

**MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE
HELD ON MONDAY 8 MARCH 2010 FROM 7.00 PM TO 8.20 PM**

Present:-

Wokingham Borough Member:- *Malcolm Storry*

Independent Members:- *David Comben (Chairman) and Eric Davies*

Parish/Town 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

40. MINUTES

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

41. APOLOGIES

Apologies for absence were submitted from UllaKarin Clark, John Giles, Anita Grosz and Pauline Helliar-Symons.

42. DECLARATIONS OF INTEREST

There were no declarations of interest.

43. PUBLIC QUESTION TIME

There were no public questions.

44. MEMBER QUESTION TIME

There were no Member questions.

45. USE OF MONITORING OFFICER INTERVENTION

The Committee considered the possible use by Monitoring Officers of informal intervention into matters of dispute which might otherwise become formal Code of Conduct complaints. The possible use of intervention had been suggested by Standards for England as part of their training DVD 'Assessment Made Clear' which suggested best practice in the operation of the local assessment Councillor Code of Conduct framework.

Colin Lawley commented that in his view was that there was a place for informal intervention, but its use had to be considered very carefully as there were significant risks involved. A Monitoring Officer could only defuse a potential complaint in this way if all parties agreed and were willing to co-operate. The suggestion of intervention had to be handled very carefully and sensitively so that the potential complainant did not feel unduly influenced not to proceed with a formal complaint.

The Committee was informed that the Wokingham Borough Council Monitoring Officer Susanne Nelson-Wehrmeyer had intervened in one matter and successfully resolved a situation that had the potential to develop into a formal complaint. It was noted that a Monitoring Officer could only intervene if they were aware of an issue prior to the

submission of a complaint. Once a complaint was formally made it had to be considered by the Standards Committee.

Colin Lawley commented that in future the Committee could be informed of any interventions by the Monitoring Officer that had resolved potential complaints as part of the regular complaints feedback.

David Comben set out the circumstance where it might be useful for a Monitoring Officer to clarify matters with a potential complainant, for instance where the details of a matter were unclear.

The principle of intervention where appropriate was supported, but a number of members of the Committee felt that care had to be taken to avoid any perception of matters that should follow the complaints procedure being 'covered up'.

46. INTERNAL REVIEW OF ETHICAL GOVERNANCE 2009/2010

The Committee considered a report, (Agenda pages 7 to 12) which set out a summary of an internal audit review of the Council's ethical governance arrangements conducted in 2009. The summary had been brought to the Committee's attention as part of its role to monitor the operation of the Member and Officer Codes of Conduct and applied to the Borough Council and its Councillors only.

Kevin Jacob clarified that the use of SLB within the report and attached action plan referred to Council's Strategic Leadership Board. The Strategic Leadership Board was the senior Officer group within the authority comprised of General Managers and chaired by the Council's Chief Executive. Colin Lawley commented that the Board did not have any decision making powers, but individual General Managers had powers delegated to them as set out in the Council's Scheme of Delegation to Officers.

Areas highlighted to the Committee included actions to be taken to improve training for Councillors and training records, annual reminders to Councillors that they should regularly review and update their declarations of interests and procedures to be followed by Officers with regard to the offer and acceptance of gifts and hospitality.

Various members of the Committee referred to the management response set out in No 2.1 of the audit Action Plan which indicated that Councillor's Declaration of Interest Forms would in future be available for inspection via the Council's website, in addition to hard copy in the interests in accessibility and transparency. It was stressed that placing the forms online would be voluntary and therefore any councillor who was concerned that their details might be misused could decide not to give permission.

In response to a question, Colin Lawley commented that advice from Standards for England remained that membership of the Grand Charity or Masons had to be declared on Declaration of Interest Forms in the same way as membership of any other voluntary body or charity.

A number of members of the Committee expressed concern that the recommendation set out in No 3.2 of the Action Plan, that a clarification should be sent to all Officers of the need to record any gifts offered, but not accepted had not been accepted by management. It was felt that if this was implemented it would identify the source of potential attempts to influence Officers.

Colin Lawley commented that this had not been accepted on the basis that no such requirement existed within the Councillor Code of Conduct, which would have led to a lack of conformity of the requirements for Officers and Councillors. Roy Mantel commented that in his view it would be very difficult to define what could be regarded as an 'offer'.

RESOLVED: That the report be noted.

47. REPORT OF THE MEETING BETWEEN THE CHAIRMAN, DEPUTY LEADER OF THE CONSERVATIVE GROUP AND LEADER OF THE LIBERAL DEMOCRAT GROUP

David Comben reported back on his meeting with Councillor Rob Stanton, Deputy Leader of the Council and Councillor Prue Bray, Leader of the Liberal Democrat Group that had taken place in February.

He commented that he had found them to be broadly sympathetic to the role and operation of the Standards Committee within the Borough. A point that he had emphasised to them was that a key part of the role of the Committee was to assist Councillors to achieve high standards of ethical governance and that the Committee did not go about its role by seeking to highlight mistakes or catch individual Councillors out. However, it did have a statutory role and duty to respond to complaints against Councillors if they were received.

A number of issues were raised by Rob Stanton and Prue Bray as areas that might be covered in future training/guidance:

- Serving as a school governor and the declaration of interests
- Clarification of the statutory roles of the Monitoring Officer, Chief Executive and Chief Finance, (Section 151) Officer as there was some uncertainty as to the most appropriate Officer to contact in the event of a concern relating to ethical governance
- The role of Neighbourhood Action Groups and the application of the ethical governance framework.

David Comben informed the Committee that he had also attended a meeting of Middle Manager Forum which was an Officer grouping within the Council. The objective of attending this meeting had been to raise awareness of less senior managers of the ethical governance and Code of Conduct regime.

A number of Members commented that continued active involvement by Wokingham Borough Councillors in the Standards Committee was very important. David Comben commented that his view was that Wokingham Borough Councillors did now play an active part in the Committee's work, particularly the administration of the local assessment framework.

It was felt by the Committee that attendance by Wokingham Borough Councillors at Code of Conduct training needed to be improved and also made more accessible to town and parish councillors. It was suggested by the Chairman that he should write to Councillors to strongly encourage them to attend such events.

Malcolm Storry commented that given the demands on Councillors time it was important to offer training on several different dates so as to make it as accessible as possible.

Colin Lawley commented that following the local elections it was expected that Code of Conduct training would be offered over three to four occasions and that this issues raised by the Deputy Leader and Leader of the Liberal Group could be incorporated within this.

RESOLVED: That the verbal report be noted.

48. MEMBER DEVELOPMENT AND TRAINING PROGRAMME 2009

The Committee considered a report, (Agenda pages 13 to 15) which set out actions taken to establish and develop a formal Councillor Development and Training Programme and some of training offered to Wokingham Borough Council elected members during the 2009/2010 municipal year.

Kevin Jacob commented that the objective in bring the report to the Committee was so that the Committee could be satisfied that appropriate training was being offered to Borough Councillors. If Councillors were better trained in how to undertake and understand the different aspects of their role, there was less risk of breakdowns in ethical governance.

RESOLVED: That:

- 1) The introduction of a Member Development and Training Programme be noted;
- 2) The training offered to Borough Councillors to date in 2009/2010 be noted.

49. STANDARDS FOR ENGLAND ANNUAL RETURN 2010

The Committee considered a report and appendix, (Agenda pages 16 to 31) which set out the requirement from Standards for England that each principal authority complete an on-line return of the activities of their Standards Committees during the previous financial year.

Kevin Jacob informed the Committee that it was recommended by Standards for England that Standards Committee be consulted upon the questions set out in the return. It was suggested that Officers should complete a draft response prior to consulting members of the Committee who wished to be involved. He commented that he felt it had to be recognised that a number of the questions posed were challenging and would potentially identify areas where there was a tension between what Standards for England regarded as best practice and was considered to reasonable given local resources.

With regard to Part 5 of the return which addressed the relationship between principal authorities and parish/town councils within their areas, John Heggadon commented that the Berkshire Association of Local Councils provided advice to parish/town councillors within Berkshire and that a similar group existed for parish/town clerks.

RESOLVED: That

- 1) The questions set out within the Annual Return be noted;
- 2) Officers be delegated to complete the return in consultation with the Chairman of the Standards Committee, a parish/town representative and elected member representative from each political group.

50. STANDARDS FOR ENGLAND – BULLETIN 46

The Committee considered the latest Standards for England Bulletin, (Agenda pages 34 to 45)

David Comben referred to the article concerning Bias, Predetermination and the Code on pages 34-35 and commented that the article set out recent developments in case law which indicated that a two stage test should be applied to questions of predetermination and bias. In his view a key factor to consider was what the fair minded observer would think of given set out circumstances. Considering complaints from this position was a common thread running through the entire Code of Conduct framework. Malcolm Storry commented that a problem with such a test was that it was a matter of subjective judgment.

Kevin Jacob commented that it was not expected that elected councillors as representative of their local community, elected on a platform of policies and beliefs, should not have opinions on a given subject. Rather it became a question of predetermination and bias if they were not prepared to actively consider alternative arguments or were could be demonstrated to have closed their minds.

A number of members of the Committee referred to the update within the Bulletin to the transfer of functions of the Adjudication Panel for England into the unified Tribunals Structure. John Heggadon commented he had felt that the Adjudication Panel had not always fully understood the complexities and characteristics of parish/town councils and that he hoped that this would improve under the revised structure.

51. UPDATE ON RECEIPT BY THE MONITORING OFFICER OF DECLARATION OF INTEREST FORMS

Kevin Jacob reported that the Borough Council held 100% of Wokingham Borough Council Declaration of Interest Forms on file and approximately 87% of Declarations of Interest relating to parish/town councillors.

The Committee was reminded that the Borough Council requested that parish/town council clerks supply a copy of their records of Declarations of Interests on the grounds that this made them more accessible to the public. However, there was no requirement for them to supply them in law or guidance. The only requirement was that Declarations of Interest be available from the offices of the town/parish council and a number of parish/town councils within the area had decided not to supply copies as a matter of course.

RESOLVED: That the report be noted.

These are the Minutes of a meeting of the Standards Committee

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