

Standards Committee

Friday, 9th December, 2011

2.35 - 4.00 pm

| Attendees | |
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| Borough Councillors: | Rowena Hay and Robin MacDonald |
| Parish Councillors: | Gloria Coleman |
| Independent Members: | Duncan Chittenden, John Cripps, Simon Lainé (Chairman) and Jon Leamon |
| Also in attendance: | Sarah Farooqi (Investigating Officer) and Sara Freckleton (Borough Solicitor & Monitoring Officer) |

Minutes

1. APOLOGIES

Apologies had been received from David O'Connor, Borough Councillor Godwin and Parish Councillor Iliffe. The Chairman took the opportunity to wish David Iliffe a speedy recovery following his recent heart attack.

2. DECLARATIONS OF INTEREST

Councillor Hay highlighted that as her relationship with the Councillor the subject of complaint was merely that of a Borough Councillor colleague in the same political group, she did not have a personal or prejudicial interest in agenda item 10 (investigation into an alleged breach of the Borough Council's code of conduct).

Councillor MacDonald declared a personal interest in agenda item 10 (investigation into an alleged breach of the Borough Council's code of conduct) as he had, in the past, sat on a committee with the Councillor, the subject of the complaint.

3. MINUTES

The minutes of the last meeting had been circulated with the agenda.

Upon a vote it was unanimously

RESOLVED that the minutes of the meeting held on the 17 June 2011 be agreed and signed as an accurate record.

4. MEMBERS REPORTS ON ATTENDANCE AT COUNCIL, COMMITTEE AND PARISH COUNCIL MEETINGS AND OTHER MEETINGS ARISING

Given an earlier decision by the Committee to refrain from attending such meetings, there was nothing to report.

5. UPDATE ON THE LATEST BULLETINS AND COMMUNICATIONS FROM STANDARDS FOR ENGLAND

Standards for England had ceased to provide such bulletins but the Chairman continued to check their website. The Localism Act had now been passed and

the Monitoring Officer would elaborate on this by means of an update, later on the agenda.

6. REVIEW OF PROGRESS AGAINST WORK PLAN

This was not discussed as the matter would also be addressed by the update provided by the Monitoring Officer as part of her update (agenda item 7).

7. LOCALISM ACT 2011

The Borough Solicitor and Monitoring Officer introduced a brief presentation (attached) which offered an overview of implications of the Localism Act 2011 which had received royal assent on the 15 November.

She had not produced the relevant sections (25-37) as she was still awaiting further detail and the suggestion was that the Committee should meet around the end of January in order to discuss the detail.

The Standards Board for England had written to Monitoring Officers with reference to the transitional arrangements for the abolition of the "Standards Board Regime" and the current intention was that this would take effect on the 31 March 2012. Prior to this, their regulatory role in handling cases and issuing guidance would stop from a date that would be set out in regulations but which was currently anticipated to be the 31 January 2012. From this date, Standards for England would no longer accept new referrals from local standards committees or conduct investigations into complaints against members. Any existing referrals or investigations that had not been completed by this time would be transferred back to the relevant authority for completion, but it was not yet clear what action would then be taken.

It would be for DCLG to confirm when the other standards elements of the Localism Act 2011 would come into force. The Council could choose to retain a local standards committee and it could also choose to use the existing Code of Conduct suitably amended. She suggested that best practice would be established amongst local authorities in order to achieve common ground and similar codes. It was the aim of South West Solicitors to reach broad agreement with some local variances as applicable.

There would be a move back to pecuniary and non-pecuniary interests from personal and prejudicial interests and knowingly failing to register or disclose a pecuniary interest would be a criminal offence. The Council would need to make their own local arrangements for the investigation of complaints, though there was not yet any indication as to the possible sanctions for other breaches.

The Council would need to appoint at least one independent member and debate was ongoing as to whether current independent members could be retained.

She explained that the Code of Conduct must contain, among other things, the legal requirement to publish Members registers of interest on the Councils website, which was not currently the case. In the case of Parish Councils the Monitoring Officer had to establish and maintain register of interests of Parish Councillors and publish them on the website. Parish Councils were at liberty to have their own code but may choose to adopt the Borough Councils as suitably adapted or something similar as long as it met requirements.

There were no draft regulations or guidance available at this time and given that the regulations would contain greater detail the Monitoring Officer was unable to provide any more information on further implications. It would be for the committee to recommend proposals for compliance to the requirements of the Localism Act to Council. The suggestion was that a workshop event would be arranged for late January or early February 2012 at which Members would consider suitable local arrangements for the Borough Council.

The Monitoring Officer provided the following responses to questions from Members;

- The Act placed predetermination on a statutory basis. Simply expressing a personal view on something did not constitute predetermination when making a subsequent decision.
- Fraud had always and would remain a police matter. The Code covered conduct and not criminal activity.
- As before, a member would be disqualified should they receive a sentence of imprisonment (or suspended imprisonment) for a prescribed term.

The Monitoring Officer would look at dates at the end of January and start of February 2012 and circulate them to Members as soon as possible.

8. LOCAL GOVERNMENT ACT 1972 - EXEMPT INFORMATION

Upon a vote it was unanimously

RESOLVED that in accordance with Section 100A(4) Local Government Act 1972 the public be excluded from the meeting for the remaining items 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 paragraphs 7C, Part 1, Schedule 12A (as amended) Local Government Act 1972, namely:

Paragraph 7C

Information presented to a Standards Committee, or to a sub-committee of a Standards Committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000

9. EXEMPT MINUTES

The exempt minutes of the last meeting had been circulated with the agenda.

Upon a vote it was unanimously

RESOLVED that the exempt minutes of the meeting held on the 17 June be agreed and signed as an accurate record.

10. INVESTIGATION OF AN ALLEGED BREACH OF THE BOROUGH COUNCIL'S CODE OF CONDUCT

The Borough Solicitor and Monitoring Officer (BS&MO) referred Members to the additional papers that had been circulated earlier in the week and explained that she had felt that this was the fairest way of dealing with the concerns raised by the complainant. Importantly, these additional papers and their content did not alter the recommendation and therefore it remained for the committee to decide whether to accept the findings of the investigating officer.

The Committee considered a report on the outcome of an investigation into an allegation of a breach of the Borough Council's Code of Conduct.

A proposal was made and seconded for a Recorded Vote on this matter.

A Recorded vote be recorded by name and in the first instance this request was put to the vote by the Chairman.

Upon being put to the vote it was unanimously

RESOLVED that there would be a recorded vote on this item of business

The Chairman invited members to vote on whether to accept the finding of the Investigating Officer that the Borough Councillor was not acting in an official capacity and therefore the code was not engaged.

It was RESOLVED that having considered the report of the Investigating Officer, the committee accept the finding that the Borough Councillor was not acting in an official capacity and therefore the Code of Conduct has not been engaged.

Voting: **For 2** (Simon Lainé and Rowena Hay), **Against 1** (Jon Leamon) and **Abstentions 4** (Gloria Coleman, Duncan Chittenden, John Cripps and Robin MacDonald).

11. DATE OF NEXT MEETING

The next meeting was scheduled for the 9 March 2012 but there would be a need for a meeting at the end of January, start of February 2012.

12. ANY OTHER BUSINESS

Duncan Chittenden queried whether there was any advice available to Councillors regarding the use of social media and emails and the use of appropriate language.

Councillor Hay advised that there was no policy, though in her view there should be and that the Learning and Development Team were currently arranging some social media training for Members.

The Monitoring Officer welcomed the suggestion that the Council should consider advising a policy, which should remind Members that emails were a permanent record of comments and/or discussions.

Councillor Hay raised a general point of concern in relation to Member attendance at meetings. She felt that Members attending a meeting for a short

period to achieve what was marked as full attendance was an issue that needed to be resolved, but queried who was responsible for this.

The Monitoring Officer felt that although this was largely a matter of political group discipline, she would consider whether there were any means available to address this issue.

Chairman