

**MINUTES OF A MEETING OF THE  
STANDARDS COMMITTEE  
HELD ON WEDNESDAY 2 DECEMBER 2009 FROM 7.00 PM TO 8.45 PM**

*Present:-*

***Wokingham Borough Members:-*** Ullakarin Clark and Malcolm Storry

***Independent Members:-*** David Comben, (Chairman), Eric Davies, Anita H Grosz and John Giles

***Parish Council representatives:-*** Mr J Heggadon, Roy Mantel and Ray Duncan

*Also present* Kevin Jacob, Principal Democratic Services Officer  
Colin Lawley, Legal Services Manager and Deputy Monitoring Officer

## **PART I**

### **27. MINUTES**

The Minutes of the meeting of the Committee held on 2 September 2009 were confirmed as a correct record and signed by the Chairman.

John Heggadon referred to point 4 of the resolved action under Minute 24 and queried whether the changes in the procedure for questions from parish and town councillors had been implemented as he was not aware of any notification of the change being made to town and parish councils.

Kevin Jacob responded that the change had not yet been agreed by the Borough Council and apologised for this. He commented that it was now being expedited.

### **28. APOLOGIES**

Apologies for absence were submitted from Pauline Helliard-Symons and David Soane.

### **29. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **30. PUBLIC QUESTION TIME**

There were no public questions.

### **31. MEMBER QUESTION TIME**

There were no Member questions.

### **32. OBSERVATIONS FROM THE STANDARDS FOR ENGLAND ANNUAL ASSEMBLY 2009**

The Committee considered a report, (Agenda pages 5 to 10) from Eric Davies setting out his observations on the 2009 Standards for England Assembly which he had attended.

Eric Davies commented that given the cost of sending delegates to the Assembly he felt that the Committee might value feedback on the proceedings. In his view, the Assembly had represented good value for money, although some aspects of it could be improved.

Members commented that in connection with parish and town councils it was worth highlighting that data from Standards for England set out in the report indicated that 80% of parish and town councils had yet to have a complaint made against one of their members. This pointed to the fact that standards of ethical behaviour were generally high across the parish and town sector.

It was felt that across all sectors, the number of complaints made represented a very small proportion of the total number of councillors.

It was noted that one of the contributing factors to high standards within local authorities was those authorities achieving best practice often managed to achieve high levels of ownership by elected councillors of standards committees as a mechanism to enhance ethical governance.

The Chairman commented that he had recently met with the Chief Executive and Monitoring Officer. Arising from the meeting, he was seeking to arrange to meet with the political group leaders at Wokingham Borough Council and also middle managers within the Council. He felt that there was a need to explain to the public and councillors in more clarity, the link between standards and the opportunity to increase faith in local politics amongst residents.

John Heggadon noted that some attendees at the Assembly felt that by attending council, parish or town meetings their independence would be damaged. He commented that in his view, attendance by Standards Committee members was very important if the members were to understand the context of parish/town council meetings and the environment they operated in. This was important given that members of Standards Committee were expected to consider complaints against town and parish members.

Comment was also made on the uncertain future of Standards for England in the event of a change in Government, given it was understood to be Conservative Party policy to abolish it. It was felt that many Councils would wish to continue to operate a local standards and ethical framework even in the absence of Standards for England.

The Chairman and Committee congratulated Eric Davies on his report and thanked him for submitting it to the Committee.

**RESOLVED:** That the report be noted.

### **33. REVIEW OF THE PROCESS FOR LOCAL HEARINGS**

The Committee considered a report and attached Appendices, (Agenda pages 11 to 24) which set out the process for conduct of Code of Conduct Hearings as agreed by the Committee in 2003, (Appendix 1) and a revised model hearings process as published by Standards for England in 2008, (Appendix 2).

Kevin Jacob commented that given that Standards for England had published a revised model process, it had been felt appropriate to ask the Committee to revisit the locally agreed process. He commented that the principal difference between the two processes was that the local agreed procedures included provision for the Chairman to agree to vary the process if the circumstances of a particular complaint or hearing justified it. It was recommended that the process set out in Appendix 1 be approved as it was felt it had worked well in the local hearings that had taken place to date.

Members of the Committee felt that there was very little difference between the two processes, although a number of members commented that they felt that the model Standards for England process was less wordy and therefore clearer.

After further discussion it was felt that Appendix 1 should be agreed subject to a number of amendments.

**RESOLVED:** That

- 1) Appendix 1 be approved as the process to be followed by the Committee at local hearings subject to the following amendments:
  - a) paragraph 1(a) be amended to read, 'Member means the *person* who is subject of the allegation being considered by the Committee unless stated otherwise. It also includes the members' nominated representative;
  - b) paragraph 2 be amended to read. 'The Chairman may ~~agree to~~ vary this procedure in particular instance where he/she is of the opinion such a variation is necessary in the interests of fairness;
  - c) paragraph 7 (d) (i) be amended to read, '*The Committee may refuse evidence if they consider it not relevant* in determining whether there has been a failure to comply with the code of conduct';

#### **34. STANDARD COMMITTEES 'NOTABLE PRACTICE'**

The Committee considered a paper, (Agenda pages 25 to 36) which set out examples of notable or best practice identified by Standards for England from the annual returns submitted by Standards Committees across the country. In introducing the item, Kevin Jacob commented that the item had been included within the Agenda following the previous meeting where members of the Committee had asked for examples of best practice. Members were informed that although only high level information from the Standards for England website had been included, more detailed information could be sought on any particular matters of interest.

Anita Grosz referred to page 28 of the Agenda and the appointment by Rossendale Borough Council of lead officers to act 'Governance Champions'. She felt that the embedding of officers with such responsibilities could act to support the ethical governance agenda and was something that might be considered locally. After discussion it was felt that it was unlikely that new posts would have been created to undertake the role. Kevin Jacob commented that he would contact Rossendale Borough Council to find out more.

Colin Lawley commented the Council had recently established a Corporate Investigations Unit and it was anticipated that the officers within the unit would help to raise the profile of ethical standards across the organisation.

UllaKarin Clark commented there should be further investigation into what the best practice authorities had achieved. The Chairman suggested that any ideas could possibly be put together into an item for the next meeting that might inform the Committee's work programme for 2010/2011.

Eric Davies commented that the key issue that had been apparent to him as a factor in the success of the authorities highlighted was the importance of good communication. This did not require huge amounts of resource, but rather was indicative of a state of mind in the authority.

With the Chairman's permission, Eric Davies referred to a letter he had received from the Council's Monitoring Officer seeking his permission for the publication of his register of interests via the Council's website. He expressed concern that personal information, presented in this way could be easily used by internet fraudsters and commented that because of this he had not given his permission for website publication. He accepted it was available for physical inspection. Kevin Jacob responded that the publication of the declaration of interests on the website was voluntary and that it had been felt that web publication of members' declaration of interest would help in making the information as readily accessible and transparent as possible.

**RESOLVED:** That the report be noted and further information be sought in respect of best practice at Rossendale Borough Council.

### **35. DRAFT PRESS PROTOCOL**

The Committee considered a draft press protocol, (Agenda pages 37 to 41). Kevin Jacob commented that given the shift in focus from Standards for England to initial local assessment of complaints it was likely that there would be increased local media attention concerning complaints. In these circumstances it was prudent to set out what the Committee's response would be to a media enquiry in respect of a Code of Conduct complaint. \*

Members of the Committee felt that the adoption of the protocol was a sensible step to take.

**RESOLVED:** That the draft press protocol be adopted.

### **36. STANDARDS FOR ENGLAND BULLETIN 45**

The Committee considered the latest Standards for England Bulletin, (Agenda pages 42 to 53).

**RESOLVED:** That the Standards for England Bulletin 45 be noted.

### **37. STANDARDS FOR ENGLAND GUIDANCE ON 'OTHER ACTION'**

The Committee considered Standards for England Guidance on the use of 'Other Action', by Standards Committee at the initial assessment of a complaint, (Agenda pages 56 to 70). The Committee noted that 'other action' or asking the Monitoring to take steps other than investigation was one of the options open to Standards Committee as an alternative to 'no further action', referral of the complaint to Standards for England or local investigation. The range of action included within the term 'Other Action' could include arranging for the subject councillor to take a training course, arranging for a process of conciliation or any other steps considered to be appropriate.

Colin Lawley commented that the guidance set out examples of where it might be appropriate for 'Other Action' to be used, possible terms that might be applied and when 'Other Action' would not be appropriate. He commented that the guidance had been issued since he had last provided an update to the Committee in February and therefore a number of early decisions taken by the Sub-Committee to refer particular complaints for 'Other Action' had been taken without the benefit of the guidance. However, it would be taken into consideration in the future. A key issue to be considered by Standards Committees in deciding whether or not to use 'Other Action' was that it could not lead to any finding of fact in respect of a particular case.

The Chairman commented that he felt that if used appropriately, 'Other Action' could be a very useful tool in responding to complaints. It was important in using 'Other Action' to be specific about the actions to be taken and for these to be stated.

Eric Davies referred to guidance and the example given that the use of 'Other Action' might be appropriate if a particular complaint or series of complaints identified systemic failings within an authority. Colin Lawley responded that in that circumstance, it might be appropriate to employ a wide range of interventions including additional training for all councillors of that authority.

**RESOLVED:** That the Standards for England guidance on the use of Other Action be noted.

### **38. UPDATE ON COMPLAINTS AND FEEDBACK**

The Committee considered a report, (Agenda pages 71 to 72) which set out an update on complaints considered by the Initial Consideration Sub-Committee and Hearings and Assessment Sub-Committee. Copies of decision notices in respect of the individual complaints had been circulated to the Committee.

David Comben commented that he hoped that the Committee as a whole felt that the decisions taken by the respective sub-committees had been valid. In his view, he had been impressed with the investigations undertaken in respect of complaints he had considered and thanked Colin Lawley and Kevin Jacob for the advice and support given to the members of the Committee in the exercise of its role. This was echoed by other members of the Committee.

In discussing the decisions, a number of members noted that one of the complaints considered had been lodged anonymously and some concern was expressed that the complaint had been considered, although it was acknowledged that in the circumstances of the complaint referred to, the complainant had set out a reason for not disclosing their identity.

Kevin Jacob reminded the Committee that there were circumstances whereby consideration of an anonymous complaint might be appropriate and that the action to be taken by the Monitoring Officer following receipt of an anonymous complaint was set out within the Monitoring Officer's Protocol. He commented that the key issue was that each complaint had to be considered on the basis of its own merits and that it would be for members of the Committee to decide whether less weight should be attributable to an anonymous complaint. The Chairman commented that in his view he might not give an anonymous complaint the same weight as a complaint from a named individual. However, it would be a mistake to automatically dismiss anonymous complaints.

Colin Lawley commented that Standards for England had themselves on occasion considered and investigated anonymous complaints.

UllaKarin Clark asked whether there was greater scope for the use of mediation services in order to resolve complaints. This might be appropriate where there had been a lack of understanding between the complainant and the subject councillor, for instance where there had been a misinterpretation over language or choice of words. This might defuse a situation without the need for investigation or hearings. Members of the Committee felt that this was a good idea and it was recognised such an option was open to the Committee at the initial assessment stage by deciding to pursue 'Other Action'.

It was noted that the Hearings and Assessment Sub-Committee in coming to a decision in respect of one of the complaints had asked that the full Committee consider two matters arising from the investigation which although not material to the complaint itself, did impact upon the Council. These were:

- that consideration should be given to reviewing the level and nature of Officer support for the Overview and Scrutiny function at the Council;
- how awareness of access to information requirements could be strengthened.

Kevin Jacob commented that the issue of resources to support the Overview and Scrutiny function had been reviewed and issues relating to access to information requirements had also been considered by the Democratic Services section.

**RESOLVED:** That the update on complaints be noted.

### **39. STANDARDS FOR ENGLAND DVD – ASSESSMENT MADE CLEAR**

It was decided to distribute the DVD to members of the Committee individually rather a screening at the meeting.

*These are the Minutes of a meeting of the Standards Committee*

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