

STANDARDS COMMITTEE MINUTES - 18 JULY 2006

Present: Councillor T Jones (Chair);
Councillors Green, Maskell and S Stainthorp; Mr F Stroud.

Apologies: Councillors Hanley and Skeats; Mrs A Lee.

RESOLVED ITEMS

1. MINUTES

The Minutes of the meeting held on 20 October 2005 were confirmed as a correct record and signed by the Chair.

2. TERMS OF REFERENCE AND ANNUAL REPORT

The Monitoring Officer submitted a report setting out the Committee's terms of reference and constitutional role for the Municipal Year 2006/07, updating the Committee on developments and complaints during the 2005/06 Municipal Year and looking forward to the new Municipal Year.

Role of Standards Committee and Terms of Reference

The following documents were appended to the report:

Appendix A - Terms of reference and constitutional and operational arrangements for the Committee, including details of the requirements for independent Members

Appendix B - Procedure for considering cases referred to the Committee by the Standards Board for local determination.

Appendix C - Procedure for investigating complaints referred to the Monitoring Officer by an Ethical Standards Officer for local investigation.

Appendix D - The Council's Code of Conduct for Members, which was based on the National Code.

"A Code for the Future"

The report stated that, in February 2005, the Standards Board for England had initiated a national review of the Code of Conduct for Members, to which the Committee had responded on 18 June 2005.

The report explained that the Committee had held an informal meeting on 28 February 2006 to discuss the Office of the Deputy Prime Minister's (ODPM) consultation paper setting out the Government's proposals. Both the Standards Board and the ODPM had proposed a significant change of emphasis, and the key features of the Government's consultation paper were as follows:

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- Local Monitoring Officers and Standards Committees to be responsible for investigating and determining most cases, with the Standards Board adopting a more strategic and advisory role;
- The Code of Conduct to be modified in a number of positive ways;
- Local Standards Committees to be required to be chaired by an independent Member, but might continue to have a majority of members as Councillors;
- Proposed changes to the conduct regime for local government employees, including :
 - Issuing an employee's code of conduct;
 - Retaining politically restrictive posts, but local Standards Committees to adjudicate on disputes;
 - Revising the rates paid to Political Assistants.

The report noted that most of these changes would require primary legislation, and would not be implemented until 2008 at the earliest.

Both the Standards Board and the Government consultation paper had proposed changes to the Member Code of Conduct. The Standards Board had made the following recommendations:

- The Code should be simpler;
- The rules around personal and prejudicial interests should be clearer, with a reduction in the number of personal interests which needed to be declared, and greater local discretion to grant dispensations;
- The rules on prejudicial interests should be changed to allow Members to act as community advocates on behalf of their own communities;
- Members should be able to disclose confidential information which was in the public interest;
- Members' private lives should not be subject to the Code except where a Member's behaviour outside official duties damaged the reputation of local government - which should be restricted to unlawful activities;
- The Code should have specific provisions against bullying;
- The duty to report all breaches of the Code should be abolished, and vexatious complaints discouraged;
- The 10 principles of public life should be on the face of the Code.

The Government's response, as set out in the December 2005 consultation paper, had been that amendments to the Code should be made along the lines suggested by the Board, including:

- Making the Code clearer and simpler;
- Maintaining a rigorous approach to the identification of serious misconduct;
- Amending the regime for declaring interests and speaking at Council meetings, particularly for Members who serve on other public bodies;
- Making changes to the arrangements for determining whether conduct in private life should fall within the ambit of the Code;
- Amending the rules on reporting of allegations by Members to reduce the number of vexatious complaints.

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The consultation paper had also talked about making judicious relaxations in certain areas, in particular to support Councillors' advocacy role for their constituents and the public bodies on which they served; and to provide a clearer focus on issues that really mattered. It had accepted the Board's recommendations concerning confidential information and bullying, and stated its intention to clarify the intention of the code in respect of unlawful discrimination.

Committee members, at the meeting on 28 February 2006, had welcomed the following anticipated changes to the Code:

- those relating to misconduct in a Councillor's private life, which would not now fall within the Code, unless the misconduct was illegal;
- to the rules on the reporting of allegations by members, to reduce the number of vexatious complaints;
- to the constraints of the Code on councillors' advocacy role and the introduction of a third category of councillor interest - "civic interest";
- provisions to guard against bullying by Councillors.

The Committee members had also discussed the impact, from 2008, of greater local investigation and determination, in particular in terms of officer capacity to conduct investigations, Member capacity to hear cases and the potential for conflicts of interest arising from the various roles of the Monitoring Officer. The Committee members had suggested that options for joint working arrangements between the Monitoring Officers and their staffs of the six Berkshire authorities should be considered. They had also requested that the Group Leaders and Chief Executive consider broadening the base of the Committee to help maintain continuity, in the light of the likely increase in the Committee's workload from 2008.

Committee Membership

The report stated that there was no limit to the number of independent Members that could be on the Committee, but there was a requirement that they make up at least one quarter of the Committee. Independent Members, however, could not have been a member or employee of the Council within five years of the date of appointment and could not be a relative or close friend of a Member or employee of the Council. In addition, Independent Members were required to have filled in an application for the position, following an advertisement placed in at least one local newspaper, and had to be approved by the majority of members of the Committee. The Standards Board had also suggested that independent Members should be familiar with ethical dilemmas, have experience with committee work, have questioning skills, be assertive and be independent of any political party and local government. The authority could also approach people directly to draw their attention to the advertisement, but every candidate was required make a formal application.

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Interests

The report reminded the Committee that there were two interests that Members were required to declare at meetings: personal interests and prejudicial interests. To have a prejudicial interest the Member would first have a personal interest. Following the *Richardson v North Yorkshire* judgment, a Member with both a personal and prejudicial interest was required to declare both and leave the meeting room at which the matter in question was being discussed.

In November 2004 the Standards Board had issued advice on the position of Members who were also Members of other authorities (“dual-hatted Members”) or of lobby or interest groups, *“Lobby groups, dual-hatted members and the Code of Conduct”*. Copies of this booklet had been sent to all Councillors in November 2004, and again at the start of the current Municipal Year and a summary of the key messages was given in the report.

The report stated that, during 2005/06, the position of Members in relation to the new Licensing Sub-Committees set up under the Licensing Act 2003 had given rise to a number of specific issues relating interests, where the Code of Conduct had not sat easily alongside the Regulations supporting the Licensing Act 2003. Consequently in August 2005 the Head of Legal Services and the Monitoring Officer had issued advice specifically on Councillors’ interests on applications being considered by these Sub-Committees. The Chief Committee Administrator had subsequently developed procedural guidance notes for Councillors and officers attending meetings of Sub-Committees set up under the Licensing Act 2003, to which the guidance on interests was appended. This had been issued to all Councillors serving on Licensing Committees in the new Municipal Year.

Complaints

Complaints to Standards Board

The report referred to the Committee’s meeting of 11 August 2005 (Minute 2 refers), when it had been reported that one outstanding complaint to the Standards Committee, which had been made by a member of the public and concerned comments alleged to have been made by Councillor McKenzie at a political hustings meeting, had been referred to the Monitoring Officer for Local Investigation. The local investigator had completed his investigation in September 2005 in line with the local investigation procedure, and at a pre-hearing meeting on 20 October 2005 the Standards Committee had accepted the investigator’s finding that Councillor McKenzie had not failed to comply with the Code of Conduct, in that he had not acted in a way which breached either Section 4 or Section 5(a) of the Code. There had been, therefore, no need to convene a hearing sub-committee.

The Committee had also resolved that the Chief Executive and the Monitoring Officer should write to all Councillors reminding them of their responsibilities under

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the Code of Conduct, and this memorandum, under the heading, “Bringing the Authority into Disrepute”, had been sent to all Councillors on 21 October 2005.

In addition, during the Municipal Year 2005/06, the Standards Board had received three complaints about Reading Councillors, all of which it had decided not to pursue to investigation. Details of each of these were given in the report.

Other Complaints

During the Municipal Year 2005/06 the Monitoring Officer had investigated three complaints about Members, two of which had been separate complaints by members of the public concerning the chairing and processes of a Licensing Sub-Committee meeting, and one of which had been a complaint from a member of the public concerning the inconsistency of comments made by a Councillor serving on the Planning Applications Committee.

Breaches of Local Codes of Conduct and Protocols

In advance of the 2005 general election the Monitoring Officer had issued two briefing notes on publicity and the election, the first concerning parliamentary candidates, in particular where they were also Councillors; and the second concerning the election purdah period. Following the election, updated Guidelines on Working with Reading’s MPs had been issued in November 2005, which had now been incorporated into the Council’s constitution. In advance of the 2006 local elections guidance on publicity and local elections, which had been offered at previous local elections, most recently in 2004, had been re-issued to all Councillors. All of the guidance offered on publicity and elections was now being consolidated into one composite protocol, for inclusion into the Council’s constitution. The constitutional Protocol on Member/Officer Relations, in particular to address issues arising from the fact that four wards now had cross-party representation, was also being reviewed.

Operational Issues

Training

The report stated that, as in previous years, the induction programme for new Councillors elected in May 2006 had included a presentation from the Monitoring Officer on Conduct and Standards, based on a presentation session that had been held for all Councillors in autumn 2005. The training session and presentation had focused on the Code of Conduct, Interests, Local Codes and the Standards Board and Standards Committee.

In addition, a full-day Standards Committee training session had been held on 23 January 2006. This had been attended by four Members of the Reading Standards Committee, along with Members from the Committees of other Berkshire Authorities and the Royal Berkshire Fire Authority. The Committee had reviewed the training session at its informal meeting held on 28 February 2006, and a summary of the

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points made was set out in the report. The informal meeting had suggested that the Monitoring Officer should produce a local case study for Members in the new Municipal Year as a further piece of Member training.

Internal Audit Report

The report stated that the Council's systems for control and supporting procedures to ensure compliance with the Code of Conduct had been reviewed by the Internal Audit service as part of a more general audit of resources that would feed in to the Corporate Governance part of the authority's CPA assessment. The Audit report, Appendix E, had been circulated separately to the agenda.

The Audit report had found that strong controls were in place. It had also recommended two advisory controls, as follows:

- (1) Completion of Register of Financial Interests by newly-elected Councillors
 - (a) Where not done by 28 days of election, the Monitoring Officer to write formally to the Member, requesting compliance
 - (b) All Members to complete all parts of the form, including those where they had no interest, and the Monitoring Officer to return all forms where any questions were unanswered.
- (2) Register of Gifts and Hospitality

The Monitoring Officer should formally remind all Members that:

- (a) All offers of any gift or hospitality must be declared and registered, even if refused;
- (b) The value of all gifts and hospitality received should be declared.
- (c) Declarations of offers and accepted gifts and hospitality must be declared within 28 days of receipt.

The report stated that the Monitoring Officer intended to action points (1) and (2a) above, while the Committee's views were sought on 1(b).

Gifts and Hospitality

The Registers of Gifts and Hospitality offered to Councillors in the financial year 2005/06 was attached at Appendix F. Under Paragraph 17 of the Code of Conduct, Councillors were required to give notification of all gifts and hospitality with a value over £25. For 2006/07 an additional column had been added to the table to show the value of the gift.

Resolved -

- (1) That the Committee's terms of reference and constitutional role be noted;

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- (2) That the Internal Audit report on Members' Standards of Conduct be noted;
- (3) That Members not be required to complete all parts of the Register of Financial Interests, and that where sections had been left blank these be considered to mean that the Member did not have an interest to declare;
- (4) That the lists of gifts and hospitality registered by Members in the financial year 2005/06 be received, and the following recommendations made in the Internal Audit report be endorsed and implemented by the Monitoring Officer:
 - (a) all offers of any gift or hospitality must be declared and recorded, even if refused;
 - (b) the value of the gifts and hospitality should be declared;
 - (c) declarations of offers and accepted gifts and hospitality must be declared within 28 days of receipt.

(The meeting commenced at 6.30pm and closed at 6.53pm).

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