

STANDARDS COMMITTEE

2.00 P.M.

19TH NOVEMBER 2004

PRESENT: - Independent Membership:

Mr. S. Lamley (Chairman), Mr. S. Clarke, Brigadier J. Dennis and
Mrs. F. Humphreys

Council Membership:

Councillors J. Ravetz (Vice-Chairman), P. Gardner, D. Kerr, J. E. Kirkman
and J. R. Mace.

Officers in attendance:

Corporate Director (Central Services)/Monitoring Officer
Head of Legal Services
S. Metcalfe – Senior Democratic Support Officer

Apologies for absence:

Councillors E. Archer and E. Heath.

21 MINUTES

The Minutes of the meeting held on the 6th May, 2004 were signed by the Chairman as a correct record.

22 ITEMS OF URGENT BUSINESS

The Chairman advised that he had accepted the following items of urgent business, as decisions were required prior to the next meeting of the Committee.

(i) ITEM OF URGENT BUSINESS - CONDUCT AT COUNCIL MEETINGS

The Corporate Director (Central Services) reported verbally at the meeting upon a letter he had received from Councillor Harrison regarding the conduct of certain Members of Council at the last meeting of Full Council. It was noted that Councillor Harrison had consulted with the Corporate Director, in his role as Monitoring Officer, for advice upon how to proceed with this matter. After discussing this issue fully, Councillor Harrison had requested that the matter be raised with this Committee. Members were asked to consider whether they wished to: -

- Write, to all Councillors advising that the conduct of certain Councillors at the recent meeting of full Council was not to the expected standard;
- Consider whether a Protocol, which would inform Members of a minimum standard of behaviour, should be drafted for consideration by this Committee.

Members voiced their concerns regarding this matter and of the need for action to be taken.

It was moved by Councillor J. Kirkman and seconded by Councillor D. Kerr: -

“(1) That a Protocol, which informs Members of a minimum standard of behaviour, be drafted for consideration at the next meeting of the Committee.

- (2) That a letter be prepared, signed by the Chairman of the Committee, and distributed to all Members of Council advising that the conduct of certain Councillors at the recent meeting of full Council was not to the expected standard.
- (3) That the Committee requests the Corporate Director (Central Services)/Monitoring Officer to write to the 3 Councillors involved in the incidents at the recent meeting of full Council advising of the views of this Committee that their actions were inappropriate and requesting that a formal apology should be given by them to the Deputy Mayor."

(ii) ITEM OF URGENT BUSINESS - INDEMNITIES

The Head of Legal Services advised the Committee of draft Regulations on indemnities, which had been discussed by a Standing Committee in Parliament on the 20th October 2004, and which may become effective by the end of the year. Of particular interest to the Committee was the provision in the draft Regulations for an indemnity for a Member defending an allegation of a breach of the Code of Conduct. However, the Member would be required to reimburse any sums paid if subsequently found to have breached the Code. Members were advised that a full report would be submitted when the Regulation had been finalised.

Councillor Kerr requested a copy of the Draft Regulations and it was noted that if any other Member of the Committee required a copy they should contact the Corporate Director (Central Services) who would make the necessary arrangements.

Members agreed to note the verbal report of the Head of Legal Services and requested a full report when the Regulations had been finalised.

(iii) ITEM OF URGENT BUSINESS - LOCAL PROTOCOLS

The Corporate Director (Central Services), referring to Minute 15, reported verbally at the meeting and circulated a draft Protocol on Publicity for Allegations of Breach of the Code of Conduct made to the Standards Board. It was noted that the draft Protocol had been amended since previously being considered by the Committee, as full Council had requested that certain amendments be made. Members were advised that the amended draft version provided for a Member in certain circumstances to make public comment on a complaint that had been brought into the public domain by a member of the public. The Committee was requested to consider the amended Protocol and make recommendations for consideration by full Council.

It was moved by Councillor J. Kirkman and seconded by Councillor D. Kerr: -

"That the Draft Protocol be submitted to full Council for adoption, subject to amendments to make it clear that a Member would only be in breach of the Protocol if the Member was aware of a complaint to the Standards Board."

Resolved: -

That with regard to Minute 22 (i):

- (1) That a Protocol, which informs Members of a minimum standard of behaviour, be drafted for consideration at the next meeting of the Committee.
- (2) That a letter be prepared, signed by the Chairman of the Committee, and distributed to all Members of Council advising that the conduct of certain Councillors at the recent meeting of full Council was not to the expected standard.

- (3) That the Corporate Director (Central Services)/Monitoring Officer write to the 3 Councillors involved in the incidents at the recent meeting of full Council advising of the views of this Committee that their actions were inappropriate and requesting that a formal apology should be given by them to the Deputy Mayor.

That with regard to Minute 22 (ii):

- (4) That the verbal report of the Head of Legal Services be noted and that a full report be submitted when the new Regulations are finalised.

That with regard to Minute 22 (iii):

- (5) That the Draft Protocol on Publicity for Allegations of Breach of the Code of Conduct be submitted to full Council for adoption, subject to amendments to make it clear that a Member would only be in breach of the Protocol if the Member was aware of a complaint to the Standards Board.

23 PREAMBLE TO THE CODE OF CONDUCT

The Corporate Director (Central Services) presented a report, which advised the Committee of a draft Preamble to the Code of Conduct, following discussions at previous meetings.

It was recalled, that at the meeting of the Committee in November 2003, there was a lengthy debate on a proposal moved by Councillor Heath to amend the Council's Code of Conduct by adding a new obligation for Members to have regard to the interests of the whole community.

It was agreed that the Chairman would discuss further with Councillor Heath, the possibility of a new provision regarding the interests of the whole local community being included as a preamble to the Code of Conduct, or elsewhere within the Constitution, and that this would be considered by the Committee at a future meeting. (Minute 13(2) refers).

Following the meeting, officers sought advice from the Standards Board for England on the possible contents of a preamble, and on the basis of that advice, the document appended to the report had been drafted.

Bulletin 15, published by the Standards Board in December 2003 referred to the public interest issue, and stated that this might be raised by the Standards Board with the Office of the Deputy Prime Minister when the Model Code of Conduct was reviewed, but that in the meantime Councils were not permitted to reduce the scope of the Code of Conduct, for example by inserting a public interest clause.

The specific advice given to officers by the Standards Board was that any Preamble should make it absolutely clear that only breaches of the Code of Conduct itself were enforceable by the Standards Board. Whilst there was no objection to having a Preamble which refers to the statutory Principles of good conduct with which the Code was required to be consistent, it should be made clear that the Principles themselves were not enforceable, and also that all ten Principles were equally important, and that there was no one overarching duty arising from the Principles.

In the context of having regard to the interests of the community, therefore, whilst the first Principle states that "Members should serve only the public interest", this was only one of the Principles, and it was not overriding.

Should the Committee be minded to approve the draft Preamble in the form, submitted as an Appendix to the report, officers were satisfied that the Standards Board would not object to its contents.

It was moved by Councillor P. Gardner and seconded by Councillor D. Kerr: -

“That the Preamble to the Code of Conduct be approved and be submitted to full Council, as set out in the recommendations of the report.”

Resolved: -

That the Monitoring Officer be requested to recommend to full Council that the draft Preamble to the Code of Conduct, annexed to the report, be included in the Constitution.

24 LOCAL INVESTIGATIONS OF MISCONDUCT ALLEGATIONS

The Corporate Director (Central Services) presented a report to enable the Committee to consider new Regulations dealing with the local investigation of allegations of misconduct and a proposed investigation and pre-hearing procedure for dealing with such matters.

Members were advised that, with regard to a time limit for conducting investigations, all cases were different and it would be impossible to give a specific timescale for all cases to be completed within.

It was moved by Councillor J. Ravetz and seconded by Councillor D. Kerr: -

“That the recommendations, as set out within the report, be approved and that these matters be reported to full Council and that a letter and copy of the report be submitted to all Parish and Town Council Clerks to inform them of this matter.”

Resolved: -

- (1) That the Committee note the provisions of the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004.
- (2) That the Committee approve investigation and pre-hearing procedures for matters referred to the Monitoring Officer for local investigation and subsequent local determination.
- (3) That with regard to (1) and (2) above that these issues be reported to full Council.
- (4) That a letter and copy of the report be submitted to all Parish and Town Council Clerks to inform them of this matter.

25 STANDARDS BOARD CASE REFERRALS 2003/04

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 1,825 cases had been referred to the Standards Board. There was an 8% increase on the same period from last year.

An analysis of the allegations for 2004/05 was attached as Appendix A to the report and was summarised as follows: -

Complaints received April 2004 to September 2004	1,825	
Complaints passed to investigator	456	(25%)

47% of those received were in respect of Parish Councils and 28% in respect of District

Councils.

It seemed that all the procedures were becoming well known outside Councils in that 59% of the allegations (51% last year) were made by members of the public. Allegations from fellow Councillors accounted for 32% of the total.

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

- Bringing the authority into disrepute (19%);
- Non-declaration of a prejudicial interest (19%);
- Non-declaration of a personal interest (18%).

Of those cases that had been investigated in 2004/05 only 10%, or 46 cases, had been referred to the Adjudication Panel, 67% required no further action, 19% there was no evidence of a breach and only 4% had been referred back to the Monitoring Officer.

Locally, the Standards Board had received a total of 32 allegations of misconduct in respect of City and Parish Councillors. A summary of the position was provided as set out below: -

	City	Parish
Allegations Received	23	9
Proceed to Investigation	15	6
Resolved to Date	13	6
- No breach	7	--
- Breach but No Action Required	5	6
- Breach Referred to Adjudication Panel	1	--

It was noted that there were currently two cases being investigated by Ethical Standards Officers.

It was moved by Councillor D. Kerr and seconded by Councillor J. Ravetz: -

“That the report be noted.”

Resolved: -

That the report be noted.

26 THIRD ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Corporate Director (Central Services) submitted a report that provided feedback to the Committee from the Third Annual Assembly and alerted the Committee of the dates for the Fourth Annual Assembly, which were the 17th and 18th October 2005.

The Chairman and Monitoring Officer had recently attended the Third Annual Assembly of Standards Committees in Birmingham on the 13th and 14th September, 2004. Over the two days a total of 750 delegates attended the Conference and its workshops. The theme of the Assembly was “Cracking the Code”. A verbal feedback of the event was provided by the Chairman and the Monitoring Officer who had represented the Council at the Assembly and by Mr Clarke who had attended in another capacity.

At the request of Members of the Committee it was noted that a report be submitted to the next meeting reviewing the Council’s Planning Protocol.

It was moved by Councillor J. Ravetz and seconded by Councillor J. Kirkman: -

“That the report be noted.”

Resolved: -

That the report be noted and that a report be submitted to the next meeting reviewing the Council’s Planning Protocol.

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Chairman

(The meeting closed at 3.33 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**