

STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 21 JUNE 2010

Independent Members: Mr J Rees and Mike Wall

Councillors Present: Adrian Edwards, Mollie Lock, Gwen Mason and Julian Swift-Hook

Parish Representatives: Mr T Bune (P), Mrs C Clemson (P), Peter Iveson (AP), Mr T Renouf (P), Stephanie Steevenson (AP)

Also Present: David Holling, Sharon Armour, Linda Pye

Apologies for inability to attend the meeting: Councillor David Holtby

PART I

1. Apologies

Apologies for inability to attend the meeting were submitted on behalf of Councillor David Holtby, John Bingham, Peter Iveson and Stephanie Steevenson.

2. Minutes

The Minutes of the meeting held on 8 February 2010 were approved as a true and correct record and signed by the Chairman.

3. Declarations of Interest

There were no declarations of interest received.

4. Guidance on Granting Dispensations for Prejudicial Interests (S2101)

David Holling introduced the report which set out clear guidance on granting dispensations to Parish Councillors allowing them to speak and vote at meetings where a number of prejudicial interests existed which would otherwise prevent a decision being taken. David reported on a previous application for a dispensation where some members of the Standards Committee were in favour and some were not and there did not appear to be a process in place to deal with that situation. Small Parish Councils with limited numbers had specific issues in this respect.

Members of the Committee asked for clarification of an urgent case. David responded that it was usually when a Clerk to the Parish Council had forgotten to ask for a dispensation until the last minute and it would then be necessary for David to produce a short report or ring around members of the Standards Committee using a virtual meeting in order to come to a consensus of opinion as to whether the dispensation should be granted.

David clarified that a dispensation could be granted if more than half the Members entitled to vote at the meeting in question were prevented from doing so. The dispensation could be valid for just the meeting in question or as an ongoing dispensation for up to four years and it was therefore important that the Standards Committee was clear on the length of time a dispensation would be valid for when granting it.

James Rees referred to Section 4 of the report on considerations to be taken into account when granting a dispensation and asked the Committee if they were clear on what was being agreed. Councillor Julian Swift-Hook queried whether the proposals set out within the report had come about as a result of legislation or local determination.

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David Holling responded that it was a combination of the two. The process had initially been taken from the framework but had been written in a format that everyone would understand. In the new guidance it was necessary for each member to apply in writing for a dispensation rather than a group application. David confirmed that the process for applying for a dispensation would need to be circulated to all Parish Councils and consideration would be given to putting together some sort of proforma that could be used.

James Rees referred to paragraph 5.1(b) of the report which he felt obliged the Standards Committee to convene a meeting to consider each application except in the case of urgent items. David Holling confirmed that this was the case but in reality many of the applications would be of an urgent nature and therefore a virtual meeting of the Committee would be convened whereby David would contact as many members of the Committee as possible for their agreement or otherwise to the dispensation. It was queried whether a Dispensation Sub-Committee could be formed in order to give more flexibility. However, it was felt that this would not be a satisfactory solution as the views of all the Committee would not have been sought. It was queried whether a minimum number of Standards Committee members were required for a vote to be quorate. David confirmed that four votes would be required, one of which should be from an Independent Member.

Tony Renouf asked if the discussion on any dispensation could take place prior to asking members of the Committee to vote. It was suggested that the proforma for Parish Councils and one for Members to use should be circulated to the Committee for approval prior to the release of any information to Parish Councils. After the paperwork had been approved then it would be circulated together with the report on dispensations and the Annual Report to all Parish Councils. The guidance would also be raised at the next District/Parish Conference.

RESOLVED that it was agreed to adopt the guidance for use by the Council's Standards Committee in the circumstances described in the report.

5. Annual Report

David Holling presented the Annual Standards Committee report to the Committee for consideration. It was West Berkshire Council's Standards Committee's ambition to "promote, educate and support Councillors (both District and Parish) in following the highest standards of conduct and to ensure that those standards were fully owned locally".

It was queried how the Standards Committee promoted itself. David Holling confirmed that information was available on the website and high standards were promoted via this Committee. Training was provided on a regular basis to both District and Parish Councillors at the District/Parish Conference. The Chair of the Standards Committee also met with the Leader of the Council, the Leader of the Opposition and the Chief Executive. The Chairman has also met with other Councillors on an ad hoc basis as and when required.

RESOLVED that the Annual Report 2009-10 was agreed and would be distributed to all District, Town and Parish Councils for information.

6. Discussion on Policies and Procedures of the Standards Committee

David Holling introduced the discussion on policies and procedures of the Standards Committee which members of the Committee felt could be improved upon.

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David stated that one particular issue which had arisen over the last year or so was whether the Subject Member should be advised or not when a complaint was received against them. James Rees noted that the Standards Committee had the ability to decide whether Subject Members would be advised or not and when the process was set up over a year or so ago it was felt that Subject Members should be advised. However, one recent case had caused upset for one Councillor as although the Subject Member could be advised that a complaint had been made against them they were not allowed to be given any details of the complaint or have any input until after the Assessment Sub-Committee meeting. Members of the Committee agreed that it was a difficult situation whether a Subject Member was notified of the complaint or not but felt that the inability to advise the Subject Member of the nature of the complaint went against the Freedom of Information Act and what happened in the Courts where the defendant would be aware of the charges against him/her. Some Members of the Committee felt that as the Subject Member had little input into the process until after the Assessment Sub-Committee then they should not be told.

David Holling stated that Officers tried to ensure that Assessment Sub-Committees were arranged in under 20 days from the receipt of the complaint. It was suggested that Assessment Sub-Committees should be arranged more frequently and after consideration it was agreed that meetings would be arranged for every 2nd and 4th Wednesday of the month in order that complaints could be dealt with as soon as possible and that the Subject Member would not be informed that a complaint had been received against them until after the Assessment Sub-Committee had made a decision as to whether there was a case to answer or not.

Discussion took place on requests for anonymity and whether it could be deleted from the form as it was felt that the Subject Member should have the right to take a civil case against a complainant if appropriate and it would therefore be necessary to know who the complainant was. David Holling advised that although the anonymity box was ticked there was no guarantee that the complaint would remain confidential. It was up to the Assessment Sub-Committee to decide whether it was appropriate for a complaint/complainant to remain confidential. The main reason for anonymity was if a junior member of staff wanted to make a complaint against a Member. *(Note: Please note that the Standards Committee had previously agreed a Policy For Dealing With Complainant Requests for Confidentiality)*

David Holling also referred to a recent Hearing Panel where one of the sanctions imposed was that all members of the Town Council should undergo Code of Conduct and Standing Orders training. However, one Town Councillor had felt that this was unfair as the Town Council had not been represented at the Hearing. David advised that when the witnesses at the Hearing had been questioned in respect of the Code of Conduct none of them had known what it was. Members of the Standards Committee felt that all Parish and District Councillors should be trained in respect of the Code of Conduct and that the Parish Clerk should keep an up-to-date record of all those members who had been trained and the date of that training. Crissy Clemson felt that this would still miss many of the older and more experienced Parish/District Councillors who felt that they did not need training and suggested that the training should be made mandatory every four years. Tony Renouf suggested that it was vital that the Chairman and Clerk of every Parish Council were aware of and understood the rules and it should be part of their remit to ensure that they were fully trained. A general discussion took place on the best way to ensure that Parish Councils were aware of the requirements of Code of Conduct and it was suggested that a copy of the DVD and booklet should be made available to all Parish/Town Councils.

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RESOLVED that:

- (1) In future the Subject Member would not be advised that a complaint had been received against them until after the Assessment Sub-Committee;
- (2) Assessment Sub-Committee meetings would be arranged for every 2nd and 4th Wednesday of the month in order that complaints could be dealt with as quickly as possible;
- (3) In respect of making Parish and Town Councils aware of the Code of Conduct David Holling would take away the comments that had been made during the discussion and bring forward some firm proposals for the Standards Committee to agree in order to improve processes in the future.

7. Future of Standards for England

David Holling reported on a recent letter which had been received from Dr. Robert Chilton, Chair of Standards for England in respect of the Government's proposals to abolish the Standards Board regime. There were currently no clear details of the scope or implications of this proposal and until such time as the relevant legislation was passed then the statutory framework would remain in operation.

David advised that a draft Bill was likely to be considered by the Government in the Autumn.

James Rees reiterated the uncertainty for Standards for England and also for the Standards Committee of West Berkshire Council. James reported that a lot of good work had been undertaken by the Committee and a transparent and fair process had been put in place which it was hoped would continue. Councillor Julian Swift-Hook felt that it would be down to each individual authority whose localised powers would be increased. However, it was important that the Council did not go back to the system that was in place previously. Any system in place needed to be robust and clear. There were a number of anomalies which should be addressed but he felt that on the whole the system did not need to be changed substantially. Mike Wall agreed with Councillor Swift-Hook and suggested that West Berkshire could buy-in with other local authorities and undertake investigations on each other's behalf.

Councillor Swift-Hook felt that the Independent Members on the Standards Committee provided the transparency for the members of the public and Elected Members and he thanked those members for their input.

(The meeting commenced at 6.00 pm and closed at 7.30 pm)

CHAIRMAN

Date of Signature