

STANDARDS COMMITTEE

10.00 A.M.

16TH JUNE 2005

PRESENT:- Stephen Lamley (Chairman), Tony James, Sue McIntyre, and Councillors Jean Dent (substitute for Councillor Keith Budden), Joe Ravetz and Roger Mace.

Officers in attendance:-

Roger Muckle	Corporate Director (Central Services)
Sarah Taylor	Head of Legal Services
Stephen Metcalfe	Senior Democratic Support Officer

Apologies: -

Councillors Keith Budden, Paul Gardner, David Kerr and Janie Kirkman and Fiona Humphreys.

1. CHAIRMAN'S REMARKS

The Chairman welcomed the newly appointed independent members, Mr Tony James and Sue McIntyre, to their first meeting of the Committee.

2. APPOINTMENT OF VICE – CHAIRMAN

It was proposed by Councillor Mace and seconded by Councillor Dent: -

“That Councillor Ravetz be appointed Vice-Chairman of the Standards Committee for the Municipal Year.”

Upon being put to the vote, Members voted unanimously in favour of the proposition, whereupon the Chairman declared the proposition to be carried.

Resolved:-

That Councillor Ravetz be appointed Vice-Chairman of the Standards Committee for the Municipal Year.

3. DECLARATION OF INTERESTS

No declarations were made at this point.

4. ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

The Chairman advised that there were no items of Urgent Business. However, it was noted that Councillor Mace had advised of an issue that he wished to raise with regard to the Standards Board informing the Monitoring Officer and the Councillor concerned once an allegation had been made to the Board. It was noted that this matter could be considered as part of the report upon Standards Board Case Referrals 2005/06 (Minute 10 refers).

5. MINUTES

The Minutes of the meeting held on the 19th November 2004 were signed by the Chairman as a correct record.

6. CONSULTATION PAPER ON THE REVIEW OF THE CODE OF CONDUCT FOR MEMBERS

The Corporate Director (Central Services) submitted a report that enabled the Committee to consider a Standards Board Consultation Paper on a review of the Code of Conduct and determine whether Members wished to respond.

The purpose of the consultation was to review the effectiveness of the Code of Conduct and explore ways in which it could be simplified, clarified and improved. The Standards Board wished to use the consultation exercise as an opportunity to ask whether the Code of Conduct captured all the conduct it should and to focus on areas of the Code of Conduct which were contentious or may need clarification.

The Consultation Paper asked twenty nine questions, under ten separate headings. These headings were contained within the report, which summarised the salient points of the Consultation Paper.

Members considered each individual point of the Consultation Paper.

It was moved by Councillor Ravetz and seconded by Councillor Mace: -

“That the report be noted and that the Corporate Director (Central Services) be authorised to respond to the Consultation Paper as indicated by the Committee.”

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

That the report be noted and that the Corporate Director (Central Services) be authorised to respond to the Consultation Paper as indicated by the Committee, as set out in Appendix A to these Minutes.

7. REVIEW OF THE PLANNING PROTOCOL

The Corporate Director (Central Services) reported that, at its meeting on the 19th November 2004, the Committee had discussed the need to review regularly the City Council's various Protocols and requested that a report be submitted to its next meeting to enable it to review the Planning Protocol. A report on the Planning Protocol was accordingly submitted to the Committee.

The Head of Legal Services and the Head of Planning and Building Control had reviewed the existing Protocol, which was included in the City Council's Constitution. A suggested amended version of the Protocol was appended to the report for Members'

consideration. The “tracking” identified where changes had been made to the current version.

The review had taken account of good practice recommended by the Association of Council Secretaries and Solicitors (ACSeS), guidance from the Standards Board for England and recent case law. In addition, the opportunity had been taken to include or expand on guidance on issues that had arisen or caused difficulties since the original document was drafted.

Members were asked to consider the amended version, and any other amendments that they might wish to make, with a view to recommending Council to adopt a revised version for inclusion in the Constitution.

It was moved by Councillor Ravetz and seconded by Councillor Mace: -

“That Council be recommended to adopt the revised version of the Planning Protocol, submitted as an Appendix to the report, for inclusion in the Constitution.”

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

That Council be recommended to adopt the revised version of the Planning Protocol, submitted as an Appendix to the report, for inclusion in the Constitution.

8. INDEMNITIES REGULATIONS

The Corporate Director (Central Services) submitted a report that advised the Committee of the content of new Regulations, which specified the circumstances in which councils may provide indemnities to members and officers.

It was recalled that, at the last meeting of the Committee on the 19th November 2004, it was reported that draft Regulations had been published dealing with the provision of indemnities for members and officers, and that a further report would be submitted once the Regulations had been made (Minute 22(ii) refers).

The Local Authorities (Indemnities for Members and Officers) Order 2004 had been made on the 22nd November 2004, and came into force on the following day. The Order gave local authorities (including parish councils) specific power to grant indemnities and/or take out insurance to cover the potential liability of members and officers in a wide range of circumstances. It was for each individual authority to decide whether to grant such indemnities, and whether to take out insurance cover. Details of the circumstance in which indemnities could now be provided were set out within the report, and Members’ attention was drawn in particular to the fact that an indemnity could now be granted to Members in respect of legal representation in Local Government Act 2000 Part 3 proceedings, that is in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct. Insurance cover could be purchased to cover the cost of such indemnities. It was noted that decisions on indemnities and insurance cover would be taken by Cabinet.

It was moved by Councillor Ravetz and seconded by Councillor Mace: -

“That the report be noted and that the Standards Committee be informed of Cabinet's decision upon this matter.”

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

That the report be noted and that the Standards Committee be informed of Cabinet's decision upon this matter.

9. GRANTING OF DISPENSATIONS

The Corporate Director (Central Services) submitted a report that reminded the Committee of the provisions relating to the granting of dispensations, and asked the Committee to consider a number of applications that had been received and to consider future arrangements for the consideration of applications for dispensations.

Members were advised that, under the Code of Conduct, a member who had a prejudicial interest (that is, one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the member's judgment of the public interest), must withdraw from the meeting when the matter was being considered, must not exercise executive functions in relation to that matter, and must not seek improperly to influence a decision about the matter, unless the member had obtained a dispensation from this Committee.

The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 set out the circumstances in which Standards Committees may grant dispensations.

The Regulations provide that dispensations may only be granted if: -

- half the members entitled or required to participate in the business of the authority would not otherwise be able to do so; or
- the authority would not be able to comply with the political balance principles.

Details of an application from Thurnham Parish Council, together with applications for dispensations from Members of the City Council's Cabinet were set out within the report for Members' consideration. The Committee was also asked to consider how it wished to consider requests for dispensations in the future and whether a sub-committee should be established for this purpose.

The request from Thurnham Parish Council was from five of the seven members of the Parish Council for a dispensation to participate in matters relating to Glasson Dock Bowling Club of which the five were members.

The request from the City Council's Cabinet Members was to enable decisions to be made about indemnities. This issue would affect all Members and could not be considered without the granting of dispensations.

During the debate it was agreed that, rather than a sub-group being created, the Standards Committee would continue, for the time being, to consider requests for dispensations.

It was moved by Councillor Dent and seconded by Councillor Mace: -

“That the applications for dispensations for Councillors S. Bibby, M. Hornshaw, P. Quick, A. Stalker and M. Stalker of Thurnham Parish Council be granted until the next Parish Council election, subject to none of these members being either the Chair or the Treasurer of the Glasson Dock Bowling Club.”

It was then moved by Mr James and seconded by Mrs McIntyre: -

“That applications for dispensations from Members of the City Council's Cabinet be granted until the date of the next City Council election to enable the Cabinet to consider the matter of indemnities.”

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

- (1) That the applications for dispensations for Councillors S. Bibby, M. Hornshaw, P. Quick, A. Stalker and M. Stalker of Thurnham Parish Council be granted until the next Parish Council election, subject to none of these members being either the Chair or the Treasurer of the Glasson Dock Bowling Club.
- (2) That applications for dispensations from Members of the City Council's Cabinet be granted until the date of the next City Council election to enable the Cabinet to consider the matter of indemnities.
- (3) That requests for indemnities continue to be considered by the full Committee for the time being, but that this be reviewed if necessary if the workload becomes excessive.

10. STANDARDS BOARD CASE REFERRALS – 2005/06

The Corporate Director (Central Services) submitted a report that updated the Committee on both the national and local position of the Standards Board workload.

The statistics of the Standards Board caseload for the first six months of the year were now available, and showed that a total of 306 cases had been referred to the Standards Board. There was an 8% decrease on the same period from last year.

An analysis of the allegations for 2005/06 was attached as Appendix A to the report.

50% of allegations received were in respect of parish Councils and 21% in respect of District Council's. 62% of the allegations were from members of the public and 33% from Councillors.

An analysis of the nature of the allegations investigated showed that the most common areas for complaint concern were: -

- Prejudicial interest (22%);
- Failure to disclose personal interests (19%)
- Bringing the authority into disrepute (18%);
- Using position to confer or secure an advantage or disadvantage (16%).

Of those cases that had been investigated so far only 9%, or 28 cases, had been referred to the Adjudication Panel, 180 required no further action, there was no evidence of a breach in 61 cases, and only 37 had been referred back to the Monitoring Officer.

Locally, the Standards Board had received a total of 33 allegations of misconduct in respect of City and Parish Councillors. It was reported, at the meeting, that the Monitoring Officer had received details of a 34th case, which was not the subject of further investigation. Concern was expressed, at the meeting, that the Standards Board did not have a procedure in place to notify the Monitoring Officer and the Member concerned as soon as an allegation was received by the Standards Board. It was suggested, at the meeting, that the Council should have a Protocol whereby a Member making a complaint to the Standards Board about another Member would be required to notify the Monitoring Officer, who would then notify the Member about whom the complaint had been made.

It was moved by Councillor Ravetz and seconded by Councillor Mace: -

“That the report be noted and that appropriate wording for a Protocol be submitted to the next meeting of the Committee.”

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

That the report be noted and that appropriate wording for a Protocol be submitted to the next meeting of the Committee.

11. FOURTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Corporate Director (Central Services) submitted a report that sought the Committee's approval for Council representation at the Annual Assembly of Standards Committees. It was reported that the Fourth Annual Assembly of Standards Committees would be held at the ICC in Birmingham on 5th and 6th September 2005. Submitted as an appendix to the report was a copy of the programme for the Conference.

Members were advised that the delegate fee for the two-day Conference was £395 plus VAT and that one night's hotel accommodation would be required at a cost of £100 per person. Standard class rail fair for the return journey was approximately £70. It was reported that in previous years the Chairman and Monitoring Officer had attended and places had been provisionally booked for this year.

The Committee was asked to approve the attendance of the Chairman and Monitoring Officer at the Annual Assembly 2005.

It was moved by Mr James and seconded by Councillor Ravetz: -

“That the recommendations set out in the report be approved.”

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

That the Committee approves the attendance of the Chairman and the Monitoring Officer to the Fourth Annual Assembly held in Birmingham on 5th and 6th September 2005.

12. STANDARDS TRAINING FOR CUMBRIAN AUTHORITIES

The Corporate Director (Central Services) submitted a report that informed the Committee of an invitation from South Lakeland District Council to attend a training opportunity for Officers and Committee Members in July 2005 and sought a decision on whether or not to accept the invitation.

Details of the training opportunity, costs involved and letter from South Lakeland District Council were provided for Members' consideration. It was noted arrangements regarding travel could be made as in previous years.

It was moved by Mrs McIntyre and seconded by Councillor Ravetz: -

- “(1) That the Committee accepts the invitation from South Lakeland District Council to attend the Standards training and the Corporate Governance and Probity training.
- (2) That all Members of the Committee and substitute Members be invited to attend the standards training and that the Chairman and Vice-Chairman of the Committee and appropriate Officers attend the Corporate Governance and Probity Training.”

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

- (1) That the Committee accepts the invitation from South Lakeland District Council to attend the Standards training and the Corporate Governance and Probity training.
- (2) That all Members of the Committee and substitute Members be invited to attend the standards training and that the Chairman and Vice-Chairman of the Committee and appropriate Officers attend the Corporate Governance and Probity Training.

13. BEHAVIOUR PROTOCOL

The Corporate Director (Central Services) submitted a report that updated Members with the latest position of developing a behavioural protocol.

At its last meeting, the Committee had requested officers to draft a protocol that set out a minimum standard of behaviour that was expected of Members (minute 22(i)(1) refers).

Following the meeting, contact was made with a number of other local authorities and with the Standards Board to see if there are any examples of good practice in place elsewhere.

Whilst a number of local authorities had replied, the response had been disappointing and no examples of good practice had been identified. In addition, the matter was raised at the latest round of Standards Board Roadshow and no authority present had a behaviour protocol or something similar in place. In almost every instance, Councils relied on the good chairmanship of their member meetings to instil good manners and behaviour and when necessary, take the necessary actions that their procedural rules permitted.

As a consequence, it had not been possible for this meeting to draft a behavioural protocol based on best practice and Members' advice was sought on how to proceed.

After much debate it was agreed: -

"That the report and position be noted and that training for Chairmen be included within the City Council's Member Training Programme."

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

That the report and position be noted and that training for Chairmen be included within the City Council's Member Training Programme.

14. GOOD GOVERNANCE STANDARD FOR PUBLIC SERVICES

The Corporate Director (Central Services) submitted a report that sought the Committee's view upon whether it wished officers to research the implication of adopting the Good Governance Standard for Public Services.

It was reported that in order to promote good governance within all public service organisations, an Independent Commission had produced a Good Guidance Standard that local authorities were being recommended to adopt. The Standard had been developed as a guide to help everyone concerned with the governance of public service not only to understand and apply common principles, but also to assess the strengths and weaknesses of current practice and to make improvements.

The Standard was designed to supplement existing statutory and best practice codes and protocols. Where codes and guidance do not already exist, it was hoped that the Standard would provide assistance and direction. It was not, however, a statutory code but a guide to assist in public governance.

Attached, as an Appendix to the report, was a set of questions that authorities were asked to consider in assessing their compliance with the Standard. The Committee was, therefore, requested to consider if it wished officers to research compliance with the questions and to report back to a future meeting of the Committee.

Members were advised that it should be noted that the Standard was not only concerned with good standards of behaviour and conduct, but concerned itself with the wider issues of corporate governance.

It was agreed: -

“That the Committee request officers to research the full implications of implementing the Good Governance Standards for Public Services and that a report be submitted to both the Standards and the Audit Committees.”

Upon being put to the vote Members voted in favour of the proposal, whereupon the Chairman declared the proposition to be carried.

Resolved: -

That the Committee request officers to research the full implications of implementing the Good Governance Standards for Public Services and that a report be submitted to both the Standards and the Audit Committees.

.....
Chairman

(The meeting closed at 12.21 p.m.)

***Any queries regarding these Minutes, please contact
Stephen Metcalfe, Senior Democratic Support Officer,
on 01524 582073, or alternatively e-mail
SMetcalfe@lancaster.gov.uk***

APPENDIX A

RE: CONSULTATION PAPER ON THE REVIEW OF THE CODE OF CONDUCT

The Council's Standards Committee has, at its meeting today, considered the Consultation Paper on the review of the Code of Conduct for Members, and would respond to the list of questions as follows:

1. Should the ten general principles be incorporated as a preamble to the Code of Conduct?

The City Council has already adopted a Preamble to the Code of Conduct, incorporating the ten general principles. However, it is felt that it should be for each individual Council to decide whether or not to adopt such a preamble, which should not form part of the Code itself. For your information, a copy of the City Council's Preamble is enclosed.

2. Are there any other principles which should be included in the Code of Conduct?

No.

3. Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?

A broad test is adequate

4. Should the Code of Conduct include a specific provision on bullying? If so, is the ACAS definition of bullying appropriate for this?

It is not felt necessary to include a specific provision on bullying.

5. Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?

On the basis of the City Council's experience, it is felt that a public interest defence as defined here would not be appropriate.

6. Do you think the Code of Conduct should cover only information which is in law "exempt" or "confidential", to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?

No, it is not felt that it is necessary to make any amendment to the Code in this respect.

7. Should the provision related to disrepute be limited to activities undertaken in a member's official capacity or should it continue to apply to certain activities in a member's private life?

It is felt that the Code should remain as it is on this point.

- 8. If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?**

It is felt that the Code should remain as it is on this point.

- 9. We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?**

It is not felt that there is any need to amend the Code.

- 10. If so, how could we define “inappropriate political purposes”?**

Not necessary in the light of our response to question 9.

- 11. Is the Code of Conduct right not to distinguish between physical and electronic resources?**

Yes, it is agreed that there should be no distinction.

- 12. Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether or somehow narrowed?**

It is felt that the requirement on a member to report an alleged breach by another member should be removed from the Code, but that there should be added to the Code a note for the guidance of all concerned that any member who is aware of a material breach would, in the interests of good governance, and in the spirit of the ten general principles, be expected to report it.

- 13. If you believe the provision should be narrowed, how would you define it? For example, should it only apply to misconduct in a member’s public capacity, or only to significant breaches of the Code?**

Not applicable in the light of our answer to question 12.

- 14. Should there be a further provision about making false, malicious or politically motivated allegations?**

Following from our response to question 12, there should be a further note indicating that it would be inappropriate to make false, malicious or politically motivated allegations.

- 15. Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?**

It is not felt that the Code needs to make specific provision for this.

- 16. Do you think the term “friend” requires further definition in the Code of Conduct?**

No.

- 17. Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority's area?**

No.

- 18. Should a new category of "public service interests" be created which is subject to different rules of conduct?**

No, this would unduly complicate the declaration of interests.

- 19. If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?**

Not applicable

- 20. Do you think paragraph 10(2)(a-c) should be removed from the Code?**

No, but clarification of the current wording would be helpful to ensure a proper understanding of this clause of the Code.

- 21. Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?**

No.

- 22. Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?**

It is felt that a member with a prejudicial interest should have no less right than he would as an ordinary member of the public.

- 23. Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote?**

No, subject to our reply to question 22.

- 24. Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?**

No, it should be possible to use a generic job description to cover this situation.

- 25. Should members be required to register membership of private clubs and organisations? If so, should it be limited to organisations within or near an authority's area?**

Yes.

- 26. Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?**

Yes.

27. Should members also need to declare offers of gifts and hospitality that are declined?

No.

28. Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?

It is felt that gifts from the same source to the total value of £25 or more, over a three month period, should be declared.

29. Is £25 an appropriate threshold for the declaration of gifts and hospitality?

Yes.

I hope that these comments will be helpful to you.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'R. C. M. O.', is written on the page.

CORPORATE DIRECTOR (CENTRAL SERVICES)/MONITORING OFFICER