

NORTH HERTFORDSHIRE DISTRICT COUNCIL

STANDARDS COMMITTEE

MINUTES

**Meeting held at the Council Offices, Gernon Road, Letchworth Garden City
on Thursday, 20 December 2007 at 7.30p.m.**

PRESENT: *Mr N. Moss (Independent Chairman), Mr P. Chapman (Independent Vice-Chairman).
Parish Councillors M. Goddard & R. Wornham and District Councillors David Kearns, L.W. Oliver & M.R.M. Muir*

IN ATTENDANCE: *Head of Legal & Democratic Services (Monitoring Officer), Corporate Legal Manager (Deputy Monitoring Officer) and Senior Committee and Member Services Officer.*

ALSO PRESENT: *District Councillor Martin Stears, Strategic Director of Customer Services, Town Councillor Philip Ross (Chairman, Letchworth Garden City Town Council) and Town Councillor Chris Harlow (Vice-Chairman, Letchworth Garden City Town Council).*

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

1a. CHAIRMAN'S ANNOUNCEMENTS

- (1) The Chairman commented that the Minutes of the meeting of the Committee held on 12 December 2007 had yet to be distributed, but he confirmed that in the case of former Parish Councillor David Mawer (St. Ippolyts Parish Council), the Committee had decided that there had been no failure by former Parish Councillor Mawer to comply with the Code of Conduct and hence there was no case to answer.
- (2) The Chairman announced that Town Councillor Philip Ross (Letchworth Garden City Town Council) had requested an opportunity to address the Committee in respect of Item 4 on the agenda – Review of Procedure and Costs of Investigation. He therefore proposed that Town Councillor Ross addressed the Committee under a new Item 3a, headed "Public Participation", immediately before Item 4 was debated. The Committee agreed to this proposal.

2. NOTIFICATION OF OTHER BUSINESS

No other items were presented for consideration.

3. DECLARATIONS OF INTEREST

No declarations of interest were made.

3a. PUBLIC PARTICIPATION

Prior to inviting Town Councillor Philip Ross to address the Committee, the Chairman allowed Members the opportunity to read the written questions he had submitted.

Town Councillor Ross considered that the costs of £50,000 associated with the investigation of the case against Town Councillor Smale were disproportionately high. He referred to the reciprocal arrangements that existed between North Hertfordshire District Council (NHDC) and three other District Councils in Bedfordshire (as per the document appended to his list of questions) to assist each other on occasions when the Monitoring Officer and/or Deputy Monitoring Officer were, for whatever reason, unable to handle a particular investigation. He failed to understand why this reciprocal agreement had not been invoked in the case of the

Town Councillor Smale investigation, as the costs of such arrangements (based on the hourly rate quoted) were likely to be significantly less than the expenditure incurred by NHDC in appointing an external investigator and a barrister to fulfil the Legal Advisor's role to the Committee.

Town Councillor Ross stated that his other area of major concern was the length of time taken to complete the investigation. It took 16 months, as opposed to the 8 weeks recommended by the Standards Board for England.

In response, the Chairman advised that the questions submitted by Town Councillor Ross would be processed through the usual officer channels, and that he would receive a reply in due course. However, the Chairman wished to correct two factual inaccuracies contained in Town Councillor Ross's submission.

The Chairman explained that he had been advised by officers that the cost of the investigation and hearing was in the region of £36,000, and not the £50,000 stated by Town Councillor Ross.

The Chairman referred to the comment in Councillor Ross's submission which stated "I understand that the solicitor retained by NHDC explained to the Standards Committee that witness statements could not be taken from the witnesses suggested by Cllr Smale because there were no resources left. I would request that an explanation of this statement is provided if it was made". The Chairman had no recollection of such a statement, and drew attention to the following comments made in a letter from the solicitor who had carried out part of the investigation sent to the Deputy Monitoring Officer as part of the pre-hearing process, and which he re-iterated at the hearing:

"I concluded that to interview a large number of additional witnesses would unreasonably delay my investigation and would not contribute substantially to the accuracy of my report. I was, when deciding which witnesses to interview, in addition to those already interviewed by Frances Bogie, also influenced by the very substantial costs which had by then been run up in this investigation. I did not consider myself justified in interviewing another six or seven witnesses when I did not consider that they would be likely to have important evidence to give on the issues which I was investigating."

4. REVIEW OF PROCEDURE AND COSTS OF INVESTIGATION

The Deputy Monitoring Officer submitted a report detailing the recent Standards Committee hearing into the breaches of the Code of Conduct and the resources for and costs of investigations and hearings, how those were to be funded and particular issues surrounding investigations which may drive up costs.

The Deputy Monitoring Officer summarised the report, and highlighted the following issues:

- The two recent investigations had been very much at opposite ends of the spectrum. One matter had been relatively straightforward, whilst the other had been very complex – in the lead up to the complex investigation and subsequent hearing, it would be fair to say that a steep learning curve had been required for all involved;
- The possibility for potential conflicts of interest of the Monitoring/Deputy Monitoring Officers (as happened with the investigation) had been recognised by Monitoring Officers across the country;
- The Bedfordshire Authorities who were party to the reciprocal arrangements mentioned by Town Councillor Ross had been approached, but had declined the invitation to assist as the workload of their respective Monitoring Officers had been diverted to the current re-structuring process of Local Government in Bedfordshire;
- On the issue of reciprocation, the Chairman pointed out that where such an arrangement operated it would not mean solely that another authority would investigate for NHDC. It would mean also that NHDC would be required to carry out investigations for another authority (i.e. it would have to reciprocate and, therefore, still face resource pressures);

- NHDC's Audit Team would be approached to explore the possibility of them undertaking an investigatory role in future cases, although there was likely to be a cost/resource issue should this be pursued, and there may also be the possibility of utilising a similar service offered by Milton Keynes Council;
- The Monitoring Officer/Deputy Monitoring Officer had followed the Council's procurement process as regard to the receipt of quotations for the investigatory/legal advisor roles, although it was acknowledged that there were only a limited number of legal firms which were able to provide expertise in this area;
- About 18% of Local Authorities in England had experienced increased cost issues similar to NHDC as a result of the investigation and hearing of Code of Conduct issues;
- The Monitoring Officer and Deputy Monitoring Officer felt that there would be advantage in further investigative training for themselves.

The Committee debated the report, and expressed concern at the potential for costs in association with investigations to increase, especially in the light of the new Local Referral arrangements introduced by the Local Government & Public Involvement in Health Act 2007 (see Minute 7 below). The Committee was further concerned with internal resource issues, particularly the ability of the Monitoring/Deputy Monitoring Officers to be able to devote the time to code of conduct matters as well as carrying out their other duties. It was agreed that consideration of whether or not a budget was made available for the full (i.e. both internal and external) costs of future Monitoring Officer investigations of serious or controversial allegations of breach of the Code of Conduct should be deferred until a review of such processes took place in September 2008, and that in the meantime the funding of the cost of any investigations continued to be absorbed through use of the Council's balances and reserves.

RESOLVED:

- (1) That specific investigative training be recommended for the Monitoring Officer and Deputy Monitoring Officer;
- (2) That a report be submitted to a future meeting of the Committee on the potential resource issues for the Audit & Consultancy Service to assume the investigative function for alleged Code of Conduct breaches where the Monitoring Officer and the Deputy Monitoring Officer are conflicted out of the process, and that this report be made available prior to the implementation of the local referral mechanisms;
- (3) That the Monitoring Officer should continue to explore arrangements with other Councils' teams for investigative services to bolster the reciprocal arrangements or seek to extend the current reciprocal arrangements with other local authorities.
- (4) That consideration of whether or not a budget is made available for the full (i.e. both internal and external) costs of future Monitoring Officer investigations of serious or controversial allegations of breach of the Code of Conduct be deferred until a review of such processes takes place in September 2008, and that in the meantime the funding of the cost of any investigations continues to be absorbed through use of the Council's balances and reserves.

REASON FOR DECISION: To ensure that the investigative function of the Monitoring Officer is adequately resourced whilst ensuring that the most cost effective means are employed to meet the statutory duties.

5. IMPLICATIONS OF THE NEW CODE OF CONDUCT

The Monitoring Officer submitted a report advising the Committee of the changes introduced by the new Code of Conduct for Members, in line with the recently revised model Code of Conduct. She reminded the Committee that the new Code had been adopted by the Council at its Annual Meeting held on 17 May 2007.

The Monitoring Officer outlined the major changes to the Code, as detailed in the report, and the Chairman commented that he had written to Political Group Leaders and to those

Members who had been unable to attend the recent training session on the new Code to encourage them to attend a further training session on it to be arranged in the New Year.

The Monitoring Officer drew attention to the one further proposed change to the Council's Code of Conduct, whereby the scope and application of the Code would also pertain to informal meetings attended by Members, as defined in Paragraph 4.2.1 of the report.

RESOLVED: That the changes contained within the new Code of Conduct be noted.

RECOMMENDED TO COUNCIL: That the inclusion of informal meetings and the definition of these, as given in Paragraph 4.2.1 of the report, in the scope and application of the Code set out in Paragraph 1.4 of the Code, be agreed.

REASON FOR DECISION: To raise awareness of the intended changes to the Code and to consider the impact of these.

6. REVISION AND ADOPTION OF NEW PROTOCOLS

The Monitoring Officer submitted a report seeking the Committee's support for a new Members' Protocol for Gifts and Hospitality and revisions to the Planning Code of Good Practice, prior to the submission of both documents to Council for adoption.

The Monitoring Officer answered a number of questions regarding the proposed Protocol for Members' Gifts and Hospitality.

RECOMMENDED TO COUNCIL:

- (1) That the proposed Members' Protocol for Gifts and Hospitality, as set out at Appendix A to the report, be approved and adopted;
- (2) That the amended Planning Code of Good Practice, as set out at Appendix B to the report, be approved and adopted.

REASON FOR DECISION: To assist Members in complying with the new requirements of the Code of Conduct as regards the registration and declaration of Gifts and Hospitality; to ensure that the Planning Code of Good Practice is compliant with the new Code of Conduct provisions; and to demonstrate that the Council has the highest regard for Corporate Governance issues.

7. PROVISIONS AND IMPLICATIONS OF THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 – PART 9

The Monitoring Officer submitted a report outlining the provisions of the Local Government and Public Involvement in Health Act 2007 as they related to the functions of the Standards Committee.

The Monitoring Officer highlighted the major areas of the report. One of the most significant implications of the Act was the Local Referral mechanism.

The Committee noted that the Local Referral mechanism provided for a person to make a written allegation to the Standards Committee of the authority. The Standards Committee was then required to decide whether to refer the allegation to either the Monitoring Officer; the Standards Board for England; or decide that no action should be taken. The Committee would be required to give the person against whom the complaint had been made a written summary of the allegation.

Following a decision that no action should be taken, the Committee must provide the complainant and the person against whom the complaint had been made with the decision and the reasons for it. The person making a complaint could seek a review of the decision within 30 days. The Committee must make a decision on that request within 3 months of its receipt. This decision may be one of those set out above. Following this decision there was no further right of review. If a review was called for, they must notify the subject of the complaint of this.

When the Standards Committee referred an allegation to the Standards Board, the Board could either refer it to an Ethical Standards Officer; refer it back to the Standards Committee; or decide that no action should be taken. The Standards Committee would not be able to refer this back to the Standards Board again. Where no action was to be taken, the Standards Board would notify the complainant of this and the reasons for it.

The Monitoring Officer had included in her report some further consequences of the Act, including the probable need for an increase in the size of the membership of the Committee (including the likelihood for additional independent members) and Member and Officer training on the new Local Referral mechanism.

In respect of training, the Chairman reminded Members of the Committee of the training session on "Local Filtering of Complaints" to take place on 27 March 2007 at St. Albans City Council, and urged them all, if possible, to attend.

RESOLVED:

- (1) That the provisions of the Local Government and Public Health Act 2007 and potential implications these will have be noted;
- (2) That it be noted that the Committee will receive future reports recommending implementation of enabling legislation, and that the timetable for implementation is April 2008;
- (3) That it be noted that changes to the Constitution will be required to amend the Committee's Terms of Reference, and that, in particular, the increased functions of the Committee will require an increase in the size of the Committee membership;
- (4) That it be noted that all Members of the Standards Committee and officers supporting the process will require training on the new referral mechanism, and that there should be proportionate training for elected Members.

REASON FOR DECISION: To ensure compliance with the Local Government and Public Involvement in Health Act 2007, and the promotion of high standards of corporate governance.

8. AUDIT OF DECLARATIONS AND REGISTER OF INTERESTS

The Monitoring Officer submitted a tabled report advising the Committee of details of the numbers of Declarations of Acceptance of Office and Registers of Financial Interests for District and Parish Members.

In noting the report, the Committee was dismayed with the fact that 37 Acceptances of Office and 14 Registers of Financial Interests had not been submitted by Parish Councillors serving on various parish councils throughout the North Hertfordshire area.

RESOLVED:

- (1) That the report be noted;
- (2) That the Chairman of the Standards Committee write to all Parish Council Chairmen in North Hertfordshire informing them of the Committee's concern regarding the number of outstanding Declarations of Acceptance of Office and Registers of Financial Interests, and asking for them to take steps to rectify this situation.

REASON FOR DECISION: To further the Committee's role in promoting high standards of ethical behaviour amongst councillors.

9. REVISIONS TO THE WHISTLE BLOWING CODE

The Monitoring Officer submitted a report seeking approval to some proposed revisions to the Council's Confidential Reporting Code (also known as the Whistle Blowing Code). The Code set out the framework for employees and contractors to raise concerns about poor practice or illegality in the Council's operations, and provided for an external process for raising

complaints and for protection from victimisation provided in the Public Interest Disclosure Act 1998. The content of the proposed revised Code remained largely unaltered, but the format had been adjusted for ease of reading and to make it more succinct.

Members made a number of minor amendments to the Code, which were noted by the Monitoring Officer, and it was agreed that the Standards Committee should receive an annual report on whistle blowing cases.

RESOLVED:

- (1) That the revisions to the Whistle Blowing Code, as set out in Appendix B to the report, and as amended, be agreed and adopted;
- (2) That consultation on the new Code takes place with the Trade Union;
- (3) That an annual report be submitted to the Committee on whistle blowing cases.

REASON FOR DECISION: To ensure that the Council has a robust Whistle Blowing Code in place for handling allegations of serious malpractice.

The meeting closed at 10.20pm.

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Chairman