

STANDARDS COMMITTEE – Meeting held on Tuesday, 18th October, 2005.

Present:-

Co-opted Independent Members:-

The Reverend Paul Lipscomb (Chair), Mr Fred Ashmore and Mr Mike Field.

Elected Members:-

Councillors Neil Arnold, Michael Holledge, Mewa Mann and Lydia Simmons.

Parish Council Representative:-

Wexham Court Parish Councillor David Maclsaac.

Apologies for Absence:- Mr Zahire Khan and Councillors Pauline Key and Sumander Khan.

PART I

13. Declarations of Interest

None.

14. Wexham Court Parish Councillor David Maclsaac

The Chair welcomed Parish Councillor David Maclsaac to the Committee as the new Parish Council representative. Councillor Maclsaac had replaced Parish Councillor Barbara Turner who had resigned from Wexham Court Parish Council in August.

15. Minutes

The minutes of the Meeting of the Committee held on 20th June, 2005 were approved as a correct record and signed by the Chair.

16. Minutes of the Standards (Local Determination) Sub-Committee

The minutes of the Standards (Local Determination) Sub-Committee Meeting held on 12th and 20th July, 2005 and 15th August, 2005 were noted. During consideration of the Minutes of the Sub-Committee Meeting held on 15th August, 2005 in response to a question from a Member, the Committee was advised that Councillor Dhillon had written a letter of apology to the Complainant, Mr M Khan.

A Member referred to past determinations of the Sub-Committee where Members found to be in breach of the Local Code of Conduct had been required to apologise in writing. The Member felt that the Committee should be aware that feedback from fellow Councillors on this matter was that in addition to a written apology Members felt the Member concerned should also be required to apologise to full Council in person.

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17. Ethical Governance Diagnostic

The Director of Law and Corporate Governance reminded the Committee that under Part III of the Local Government Act 2000 local authorities had a duty to take a responsibility for, amongst other things, their own standards and promote and maintain high ethical standards across the Authority. With these requirements in mind he recommended that the Council should undertake the Ethical Governance Diagnostic which had been jointly developed by the Audit Commission, Standards Board for England and Improvement Development Agency (IDeA). The Diagnostic had been developed to assess an Authority's arrangements for promoting positive ethical standards and behaviour, local protocols and procedure, Monitoring Officer arrangements, the role of the Chief Executive and the workings of the Standards Committee and identify areas for improvement.

The Diagnostic comprised three parts namely:-

- (1) An audit of compliance with the Local Code of Conduct and how arrangements were developing.
- (2) A survey of Members and Officers including awareness and understanding of ethical behaviour.
- (3) Case studies for workshops with Members and Officers exploring dilemmas, conflicts of interest and equality issues delivered either by the Audit Commission or by the IDeA.

It was proposed that initially the Council would implement Parts (1 and 2) of the Diagnostic at a cost of no more than £5,000 which would be met from within current approved budgets.

The Committee was advised that should the Diagnostic go ahead the Council would seek amendments to the layout of the survey questionnaire, a copy of which was submitted, to differentiate more clearly those questions solely for Members from those intended for Officers. It was proposed that the survey would be carried out in January, 2006 with the Officer element of the survey being undertaken on-line and the Member survey would be conducted either by e-mail or hard copy as appropriate.

If the survey indicated that more training and development was required to promote higher ethical standards and awareness the Committee could at that time consider whether or not the third part of the Diagnostic should be implemented.

Resolved –

- (a) That the Director of Law and Corporate Governance be authorised to implement Parts (1) and (2) of the Ethical Governance Diagnostic with the survey of Members and Officers taking place in January, 2006.
- (b) That the Director of Law and Corporate Governance report back to the Committee on the outcome of the survey results together with any appropriate action plan to implement Part (3) of the Diagnostic.

18. Procedures for Local Investigations and Determinations

The Director of Law and Corporate Governance submitted a copy of the Standards Board for England's recent publication "How to Conduct an Investigation – Advice to Local Authorities on Investigating Allegations of Misconduct" which gave practical guidance and "top tips" on conducting hearings in respect of allegations of Member misconduct referred for local determination. The advice complemented the statutory guidance entitled "Local Investigations – Guidance for Monitoring Officers and Standards Committees" which currently all Officers involved in conducting investigations were observing. Accordingly, he recommended that future investigations should also be carried out with regard to this new guidance subject to one qualification. This related to the advice that interviews could be conducted in person or on the telephone. In the light of past experience, the Director of Law and Corporate Governance was of the view that except in exceptional circumstances interviews with witnesses should always be face to face. He also pointed out that although the new guidance made provision for the tape recording of interviews the Council had very limited facilities to facilitate this. However, to avoid any allegations that an investigator had misinterpreted what had been said or omitted some material fact or opinion the current practice was that once a witness statement had been drafted the witness would be asked to approve or amend it as appropriate and once agreed would be asked to sign and date it. This statement would form part of the supporting papers attached to the Investigating Officer's report.

An Independent Member asked whether Officers undertaking investigations were trained in interview techniques as this was a requirement for all Police Officers giving evidence in Court. The Director of Law & Corporate Governance indicated that to date and in the foreseeable future investigations would be carried out by senior legal officers experienced in interviewing but consideration would be given to providing training of this kind if required.

The Committee was advised that in conducting local hearings the Standards (Local Determination) Sub-Committee had used the comprehensive documentation produced by Messrs Wragge and Co a firm of Solicitors who specialised in this field. This documentation had been endorsed by the Standards Board for England but experience had shown that the hearing procedure was extremely detailed and cumbersome to use. Accordingly a shortened more "user friendly" procedure had been drafted which contained all the important and relevant points which ensured that a full and fair hearing took place. As previously, the supporting information on exempt/confidential information and the available sanctions would be appended to the simplified procedure. All three documents would form part of the Sub-Committee's agenda.

Resolved –

- (a) That the Monitoring Officer and his nominated representatives conduct investigations in accordance with the statutory guidance issued by the Standards Board for England entitled "Local Investigations – Guidance for Monitoring Officers and Standards Committees" and the supporting practical advice contained in the recent publication "How to Conduct an

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Investigation – Advice for Local Authorities on Investigating Allegations of Misconduct”.

- (b) That the Standards (Local Determination) Sub-Committee at future hearings adopt the revised procedure now submitted and the supporting documents relating to exempt/confidential information and available sanctions.

19. **Member and Officer Relations Code – Proposed Amendment to Recruitment, Appointment and Other Staffing Matters (Paragraph 14)**

The Member and Officer Relations Code which formed part of the Council’s Ethical Framework and Constitution set out, in a fairly prescriptive way, how Members and Officers should conduct themselves in the most common situations that arose on a regular basis. Until recently the involvement of Members in staff disciplinary and grievance matters had not been seen to be a particular problem. However, a Councillor had recently maintained that in these matters Members were effectively being “gagged” by the terms of the Code and that it prohibited a full and fair hearing thereby contravening the Human Rights Act 1998.

The Director of Law and Corporate Governance considered that the terms of the Code did not contravene any law including the Human Rights Act but that it might help if the Members’ role in such staffing matters was clarified. Accordingly, he submitted a proposed revised wording for paragraph 14.5 of the Code which sought to clarify its intentions. He indicated that since the Agenda and report for this Meeting had been issued two minor amendments had been made to the proposed revision and a copy of the amended paragraph was circulated.

Recommended - That the revised Paragraph 14.5 as now submitted subject to the amendments set out below be incorporated into the Member and Officer Relations Code and the Council’s Constitution be amended accordingly:-

- (a) That sub-paragraph (a) be amended by the addition at the end of the words “(e.g. witness as to fact)”.
- (b) That sub-paragraph (c) be amended to ensure that the capacity in which a Member will be involved when appointed to an Employment Appeals Sub-Committee is made clear.

20. **Fourth Annual Assembly of Standards Committees**

The Chair of the Committee together with the Director of Law and Corporate Governance in his capacity as Monitoring Officer had attended the fourth Annual Assembly of Standards Committees which had been held in Birmingham on the 5th and 6th September, 2005. The Director of Law and Corporate Governance submitted a report setting out the key issues, messages and lessons which had emerged from the plenary sessions, workshops and presentations they had attended during the Annual Assembly.

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The Chair drew attention to the views expressed by Sir Alistair Graham, Chair of the Committee on Standards in Public Life who had been critical about the current requirement for all complaints to be referred to the Standards Board for England. Sir Alistair had advocated that there should be much more devolution to local Standards Committees and he acknowledged that the current system discredited/devalued the role of the Committees. He had further advocated that Standards Committees should be chaired by an independent member and that independent members should be in the majority on such Committees.

The Chair reported that the Director of Law and Corporate Governance had been asked by the Standards Board to speak at the Assembly on the Council's experience of conducting local investigations. His address had been well received and had been very informative for those delegates who had had little or no experience of conducting local investigations who were in the majority.

During the Assembly, the Chief Executive of the Standards Board for England had summarised the Board's recommendations to Ministers on the review of the Local Code of Conduct which had been drawn up having regard to the results of consultation carried out earlier in the year and to which the Committee had responded. A copy of the Board's recommendations was submitted and the Director of Law and Corporate Governance commented on each in turn.

Resolved - That the report be noted.

21. Work Programme 2005/2006

The Officers submitted for consideration the revised and updated work programme for the Standards Committee for the current municipal year.

Resolved - That the revised work programme for 2005/06 now submitted be approved.

Chair.

(Note: The Meeting opened at 6.15 p.m. and closed at 7.15 p.m.)