler and less beaurocratic through the Localism Act, whereas the final publication appeared to have left some of the old difficulties in place. He wondered why the original proposals had changed significantly and how those had taken place. It was explained that many of the implications of the original proposed Act were debated extensively in the House of Lords particularly in relation to the Code of Conduct and the independent scrutiny of the ethical regime. It was emphasised, however, that the abolition of Standards for England would reduce significantly the amount of beaurocracy surrounding the regime. The Monitoring Officer stated that the new Standards process to be provided by the Local Authority would be much less onerous than the present framework and much less beaurocratic than the previous regime. The Code of Conduct developed would be much more appropriate to the County Council, but would still provide reassurance to the public that the Authority was maintaining high standards of conduct. She noted that the three main issues which had come from the meeting with the Leaders of the various political groups within the County Council were that the Standards regime should be less beaurocratic,

proportionate and maintain public trust and she considered that the new system would comply with those wishes.

- The Monitoring Officer again outlined that consideration was being given to appointing a panel of independent Members to share between various local authorities. Members considered that this would be appropriate as it would also give those involved experience of complaints in other areas, providing them with a thorough background knowledge to such situations.
- An independent Member of the Committee considered that the Standards Committee framework should include a number of independent Members to sit on the Committee, rather than just one, but emphasised that this should only be a small number.
- Members stated that they were happy for the Monitoring Officer to go forward in creating an appropriate framework for the County Council in terms of the Standards regime. The Monitoring Officer stated that a Standards Committee in some format would be required, but it was likely to be much lower key than at present. It was again emphasised that the final framework should be less bureaucratic, be proportionate and maintain public trust.

RESOLVED –

That the Monitoring Officer move forward on establishing a new framework for the County Council's Standards regime, with a report back to the next meeting of the Standards Committee on the progress made, before submitting proposals to the Executive and the County Council.

101. GIFTS AND HOSPITALITY PROTOCOL FOR EMPLOYEES

CONSIDERED –

The report of the Monitoring Officer seeking Members endorsement of amendments made to the Employees Gifts and Hospitality Protocol.

Details of amendments made to the Gifts and Hospitality Protocol for Employees were provided in an appendix to the report, the amendments having been made to reflect legislative changes introduced by the Bribery Act 2010.

A copy of the amended Registration Form was also attached.

RESOLVED –

That the Committee endorses the amendments made to the Employees Gifts and Hospitality Protocol and supporting Registration Form.

102. MEMBERS ATTENDANCE AT COMMITTEES

The Assistant Chief Executive (Legal and Democratic Services) provided an oral update on the response received to issues raised with Group Leaders regarding Members attendance at Committees, as reported to the Standards Committee meeting held on 16 May 2011.

RESOLVED –

That the report be noted.

103. MEMBERS ATTENDANCE RECORDS – REQUEST FROM AUDIT COMMITTEE

CONSIDERED –

The report of the Assistant Chief Executive (Legal and Democratic Services) advising of a request for the Standards Committee to report to the Audit Committee, once per year, concerning the action which the Standards Committee undertakes in reviewing Members' attendance records.

The report outlined how the Committee was asked to consider whether it agreed, in principal, to report to the Audit Committee on an annual basis, regarding the action it had taken in reviewing Members attendance records. A programme of how the Standards Committee could report to the Audit Committee was provided.

It was considered that the request from the Audit Committee was a little premature as the remit for the new framework for Standards Committee had not yet been established. It was suggested, therefore, that consideration to this matter could not take place until that was in place.

RESOLVED –

That consideration of this issue be deferred until the remit of the newly formed Standards Committee has been established.

104. **COMPLAINTS AND FINDINGS/GUIDANCE FROM STANDARDS FOR ENGLAND**

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.

Details outlined in the report included:-

- The Localism Act 2011.
- Standards for England Annual Report and Accounts 2010/11.
- Standards for England – new accommodation.
- Committee on standards in public life – public attitudes survey 2011.
- Complaints received by the County Council.

In terms of complaints received there had been none since the last ordinary meeting of the Committee.

Details of previous complaints were outlined as follows:-

- Complaint NYCC/SC/10 – this had been received on 16 September 2010 and had subsequently been assessed and investigated, with the Determination Sub-Committee accepting the Investigating Officer's conclusions that there had been no breach of the Code.
- Complaint NYCC/SC/11 – this had been received on 10 February 2011 and had been assessed and investigated and the Determination Sub-Committee has accepted the Investigating Officer's conclusions that there had been breach of the Code.
- Complaint NYCC/SC/12 – this had been received on 20 April 2011 but had subsequently been withdrawn by the complainant.

- Complaint NYCC/SC/08 – following the findings of the Determination Sub-Committee that there had been a breach of paragraphs 10 and 12 of the Code of Conduct by the subject Member, an appeal had been launched to the First Tier Tribunal, which had subsequently found in favour of the subject Member and had concluded that there had been no breach of the Members Code of Conduct. The appeal was therefore upheld and the decision of the Determination Sub-Committee was rejected. The sanction imposed therefore ceased to have effect from the date of that rejection.

It was noted that there were no current or pending complaints against any Members of the Authority.

RESOLVED –

That the report be noted.

105. STANDARDS BULLETIN

CONSIDERED –

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

The December edition of the Bulletin concentrated on the Localism Act and what was happening in terms of the Standards regime. The main focus for the Bulletin was the new Standards framework that was to be established.

RESOLVED –

That the Bulletin be agreed and circulated to Authority Members and Senior Officers.

106. WORK PROGRAMME 2011

CONSIDERED –

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

In view of the current situation, following the publication of the Localism Act, the Monitoring Officer suggested that the Standards Committee's Work Programme be suspended for the time being until the new framework for the Standards regime had been established and it had been determined how and when the Standards Committee would meet.

She stated that a meeting of the Committee would be arranged early in the New Year to look at the draft proposals for the new regime. She emphasised that this meeting would take the place of the meeting scheduled for 6 February 2012.

RESOLVED –

That the course of action outlined above be agreed.

The meeting concluded at 11.40 am.