

STANDARDS COMMITTEE

MONDAY, 14 JULY 2008

PRESENT:- Mr Keith Carby (Chair), Mr Trevor Davies (Vice-Chair), Mr Paul Morris, Mr David Dawson, Mr Mike Compton, Mr Martyn Cook, Councillor Peter Stoddart and Councillor Maurice Fanning.

Apologies for absence were received from Councillor Melanie Duff and Councillor Fay Howard.

1. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

2. Minutes

Resolved that - The minutes of the meeting held on 14th April 2008, be confirmed and signed as a correct record.

3. Public Question Time

No public questions were received during the meeting.

4. Exempt Items - Exclusion of Press and Public

Resolved that - In accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 9 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 8 refers).

5. Local Assessment of Standards Complaints

The Committee considered a report of the Director of Law and Democratic Services (Monitoring Officer) to advise the Committee of the coming into force of the Standards Committee (England) Regulations 2008 on 8th May 2008, and related guidance issued by the Standards Board on the local assessment of complaints under the Members Code of Conduct, for the Committee to agree how they should be implemented.

Resolved that - 1) An Assessment Sub-Committee be established to comprise 3 members drawn from a panel of members of the Standards Committee and including one independent member (to act as Chair), one elected Member of Swindon Borough Council and one parish representative with the remit set out in Appendix A to the minutes (as amended by the Committee to include the timescale in which the Sub-Committee should operate).

2) A Review Sub-Committee be established to comprise 3 members drawn from a panel of members of the Standards Committee and including one

independent member (to act as Chair), one elected Member of Swindon Borough Council and one parish representative, provided that no member shall be selected to participate in a Review Sub-Committee where they have participated in the initial assessment of the complaint subject to review. The remit of the Review Sub-Committee be as set out in Appendix B to the minutes (as amended by the Committee to include the timescale in which the Sub-Committee should operate).

3) The assessment criteria be adopted as set out at Appendix C to the minutes.

4) The Monitoring Officer be authorised, in consultation with the Chair, to notify Members of the subject of an allegation of the complaint as soon as practicable after receipt unless, in his opinion, it would be contrary to public interest or might prejudice the proper investigation of the complaint.

5) The Monitoring Officer be authorised to constitute and convene meetings of the Assessment Sub-Committee and Review Sub-Committee.

6) The Monitoring Officer be authorised to amend the current procedures for the conduct of investigations and hearings to comply with such regulations and statutory guidance as may be issued from time to time.

7) The Monitoring Officer, in consultation with the Chair of the Standards Committee, be authorised to arrange appropriate publicity for the new arrangements in accordance with the regulations and guidance.

8) The Monitoring Officer amend the 'Information for Potential Complainants' to clarify that the process is not for complaints about paid employees, and the Monitoring Officer provide feedback from the Committee to the Director of Partnership, Policy and Communications to be considered as part of the review of the Corporate Equalities Monitoring Forum, on the need for the form to be comparable to other authorities.

6. Ethical Framework Update

The Committee received a report from the Director of Law and Democratic Services (Monitoring Officer) on the following Ethical Framework Matters:

a) Anti-Fraud and Corruption Strategy and Whistleblowing Policy - The Committee reviewed the strategy and policy as part of an annual review of their operation and agreed for the documents to go out to consultation.

b) Swindon Standards Committee - The Committee considered a proposal for a standards conference and agreed that this should take place in November 2008 or January 2009, should be held at Steam or King Edward Place, and agreed an additional outcome for ongoing workshop(s) to progress outcomes identified in the conference.

c) Annual Governance Statement and Local Code of Corporate Governance - The Committee reviewed the Codes and Statement adopted by the Audit Committee on behalf of the Council, and noted the where the contribution of the Standards Committee was recognised.

d) Parish Councils - Mr Mike Compton confirmed that he had now visited nine Parish Councils with the Swindon Area to discuss the implementation of the Code of Conduct and to ask if additional assistance was required. Mike Compton confirmed that as a general rule, standards within Parish Councils were good, and there was an awareness of the Code of Conduct and its implementation. It was noted that Wanborough, Bishopstone and Liddington Parish Councils had expressed an interest in additional training, and the Monitoring Officer would contact the relevant parish councils to arrange this.

e) Register of Interests and Training - The Committee received assurances

that newly elected Members had completed acceptance of office forms and register of interest forms, and details of the ethical training that had taken place with members since the election in May 2008.

f) Standards Board Publications - The Committee noted the Standards Board Bulletins April 2008 (Issue 38) and June 2008 (Issue 39).

i) Berkshire, Oxfordshire and Wiltshire Independent Standards Committee Members Forum - The Committee noted that the next Forum would be held on 26th September.

j) Seventh Annual Assembly of Standards Committees - The Committee noted that Trevor Davies and the Monitoring Officer would be attending the assembly on 13th -14th October on behalf of the Committee.

Resolved that - 1) The Ethical Framework update be noted.

2) The Monitoring Officer and Head of Internal Audit consult on the review of the Anti-Fraud and Corruption Policy, The Whistleblowing Policy and the Fraud Response Plan, and report back to the next meeting with any revisions.

3) The Committee supports the draft proposal for a Standards Conference during 2008/09 (amended as set out at b) above) and this be forwarded to the Swindon Strategic Partnership Board for discussion and the Monitoring Officer be authorised to be make appropriate arrangements for the Conference.

4) The Annual Governance Statement and the local Code of Corporate Governance be noted.

7. Annual Report and Work Programme Report

The Committee considered a report of the Law and Democratic Services Officer (Monitoring Officer) asking the Committee to agree its Annual Report for 2007/08 and Work Programme for 2008/09.

Resolved that - 1) The Annual Report for 2007/08 be approved, subject to the inclusion of an introduction from the Chair and any further amendments advised by Committee Members to the Monitoring Officer, and it be forwarded to Full Council for information.

2) The Work Programme for 2008/09 be approved.

8. Ethical Framework Compliance Update

The Committee considered a report of the Law and Democratic Services Officer (Monitoring Officer) and the Head of Internal Audit concerning the progress and outcomes in relation to various ethical framework compliance matters which included an update on five ongoing whistleblowing complaints. It was noted that there were no formal Member / Officer protocol complaints, although an informal issue had led to an apology being provided by a Member. The Committee noted that three complaints received by the Standards Board had not proceeded to investigation.

Resolved that - The Ethical Framework Compliance report be noted.

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LOCAL ASSESSMENT OF STANDARDS COMPLAINTS

ASSESSMENT SUB-COMMITTEE

To comprise:

- 1 independent Member (to act as chair)
- 1 elected Member
- 1 parish representative

drawn from the membership of the Standards Committee.

REMIT

1. To consider written allegations that an elected or co-opted member of Swindon Borough Council or of any parish within the Borough of Swindon has failed to comply with the relevant Code of Conduct and to do one of the following: -
 - (i) refer the allegation to the Monitoring Officer with an instruction that he arrange a formal investigation of the allegation
 - (ii) refer the allegation to the Monitoring Officer directing that he arrange training, conciliation or such appropriate alternative steps as permitted by Regulations. (NOTE: the Sub-Committee should consult with the Monitoring Officer before taking this step.)
 - (iii) refer the allegation to the Standards Board for England.
 - (iv) decide that no action should be taken in respect of allegation or
 - (v) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a member of another relevant authority (as defined in section 49 of the Local Government Act 2000) refer the allegation to the Monitoring Officer of that other relevant authority

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

2. The Sub-Committee shall state its reasons for its decision.

FREQUENCY OF MEETINGS

As and when necessary to assess written complaints. The Assessment Sub-Committee should complete its initial assessment of an allegation within an average of 20 working days of it being received.

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REVIEW SUB-COMMITTEE

To comprise:

- 1 independent Member (to act as chair)
- 1 elected Member
- 1 parish representative

drawn from a panel of the membership of the Standards Committee PROVIDED THAT no Member shall sit on a Review Sub-Committee if they have participated in an Assessment Sub-Committee to consider the complaint which is subject to review.

PURPOSE

The purpose of the Review Sub-Committee is to review, on the request of the complainant, a decision by the Assessment Sub-Committee to take no action in respect of the allegation.

REMIT

1. To review the decision of the Assessment Sub-Committee to take no action in respect of a complaint and to do one of the following: -
 - (i) to refer the allegation to the Monitoring Officer with an instruction that he arrange a formal investigation of the complaint
 - (ii) to refer the allegation to the Monitoring Officer directing that he arrange training, conciliation or such appropriate alternative steps as permitted by Regulations. (NOTE: the Sub-Committee should consult with the Monitoring Officer before taking this step)
 - (iii) refer the allegation to the Standards Board for England
 - (iv) decide that no action should be taken in respect of the allegation; or
 - (v) where the allegation is in respect of a person who is no longer a Member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000) refer the allegation to the Monitoring Officer of that other relevant authority.

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the Member concerned of that decision.

2. The Sub-Committee shall state its reasons for its decision.

FREQUENCY OF MEETINGS

As necessary, to enable it to review any decision of the Assessment Sub-Committee to take no action, within 3 months of the receipt of the request for such a review from the person who made the allegation. The request to refer a matter to the Review Sub-Committee must be made by the complainant within 30 days of being notified of the decision. It is anticipated that a review will be completed within an average of 20 working days.

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ASSESSMENT CRITERIA

1. BACKGROUND AND CONTEXT

1.1 Irrelevant Complaints

It is likely that complaints will be received which do not relate to the Code of Conduct for members. Such complaints might include complaints relating to the provision of services by the Council or the manner in which matters have been dealt with by the Council which should properly be dealt with through the Council's Corporate Complaints Procedure. They may be matters relating to other authorities or matters relating to a members private life which do not therefore fall within the remit of the Standards Committee.

Such complaints will not be referred to the Assessment Sub-Committee but will instead be dealt with by the Monitoring Officer who, if appropriate, will refer it to the appropriate avenue for further consideration.

1.2 Local Resolution

The Standards Committee is acutely aware that investigations are costly and time consuming. Moreover complaints can often be dealt with more effectively if an early resolution of the matter can be achieved.

The Monitoring Officer may therefore encourage complainants to explore whether the matter can be resolved locally prior to a formal written complaint being made to the Standards Committee.

2. INITIAL TESTS

Before the assessment of a complaint begins, the Assessment Sub-Committee should be satisfied that the complaint meets the following tests: -

- (a) Is the complaint about the conduct of a member?

(The complaint must relate to one or more named elected or co-opted members of the borough or parish councils covered by the Standards Committee i.e. within the Borough of Swindon)

- (b) Was the named member in office at the time the alleged misconduct took place?

- (c) Was the Code of Conduct in force at the time the alleged misconduct took place?

- (d) If the complaint is proven, would there be a breach of the Code under

which the member was operating at the time of the alleged misconduct?

If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

3. SUFFICIENCY OF INFORMATION

The complainant must provide sufficient information to enable the Assessment Sub-Committee to conclude that there is prima facie evidence of a breach of the Code of Conduct. If insufficient information is available, the Assessment Sub-Committee will not normally refer the complaint for investigation or other action.

4. SERIOUSNESS OF THE COMPLAINT

The Assessment Sub-Committee will not normally refer a matter for investigation or other action where the complaint appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

5. LENGTH OF TIME WHICH HAS ELAPSED

The Assessment Sub-Committee will have regard to the length of time which has elapsed since the events the subject of the complaint occurred. It will not normally investigate or pursue other action where the events took place more than 6 months prior to the complaint being submitted other than in exceptional circumstances (for example, where the conduct relates to a pattern of behaviour which has recently been repeated).

6. PUBLIC INTEREST

The Assessment Sub-Committee will determine whether the public interest or any public benefit would be served by referring complaint for investigation or other action. They may consider that the public interest would not be served where a member has died, resigned or is seriously ill. Similarly if a member has offered an apology or other remedial action they may decide that no further action should be taken.

Similarly, if the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or the subject of an investigation by other regulatory authorities, it is unlikely that it will be referred for investigation or other action unless it is evident that the public interest will be served by further action being taken.

7. ANONYMOUS COMPLAINTS

Anonymous complaints will not normally be entertained unless there is additional documentary evidence to support the complaint.

8. MULTIPLE COMPLAINTS

It is not uncommon that one event may give rise to similar complaints from a number of different complainants. Whenever possible these complaints will be considered at the same meeting of the Assessment Sub-Committee. However each complaint will be separately considered.

9. CONFIDENTIALITY

As a matter of fairness and natural justice, a member should usually be told who has complained about them. There may be occasions where the complainant requests that their identity is withheld. Such a request should only be granted in circumstances that the Assessment Committee consider to be exceptional, for example: -

- (a) the complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed
- (b) the complainant is an officer who works closely with the member and they are afraid of the consequences to their employment if their identity is disclosed
- (c) the complainant suffers from a serious health condition which might be adversely affected if their identity is disclosed. The Assessment Sub-Committee may wish to request medical evidence.

10. WITHDRAWING COMPLAINTS

A complainant may ask to withdraw their complaint before the Assessment Sub-Committee has made a decision on it. The Sub-Committee will have to decide whether to grant the request.

For example, the Sub-Committee may consider the following: -

- (a) Does the public interest in taking some action outweigh the complainant's request to withdraw the complaint?
- (b) Could action, such as an investigation, be carried out without the complainant's participation?
- (c) Is there a reason why the complainant has been asked to withdraw the complaint? (For example, have they been pressurised by the member against whom the allegation has been made?)

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