

Standards Committee

Monday, 29 October 2007

Additional Information

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NOTES OF THE INDEPENDENT MEMBERS REGIONAL FORUM MEETING
HELD ON FRIDAY 19TH OCTOBER 2007 AT THE CIVIC OFFICES WOKINGHAM

The meeting commenced at 11.00 hours on Friday 19th October 2007 in the Professional Development Centre of the Wokingham Borough Council.

The meeting was attended by 22 people with representatives from most of the Standards Committees in Oxfordshire, Berkshire and Wiltshire. The majority were independent members with one Monitoring Officer present.

The meeting was chaired by David Comben the Independent Chair of Wokingham's Standards Committee and John Williams, Policy Adviser at the Standards Board for England was the main speaker.

Apologies for absence were not read out but will be attached to the minutes.

The minutes of the meeting held on 20th April 2007 held at Newbury were accepted as accurate. (Copy of the minutes were attached to the Swindon Standards Committee papers for the meeting on 23rd July 2007. No matters arising were discussed.

Mr T Davies reported back on Independent Members' Forum Co-ordinators meeting held in Manchester on 30th July 2007. A copy of the minutes of the meeting and the written report were circulated with the meeting papers. The main points raised related to political activity by standards committee members, the anticipated increase in local investigation workload, the numbers of local standards committee members to deal with the phases of filtering, hearing and appeals, and the benefits of joint working with other committees.

John Williams gave a brief feedback on issues raised at the 15/16th October Standards Conference in Birmingham and then proceeded to give a presentation on issues surrounding local investigation of complaints and criteria for referral to the Standards Board. (A handout of the talk is enclosed for information as much of the content of the talk has already taken place at previous Swindon Standard Committee meetings.

Mr Williams also briefly discussed the summary of the local filter pilot cases which Swindon discussed at the special meeting on 11th July 2007. Unfortunately a copy of the details of the decisions for each case made by the committees involved in the pilot work were not available for general distribution. It was suggested to Mr Williams that the decision matrix was made available when information which identified the pilot sites had been removed as it would allow more discussion in the light of other committees perceptions on how to proceed with each case i.e. no action, local investigation or refer to the Standards Board.

The date, time, and venue for the next meeting were not fixed as no representative felt able to commit their authority to running the next event and there was uncertainty as to whether the meeting should be before April 2008 when new local arrangements for dealing with complaints commence or in late April/ early May.

The meeting closed at 12.50 hours followed by a buffet lunch.

**Berkshire, Oxfordshire and Wiltshire Forum for Independent
Members of Standards Committees
Friday 19 October 2007**

The ethical framework for local government

It is the intention that ethical standards should be handled locally

When current ethical standards regime and mandatory code was introduced

- All complaints made to Standards Board for England
- All investigated by Standards Board for England
- Those requiring hearings all went to Adjudication Panel for England

Then local determination was introduced so that hearings of many cases went to local standards committees

Then local investigations so that now over 50% of cases are investigated locally.

The local filter is the last part of the jigsaw, returning the management of complaints to the local authority where it belongs.

The Local Filter

From next April complaints will be made to a local authority who will decide:

- a) to refer to its monitoring officer
- b) to refer to Standards Board for England
- c) to take no action

If c) then complainant may appeal within 30 days and standards committees must reconsider and may make then decide to

- a) to refer to its monitoring officer
- b) to refer to Standards Board for England
- c) to take no action

If it decides again no action there is no further appeal.

That is the local filter, or assessment, and the biggest change we are expecting.

Local Filter Pilots

- The Standards Board for England has just run pilots with nearly 40 standards committees, with a wide geographical spread and range of authorities

including the Greater London Authority, county councils, metropolitan borough councils, unitary councils and district councils, fire and national park authorities

- Locally, Swindon and Kennet took part
- Each pilot committee worked through an exercise dealing with the same 10 cases. These were real allegations which had been made to the Standards Board for England in the past, but anonymised
- Some councils ran out of time to deal with all cases. But average results can be compared to the Standards Board for England's decisions.
- Standards Board for England referred 3 out of the 10 cases. Pilot Committees referred 6 out of the 10 (but some of these were for other action than investigation)
- Practically all committees did refer the ones that Standards Board for England had referred.
- Those that were referred were mainly referred to the monitoring officer, not to the Standards Board for England
- One of these scenarios had resulted in 1 year disqualification (Adjudication Panel for England) but 40% of councils referred it to their own standards committee and 56% to the Standards Board for England.

Criteria for Referral

The pilot committees were not asked to use the Standards Board's own referral criteria, but were provided with a flowchart illustrating the key stages of the process.

Focus on two questions:

Does this allegation disclose a potential breach of the Code of Conduct?
If so, should anything be done about it?

Standards Board for England criteria are published on our web site:

- *It is serious enough, if proven to, to justify the range of sanctions available to the Adjudication Panel for England or local standards committees*
- *It is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and there are no other avenues left to deal with it, short of investigation*
- *In considering this, we will take into account the time that has passed since the alleged conduct occurred*

The Standards Board for England does not refer cases if

- *We believe it to be malicious, relatively minor or tit-for-tat*
- *The same, or substantially similar, complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained by seeking the sanctions available to the Adjudication Panel for England or the local standards committees*

- *The complaint concerns acts carried out in the member's private life, when they are not carrying out the work of the authority or have not misused their position as a member*
- *It appears that the complaint is really about dissatisfaction with a council decision*
- *There is not enough information currently available to justify a decision to refer the matter for investigation*
- *Except in the most serious of cases, conduct that would not be considered to be a breach of the revised Code of Conduct, which authorities are able to adopt from May 2007 and which will become mandatory in October 2007*

Standards committees will have to develop their own criteria for what to refer, bearing in mind that they may refer to their monitoring officer for action other than investigation e.g, mediation, training etc. The Standards Board for England is currently considering what guidance to give in relation to this

No Action and Appeals

- If the standards committee makes a decision to take no action on a complaint, the complainant can appeal within 30 days.
- The appeal is a reconsideration of same issues, and a decision must be made within 3 months.
- The same range of options is open to the standards committee but if it again decides to take no action, then there is no further appeal
- Standards committees will have to develop their own procedures for dealing with original allegations and appeals.
- The pilot committees had two appeals to deal with. They were more inclined to overturn an earlier decision not to refer a matter than the Standards Board was.

Implications of Local Filter – Pilot Committee Recommendations

Pilot committee suggestions about the new arrangements were varied, but the most consistent comments were

- Increased use of sub-committees
- a pool of members to sit on sub-committees and joint arrangements
- use of joint committees

Timescales

Standards committees also need to consider timescales for dealing with complaints.

Justice delayed is justice denied

Delay in dealing with complaints likely to attract more criticism than anything else standards committees do

Criteria for Referral to the Standards Board for England

Standards committees also need criteria for what to refer to Standards Board for England

Standards Board for England current criteria for referring cases to be investigated locally are:

Local Referral Criteria approved by the Standards Board for England

The presumption is that complaints about breaches of the code of conduct by members will be investigated locally, unless there is a particular reason to retain them for investigation by an ethical standards officer.

Ethical standards officers take account of the following criteria in determining whether a matter should be referred back for investigation:

- 1. Whether the allegation will require evidence beyond that available from documents of the local authority, its Members or members of the staff*
- 2. Whether the allegation, if proved, would undoubtedly warrant sanctions greater than those available to local standards committees.*
- 3. Whether the allegation raises significant and/or unresolved legal issues*

The ethical standards officers will also have to evaluate whether the local circumstances would provide for a fair investigation and one that would have the appearance of being fair. Matters to be considered in making this assessment would include:

- 1. the status of the member (eg is the member or complainant a group leader or a member of the authority's cabinet);*
- 2. whether there is a potential conflict of interest of the MO and are there alternative arrangements in place to address the conflict, the focus being methods of managing conflict by delegation, outsourcing or reciprocal arrangements;*

3. *whether there is substantial governance "dysfunction" within the principal authority;*
4. *Whether there is an allegation of long-term or systemic member/officer bullying;*
5. *whether there are any exceptional local resource implications of referring the matter back for local investigation.*

Summary – what Standards committees need to be thinking about now

How you will deal with complaints

- whole committee
- sub-committee
- joint committee
- timescales
- appeals

Criteria/policies to inform your decisions

- Refer/dismiss
- Refer to monitoring officer for investigation or other action
- Refer to Standards Board for England

Will you use joint committees? If so how?

- consideration of complaints only
- appeals only
- hearings only
- whole process

Joint Committees

Substantial interest throughout local government, for example in Buckinghamshire – Pathfinder

Attractive for single-purpose authorities such as police and fire

Awaiting regulations: the Standards Board has called for maximum flexibility

Monitoring and Audit

The Standards Board will become a light-touch strategic regulator

We are developing an online system for authorities to make a quarterly return to the Standards Board.

For many authorities, there will be a simple nil return if nothing happened that quarter. Otherwise, we expect the system to double as the authorities' own tracking system

The standards committee will make an annual report to the Standards Board

Where a standards committee is underperforming, the Standards Board will provide support and encouragement. Ultimately, the Board is empowered to claw back the local assessment.

Parliamentary Timetable

The Bill is expected to complete all its stages and gain royal assent in the autumn before the end of this session of parliament.

Then we will need regulations and DCLG expect to issue consultation in October ending in December 2007

New regulations should come into force February to March 2008
Current start date for local assessment is April.

Regulations should cover (among other things)

- operation of local assessment
- joint working arrangements
- increased power of sanction for local standards committees
- powers for local standards committees to refer matters directly to the Adjudication Panel for England
- Monitoring and audit of standards committees' performance by the Standards Board for England

The Standards Board for England will produce guidance as soon as possible after regulations.

John Williams
Policy Adviser
Standards Board for England

Local filter: In detail

Summary of local filter pilot cases

Case A: Hilton Borough Council, Councillor Peter Citrine

Summary

It was alleged that Councillor Peter Citrine published a political leaflet on behalf of the local Liberal Democrats suggesting that people should boycott the shops in the high street belonging to Councillor Leo Hall, the Conservative council leader. This was in response to the council's decision to introduce car-parking charges in the town centre, which the Liberal Democrats were campaigning against. The complainant is an employee of Councillor Hall. She works in a pet shop and alleges that Councillor Citrine is jeopardising her livelihood by effectively encouraging people to patronise another pet shop 200 yards away.

Case B: Borough of Selchester, Councillor Julia Harty

Summary

It is alleged that Councillor Harty lied at council meetings about her decision to require LEA appointed school governors to pay the £36 cost of their own Criminal Records Bureau (CRB) checks, a process which she had approved while cabinet member for education. The complainant, who is the opposition chief whip, said that Labour councillors received complaints during August 2006 that new governors would have to have a CRB check at their own expense, and there were letters in the press criticising the policy. It is alleged that at this stage Councillor Harty suggested a bursary scheme for those who could not afford to pay. A newspaper article quoted the council as saying that the fee may be waived by those not able to pay. It is alleged that at a scrutiny committee on 12 September 2006, Councillor Harty, replying to a question, said that it had always been the policy to reimburse governors their CRB expenses, which is not what she had in fact agreed.

The opposition put down a motion in council on 20 September 2006 on the matter, and it is reported that Councillor Harty again claimed that it was always the policy to reimburse governors for CRB expenses.

Case C: Marnham District Council, Councillor Davies

Summary

The complainant is the leader of the council. It is alleged that Councillor Davies has sent a number of disparaging emails to the council's IT staff, criticising their work and mocking their capabilities and copied them to third parties; that he has sent unfair and derogatory emails about the chief executive, the council's solicitor and the complainant, copying them in to third

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parties, as well as inappropriate emails to other councillors; that he became involved in support of a local IT company in a dispute with the council, and was confrontational when officers reminded him about possible conflicts of interest; and that he was hectoring and overbearing towards technical officers in the presence of the chief executive and two other members at a meeting held on 23 April 2005. The chief executive asked the junior officers to leave after 20 minutes on account of Councillor Davies' behaviour, and because they were upset at the untimely death of a close colleague the previous Saturday. It is reported that when Councillor Davies was told of this, he retorted, "I suppose you're going to blame him!" It is alleged that Councillor Davies has been warned about his conduct, including formal warnings, but that it has continued.

Case D: Coketown District Council, Councillors Yeo, Bailey and Malecka

Summary

The complainants refer to the proposed development of a council-owned allotment site at Coketown, for 217 dwellings and associated infrastructure, considered by the planning committee on 21 September 2006. It is reported that Councillor Yeo, the executive member for land and property, had been involved in discussion with the developers, and council decisions over the sale of the site, the proceeds of which would be used by the council to pay for a new leisure centre at elsewhere in the borough. Having declared a personal interest in the matter at the planning committee, it is alleged that he failed to declare a prejudicial interest and withdraw from the meeting.

It is alleged that Councillor Bailey, the chairman, did not ensure that the meeting was conducted impartially due to confusion of members' and officers' roles, and that the planning officer, as an employee of the council, was not able to give the committee the impartial advice they needed.

It is also alleged that Councillor Bailey refused to allow a local member to speak until the very last moment, and then cut him short before hastily moving to the vote.

It is alleged that by allowing the planning officer to warn members that refusal of the application could lead to an expensive appeal, and that Councillor Bailey thereby allowed undue influence to be put on the committee.

It is alleged that when the chairman and the planning officer were asked by another member if the terms of the development brief had been complied with, the member was given an affirmative answer. The complainants dispute this and say there were breaches of the development brief.

It is alleged that when Councillor Malecka asked the chairman and the planning officer if the terms of the development brief had been complied with, the member was given an affirmative answer. The complainants dispute this and say there were breaches of the development brief.

The complainants also object to aspects of the proposed development, the granting of planning permission, and the way the meeting was minuted.

Case E: Hook Parish Council, Councillor Dr Jon Rouse

Summary

It was alleged that Councillor Rouse, the chairman of the parish council, accompanied by the vice-chairman, visited a member of the public at home and made allegations that a group of seven parish councillors, including the complainant, would be pressing for an injunction to prevent the member of the public, a parishioner, speaking at meetings. The parishioner then wrote to each of the seven councillors repeating this allegation and another allegation that he had orchestrated a public protest against the siting of a youth shelter. He enclosed a stamped envelope for them to reply and let him know whether the allegations were true or false, and that if they did not reply he would assume that the claim was true. In this case, he asked them to go ahead and seek the injunction.

The complainant was one of two councillors who replied direct to the parishioner, to say that she was not aware of the actions he referred to being taken, or of a group of seven working in co-operation on the council, and that the allegations were false. The clerk also wrote to the member of the public to say that six of the councillors (one was away) had asked him to reply to say that the allegations were false. The parishioner was not satisfied, wrote to the councillors again to say that the two who had replied personally had not asked the clerk to write on their behalf, and that he would regard the remaining five as having taken the actions originally alleged unless he heard from them by a given deadline.

It is alleged that on 18 April 2005 during public questions, a member of the public made a statement concerning a pre-arranged visit to his house by two senior councillors. The complainant wrote to Councillor Rouse on 20 April asking him:

- if he knew the identity of the two councillors who allegedly paid the visit
- to name the two councillors allegedly involved and to ask them to explain why they used her name without her knowledge
- to clear her of any complicity in the alleged actions

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- if he was unable to clear her good name, then to assure her that the exercise was designed simply as character assassination

The complainant states that she received no response to the letter, and that she put down questions in council on 16 May 2005. She wrote to Councillor Rouse again on 20 May 2005 to convey her disappointment with his handling of her questions. The minutes of the meeting state:

"The Chairman said he had received letters from two councillors concerning alleged actions of councillors at an informal meeting. As these letters did not relate, to discuss them with individuals outside the meeting."

On 23 May, Councillor Rouse wrote to the complainant to say he regarded the matter as closed. The complainant reports that the member of the public has now told her that Councillor Rouse was one of the two councillors who visited him.

Case F: London Borough of Walford, Councillor Pat Rix

Summary

The complainant alleges that Councillor Rix has subjected her to less favourable treatment on the grounds of religion and race, bullying, victimisation and racial harassment.

It is reported that Councillor Rix was on the interview panel which appointed her, but did not want her for the job and preferred a white woman who did not perform as well as the complainant. It is alleged that Councillor Rix called her a liar when she advised her that a community film had a racist remark in it which would offend and embarrass the complainant. It is reported that Councillor Rix has micromanaged her and set her unrealistic targets to make her look like a failure, that she has been publicly humiliated at meetings and verbally abused. She reports that her position as a manager has been undermined, that she has had a meeting with her staff and managers and been excluded from the meetings.

It is reported that Councillor Rix was unhappy when managers asked the complainant to work on assignments including a petition by the Punjabi Sikh community for a community centre. It is alleged that Councillor Rix tried to stop her being involved in this work, told her that she did not want Pakistanis or Muslims asking for a community centre and made derogatory comments about the various ethnic groups within the Muslim community. The complainant found these remarks offensive as a Pakistani Muslim herself.

The complainant says that her managers failed to manage the situation or to protect her, and that she was unfairly and wrongly dismissed. It is alleged that Councillor Rix has referred to the protocol for officer and member relations as "bollocks" and failed to respond to a questionnaire sent to her under the Race Relations Act.

Case G: Scawthorpe Borough Council, Councillor Lee Kreuz

Summary

The complainant is the clerk to Nith parish council. He refers to a meeting of the council on 19 September 2006 where members discussed financial irregularities arising from the alleged misconduct of the council's groundsmen. It is reported that Councillor Kreuz, the local member of the borough council, attended the open part of the meeting but left with the public before the closed part where this matter was discussed.

It is alleged that a member of the parish council gave Councillor Kreuz a confidential note, which he then showed to the groundsmen two days later. It is also alleged that he told them that they had been the main topic of discussion at the meeting, giving them the impression that he had been present, the matter had been discussed in public, and that the clerk had accused them of stealing money.

It is reported that the note had the top of the page folded over, which one member of staff believed was to conceal a fax number. It is also alleged that he doctored a note headed "To all Parish Council Staff", cutting off the heading to make it look as if it only applied to the staff at the park.

The complainant adds that it is common knowledge that Councillor Kreuz intends to stand for the parish council.

Case H: Wessex Council, Councillor Douglas

Summary

The East Wessex Community Area Forum covers three wards of the borough: Whapton, Box and Friary. The complainant is a Progressive councillor for Whapton and he and two other Progressives won the ward from Labour in 2004. The council is Labour-run: Councillor Douglas is deputy leader and also chairman of the area forum, which has the power to spend the Housing Investment Programme (HIP) monies allocated to it. Part of the allocation is budgeted to replace old wooden doors on council houses with PVCu doors.

The Progressive councillors for Whapton asked repeatedly for HIP funding for their ward, to be told each time that it had already been committed for new doors in Councillor Douglas's ward (Box), and the vice-chairman's ward (Friary) with nothing for Whapton, even though there was a street there where doors were in urgent need of replacement (June Avenue). The complainant discovered that the chairman and vice-chairman of the forum have private business meetings in advance of the public forum and that Councillor Douglas had allegedly arranged matters so that all the spend on the new doors went to his ward.

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It is alleged that at such a business meeting on 24 June 2005, Councillor Douglas and the vice-chairman privately approved the allocation of £14,404 to June Avenue. One of the defeated Whapton Labour councillors, who, the complainant says, plans to stand again in 2006, a friend of Councillor Douglas, then organised a petition along June Avenue asking the council to consider installing new doors. This was presented to the council by a resident on 29 June 2005 and then received by Councillor Douglas at a press call in advance of the formal meeting of the forum. The complainant believes that Labour has orchestrated the petition in the knowledge that the money had already been agreed and that Councillor Douglas has used and abused his position as chairman of the forum, deputy leader, and as a member of the standards committee to manipulate the allocation of funding to his political advantage. The former Whapton councillor subsequently wrote to the newspaper to take credit for the decision and to criticise the Progressive councillors in Whapton Ward.

Case 1: Great Norton Parish Council, Councillor Jameson

Summary

The complainant refers to a meeting of the parish council on 16 November 2006. It is alleged that when the chairman asked if there was any other business, Councillor Jameson said, "I've got some!", swung round in his chair, directly facing the complainant, and launched into a loud and aggressive verbal attack. It is alleged that he accused the complainant of calling the chairman "undemocratic" at a previous meeting and demanded that she apologise. The complainant subsequently explained in writing that she was accusing the council of being undemocratic, not the chairman, and has apologised to him for the misunderstanding. She also wrote to the chairman of the parish council to complain about Councillor Jameson's alleged treatment of her at the meeting.

It is reported that the next meeting of the parish council, advertised for 21 December 2006 at the village hall, was brought forward to 20 December 2006 at the Lions Club, which precluded the public, including the complainant, from attending. It is alleged that the meeting went into confidential session to discuss the complaint against Councillor Jameson, but that he failed to declare a prejudicial interest in the matter and remained in the meeting that considered a matter affecting him.

The chairman then wrote to the complainant to say that the parish council had found that, "as the alleged incident took place after the parish council meeting had closed, they found that Councillor Jameson was not in breach of any form of misconduct. It was unanimously agreed that no action be taken regarding Councillor Jameson and the matter to be considered closed." They also agreed to ban the public from speaking at future meetings.

Case J: Nettington Town Council, Councillor Gold

Summary

The complainant refers to the town hall at Nettington, which belongs to the town council, and where it is reported that the county registration service rents offices and Town Councillor Gold is employed as a registrar. It is reported that at the council meeting on 24 May 2004, Councillor Gold declared an interest in an agenda item regarding the town hall. It is further reported that in 2005, it was agreed in principle to hand the town hall over to a charitable trust, make a grant to the trust, seek legal advice; and that Councillor Gold be one of three councillors to be on a joint working group with the trust.

Following legal advice, on 27 February 2006 the council "reaffirmed" earlier resolutions concerning the trust, with Councillor Gold voting in favour. It is also reported that after she became town mayor in May 2006, she put herself forward as the council representative on the trust. The complainant refers to a meeting between councillors and the trust which took place on 3 July 2006: she says she has asked for the minutes but been told that it was an informal meeting, which was not the impression created beforehand.

The complainant has also provided a report of the "Nettington Town Hall Joint Working Group", which includes Councillor Gold. It states that she had had final sight of the draft briefing for the solicitor who would be drawing up the draft lease for the town hall, which refers to the "need to agree continuing office space for the town clerk and use of the council chamber for meetings at a favourable rent and for the Registrar at the rent negotiated with the county council..." The complainant has also provided a covering memo from the town clerk that states that that the brief will be discussed with Councillor Gold and other members.

It is thereby alleged that Councillor Gold has a conflict of interest between the town council and her employer, which rents her place of work from the council in the building whose future is under consideration, and that having previously acknowledged this, has subsequently become more closely involved in the issue without declaring an interest.