

**THE MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE
HELD ON TUESDAY 22 JANUARY 2008**

Present: W Local (Chair)
B Burn, A J Holmes, Mrs M Goyns
and Miss J Clark

Apologies: E Smith

- 1 **THE MINUTES OF THE LAST MEETING** held on 5 December 2007, a copy of which had been circulated to each Member, were confirmed.

2 **MATTERS ARISING FROM THE MINUTES**

(i) **Standards Board Conference 15 - 16 October 2007 (Minute No 4 refers)**

The Chair made reference to the proposal to establish a Joint County Wide Committee to cope with the expected increase in workloads of Standards Committees. The Monitoring Officer advised that the issue was discussed at the last Monitoring Officers meeting where Members concerns in relation to the proposed new Joint County Wide Committee were conveyed.

There was no formal decision made at the meeting but Monitoring Officers would be meeting on a regular basis leading up to LGR and Members would be kept advised of any further developments in this regard.

RESOLVED that the information given, be noted.

3 **CLG CONSULTATION ON REGULATIONS TO IMPLEMENT LOCAL DECISION MAKING ON COMPLAINTS AGAINST COUNCILLORS**

Consideration was given to the report of the Monitoring Officer which gave Members the opportunity to comment on the CLG consultation document, a copy of which had been circulated to each Member.

The Monitoring Officer advised that once the Standards Committee had considered the document it would be circulated to all Councillors to allow them the opportunity to put forward their own views. In the event of any issues producing a significant difference of opinion the consultation paper would be submitted to Full Council for consideration.

Members were advised that amendments to the Local Government Act 2000 by the Local Government and Public Involvement in Health Act 2007 had created the framework for complaints to be processed locally. The proposed Regulations laid down the procedures under which decisions would to be taken.

Outlined in Appendix A of the Consultation Paper was a list of 16 questions on which CLG were consulting. The consultation paper addressed the reasoning for CLG proposals and where matters were more finely balanced, the advantages and disadvantages of alternatives.

The Monitoring Officer proceeded to take Members through the questions in detail outlining the following.

Question 1

The Monitoring Officer was satisfied that the proposal to prohibit a Member reviewing a decision not to investigate a complaint if they had been involved in the original decision was appropriate. There was also no objection to Members who had been involved at the initial stage also being involved in the final determination of complaints which proceeded to a full hearing. Members were asked to consider if it would be workable to separate all three functions namely, the initial assessment, review in the event of appeal and final hearing. If the Committee were increased to 10 or 12 as previously discussed it would be workable subject to the continuing good health and availability of the existing and additional proposed independent and parish members. It would however place an additional strain on the system and result in a recommendation by the Monitoring Officer to increase the Committee to four independents and four parish members and therefore was not a requirement, which would be encouraged. The current recommendation did not however suggest the separation of all three functions.

Question 2

In the event of a complaint being made against a Member who belonged to more than one authority the Monitoring Officer agreed that in the first place it was appropriate for the two authorities to agree between themselves how the complaint was to be dealt with. It would however be necessary to have some form of decision maker in the unlikely event of the two authorities being unable to agree on the process and the Standards Board would seem to be the natural arbiter in such circumstances.

Question 3

It was proposed that a decision on whether or not to investigate a complaint should be made within 20 working days, which was considered a reasonable requirement. The Standards Board currently turned these matters around within 10 working days but recognised that the requirement for a report to Standards Committees would inevitably slow that process down. The Monitoring Officer felt it was important that this should be a matter of guidance rather than a statutory time limit. The current statutory time limit of making a decision within three months of the Ethical Standards Officer's report could result in Councillors, who were the subject of a complaint, being encouraged to cause delays in the hope that the complaint would be dismissed due to failure to arrange a hearing on time, and it would be undesirable to generate a further technical defence. The Standards Board's ability to intervene in authorities that failed to work the system properly should provide a sufficient safeguard for complainants and Councillors.

Question 4

The Monitoring Officer advised that Councillors had quite naturally been unhappy about the delay in informing them that a complaint had even been made. It was proposed that the obligation to provide that information to the Councillor should not arise if the Standards Committee formed the reasonable view that it would be in the public interest not to provide a written summary at the outset. The intention in the guidance would justify withholding those details from the Councillor if releasing them at an earlier stage may result in evidence being compromised or destroyed by the Councillor or where there was a real possibility of intimidation of the complainant or witnesses. The delay would apply until the investigating officer had had the opportunity to interview the complainant. The Standards Committee were asked to consider if those circumstances would justify the withholding of information from the Councillor. The Monitoring Officer felt that in these unusual circumstances, it would be reasonable for the Committee to have the discretion to withhold the information from the Councillor complained about. It was stressed that this would not impair his/her ability to respond

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to the complaint because the delay would only apply whilst the complainant's evidence was assembled.

Question 5

It was proposed that the regulations permit the Monitoring Officer to refer allegations back to a Standards Committee if the investigation revealed evidence which suggested that the case was either more or less serious than it appeared when the Standards Committee made the decision on how the matter should be treated. This power would enable the Committee to review its decision on whether an investigation was merited if the case appeared less serious. It was less clear what the implications would be at the investigation stage if the matter were more serious.

It also proposed that the Monitoring Officer should be able to refer the matter back if the Member subjected to the allegation had resigned, was terminally ill or had died. These circumstances would warrant a review although the Monitoring Officer was concerned about how it would work in the case of terminal illness unless it was public knowledge or shared with the complainant, who would need to be made aware of why an allegation was no longer being investigated. Clarification was needed on whether the Member subjected to the allegation had to prove they were terminally ill.

Question 6

The Monitoring Officer felt that the proposal to increase the maximum sanction the Standards Committee could impose from 3 to 6 months suspension was a reasonable balance.

Question 7

The Standards Committee was asked to consider the practicality of requiring the Chairs of all Sub-Committees discharging assessment, review and hearing functions to be independent. Would it be consistent with robust decision-making if one or more of the Sub-Committees were not independent? Previous recommendations had been intended to make sure it was practicable to work on the basis of requiring an independent Chair at each stage. The Monitoring Officer believed it was beneficial to have a measure of flexibility on this rule to prevent decision making being substantially delayed if a combination of previous involvement in the action conflicted out one independent and the unavailability of others became a problem in any specific case.

Question 8

The Monitoring Officer felt that the proposal that the initial assessment and review hearings would take place in private with no entitlement for the public generally to access reports and decisions was appropriate.

Question 9

This related to circumstances when the Standards Board could consider suspending the powers of a Council's Standards Committee because of their failure to undertake their duties appropriately. The Monitoring Officer felt the levels of compliance outlined in the consultation was the correct criteria to justify intervention.

Question 10

The Standards Committee were asked to consider if the Standards Board or another local authority taking on the role of a defaulting Standards Committee should be

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permitted to recover the costs of doing so. The Monitoring Officer considered it appropriate for a defaulting authority not to escape the financial burden of enforcing the ethical standards regime. Furthermore, any authority that was prepared to pick up its responsibilities should not be at a financial disadvantage. There would need to be a mechanism to set reasonable costs whether the final arbiter was the Secretary of State or the Standards Board.

Question 11

Based on previous discussions an appropriate response to the question on joint working was that in the particular circumstances of County Durham and LGR it was considered that the effort involved to establish a joint committee would not be merited due to the limited time it would operate.

Question 12

The Monitoring Officer felt the proposal to expand the range of sanctions available to the Adjudication Panel, to reflect the lower end of the scale of those available to Standards Committees, was considered reasonable.

Question 13

It was proposed that the Ethical Standards Officer could withdraw a reference to the Adjudication Panel in circumstances where it was more appropriate for the Panel not to pursue the matter. The Monitoring Officer could see the logic in withdrawal where the Member was terminally ill, dead or disqualified by a sentence of imprisonment imposed after the investigation started. Withdrawals on the basis of the case being less serious should not result in cases falling between two stalls. However, if a case was originally considered more suitable for the Adjudication Panel but then did not appear to be that serious it should be referred to the local Standards Committee on the basis that it was serious enough to be dealt with somewhere. It was suggested that this concern should be raised as a query in the response.

Question 14

It was proposed to change the wording of the Dispensation Regulations to make them clearer. Dispensation would be available if the number of Members able to vote decreased to the extent that a political party would lose its majority on a particular matter without dispensation. Previous applications received by the Council had not been of a politically contentious nature so there was little previous experience of how this would work. Whilst wishes of the electorate expressed through the ballot box should not be denied by the conflicts of personal interest, in finely balanced Councils this amendment could lead to an increase in applications in the making of some sensitive decisions which might not always be easy to justify.

Question 15

This did not affect the District of Easington Council.

Question 16

The Standards Committee was asked to consider whether the reformed conduct regime should be implemented on 1 April 2008 at the earliest. Consultation closed on 15 February and the likelihood was that regulations would not emerge until March and become law before 1 April. It was anticipated that this would be grounds for people inviting the postponement of introduction of these regulations until authorities had

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longer to digest the detailed content. It was suggested that the authority respond along the lines that local decision making was welcomed at the earliest opportunity when it could be introduced within a reasonable time, say no less than one month between the regulations becoming law and coming into force.

RESOLVED that the Monitoring Officer circulate the consultation paper to all Members of the District Council of Easington and if no adverse comments were received respond to the consultation document in line with the recommendations put forward by the Standards Committee.

JW/MA/com standards/080102
23 January 2008