

STANDARDS COMMITTEE

Agenda item 2

8 December 2006

Present: Mrs P. Hudson-Bendersky (in the chair)
Mr S.Lainé (Vice-Chair), Mr J. Leamon
Parish Councillor S Fowler
Councillors Mrs Franklin, Prince and MacDonald.

Apologies: Mr J. Cripps

Also in attendance: Parish Councillor B.Lewis

(4.30 - 5:40 p.m.)

1. MINUTES

RESOLVED that the minutes of the meeting held on 29 September 2006 be approved and signed as a true record.

2. MATTERS ARISING

Page 2, item 4 - the Chairman asked if there had been any progress in setting up standards training for parish councils. The monitoring officer advised that no request had been made. The chairman asked Parish Councillor Fowler to liaise with the democratic services manager regarding the date for the next C5 meeting. She added that she would like to attend any training event.

Page 3, item 6 - in response to a question from the Chairman, the monitoring officer advised that he had received no further feedback regarding the member-officer protocol.

Page 3, item 7 - the monitoring officer advised that he had made no further progress regarding the ethical health check.

2. DECLARATIONS OF INTEREST

Councillors Mrs Franklin and Councillor Prince both declared an interest in agenda Item 11.

3. MEMBERS REPORTS ON ATTENDANCES AT COUNCIL, COMMITTEE AND PARISH COUNCIL MEETINGS AND OTHER MEETINGS

The customer relations officer reminded members that the ombudsman would be giving a presentation in the council chamber at 6 p.m. on the 11th of January. All councillors, members of the standards committee and managers had been invited and there would be an opportunity for questions following the presentation.

The Chairman advised members that the next meeting of the independent members forum was to be held in Bristol on Friday 2 March 2007 commencing at 10.00 am. A letter giving more details was circulated at the meeting.

Mr Jonathan Leamon gave members an account of the annual standards conference he had attended in October. Discussions at the conference had highlighted the need for a comprehensive induction programme for new standards committee members and the need for independent members to be known and recognized by all the councillors at their authority. He concluded that it had been a very valuable experience and had emphasised the need to share experiences and avoid reinventing the wheel at each authority. With this in mind he presented the committee with a recruitment pack for the appointment of independent members which had been circulated at the conference.

Councillor Franklin asked if independent members could have a council ID badge as this would help people to recognize them. The monitoring officer agreed to investigate this.

The Chairman advised that she had attended a meeting of Swindon Village Parish Council on 10th October with the monitoring officer. Along with the other parish councillors they had highlighted the need for them to have a better understanding of the complaints procedure and the role of the standards committee. The chairman urged other independent members to go and observe a parish council meeting and she asked the democratic services manager to circulate a schedule of Parish Council meetings for 2007.

4. UPDATE ON LATEST BULLETINS, CASES AND COMPLAINTS

The monitoring officer advised the committee on the results of a High Court appeal against the ruling of a standards board adjudication panel regarding Ken Livingstone, elected mayor of the Greater London authority. The High Court overturned the adjudication panel's decision that the Mayor had breached the code of conduct by bringing his authority into disrepute, (para 4 of the Code).

The judgement contained some complex legal reasoning underpinning the conclusion but in summary it amounted to the imposition of a more restrictive test as to when para 4 would apply to a Member in circumstances which fall outside of what could be described as in an 'official capacity'. Para 4 contains the prohibition against bringing ones authority into disrepute and this has previously been interpreted as capable of being applicable to acts in a Member's 'private life' where they are serious, such as criminal offences. However, the High Court ruling restricts the potential application of this section considerably by imposing the requirement of a connection between the act and the functions of office. The High Court drew the distinction between a person bringing their authority into disrepute as opposed to brining themselves into disrepute and, in the case of Ken Livingstone, concluded that it was the latter. The court also referred to Article 10(2) of the Convention on Human Rights which protects the right of free expression and concluded that the Code contravened this right as it had not been shown that it was necessary in a democratic society.

The monitoring officer highlighted the importance of this case and if any such cases, involving para 4 breaches, were brought before this committee they would have to give them very careful consideration.

5. CODE FOR MEMBERS APPOINTED TO OUTSIDE BODIES

The monitoring officer advised members that the need for such a code had been highlighted recently regarding the appointment of three Cheltenham borough councillors to the airport board. There had been some confusion over their resulting obligations to both the council and the airport and he had been asked to produce

To be approved at the next meeting of the Standards Committee on 9 March 2007

some guidance for members on such matters. The committee made the following comments on the code;

- the code should state that it relates to both members and officers
- paragraph 2.1.2 should also indicate that the member or officer is also required to record their appointment in their register of interests
- paragraph 2.1.3 should clarify that the cost of seeking professional advice should be borne by the body to which they are appointed
- section 3.5 should highlight that directors must comply with the Companies Act
- paragraph 8.2 should also include Health Authority
- paragraph 8.3 is unnecessary

Members asked whether the code should also apply where an officer or member was appointed to an outside body but had not been appointed by the Council. The monitoring officer advised that they would need to declare this in their register of interests but the code he had produced was primarily concerned with council appointments to outside bodies and he felt it was not within his jurisdiction to give guidance on other appointments.

RESOLVED

- i) Standards Committee instructs the Borough Solicitor to make any amendments which arise from the discussion and circulate the final draft to Members of the Standards Committee at the earliest opportunity for their approval.**
- ii) Subject to their approval the Borough Solicitor is instructed to submit the draft guidance to the Staff & Support Service Committee at the earliest opportunity in order that it might be considered by that committee before being submitted to full council for adoption. In the event that the Staff & Support Services Committee require significant amendment to the content of the document the Borough Solicitor shall bring that to the attention of the Standards Committee before progressing it for adoption.**

6. REVIEW OF PROGRESS AGAINST WORK PLAN

The monitoring officer gave a verbal update of progress against the work plan and the following items were considered.

Member/officer protocol – the monitoring officer indicated that the consultation should be completed in time to bring the revised protocol to the next meeting.

Officer code of conduct – the monitoring officer advised that this had been delayed due to the more urgent work on the code relating to appointment to outside bodies.

Mayor's code – work on this was still to be started.

Joint arrangements - further work was on hold but there had been indications in the recent white paper that central government may be introducing new legislation which would make provision for joint standards committees, possibly covering fire and police authorities as well as councils.

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7. DATE OF NEXT MEETING

The date of the next ordinary meeting of the Committee will be on 9 March 2007.

8. ANY OTHER BUSINESS

The monitoring officer advised that the standards committee forum hosted by Cheltenham had been a great success and he had received good feedback from attendees. On behalf of the committee, the chairman thanked him for all his hard work in arranging it.

9. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

RESOLVED: that in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the next item of business as it is likely that, in view of the nature of the business to be transacted or the nature of the proceedings, if members of the public are present there will be disclosed to them exempt information as defined in paragraph 1, Part 1, Schedule 12A (as amended) of the Local Government Act 1972, namely:-

Paragraph 1

Information relating to any individual

10. STANDARDS BOARD COMMUNICATIONS

The monitoring officer gave a verbal update on a recent communication from the standards board following a complaint which the standards board had decided not to refer for local investigation/determination and determined required no further action.

RESOLVED : To instruct the Monitoring Officer to write to the Standards Board for England to express their concern that the SBE's had not referred this matter for local determination.

MRS P. HUDSON-BENDERSKY
Chairman