

Standards Committee – 16 July 2009

Minutes of a meeting of the Standards Committee held in Committee Room No. 2, The Deane House, Belvedere Road, Taunton on Wednesday, 16 July 2009 at 2.30 p.m.

Present: Councillors Mrs Allgrove and House
Mr A Cottrell, Mrs A Elder, Mr R Macey, Mr P Malim OBE, Mr L Rogers,
Mr M Stanbury, Mr R Symons

Officers: Mrs T Meers (Monitoring Officer) and Mr R Bryant (Democratic Services Manager)

12. Appointment of Chairman

Resolved that Mrs Anne Elder be appointed Chairman of the Standards Committee for the remainder of the Municipal Year.

13. Appointment of Vice-Chairman

Resolved that Mr Maurice Stanbury be appointed as Vice-Chairman of the Standards Committee for the remainder of the Municipal Year.

14. New Councillor Appointment

The Democratic Services Manager, Richard Bryant, reported that since the last meeting the Liberal Democrat Group had appointed Councillor Steve Brooks to replace Councillor Tim Slattery on the Standards Committee.

15. Resignation

The Chairman reported that Mrs Jenny Hoyle had tendered her resignation from the Standards Committee. She undertook to write to Mrs Hoyle on behalf of the Committee to thank her for contributions to the work of the Committee over the past two years.

In terms of finding a replacement Parish Representative, Richard Bryant reported that he still had details of those Parish Councillors who had applied during the course of 2008 to fill the last vacancy. He would initially contact those individuals in areas of Taunton Deane which were not "covered" by the existing Parish Representatives to establish whether they were still interested in joining the Committee. A discussion with the Chairman would then take place as to the next part of the recruitment process.

16. Apologies

Councillor Brooks, Mr M Marshall and Mr B Wilson.

17. Minutes

The minutes of the previous meeting of the Committee held on 15 April 2009 were taken as read and were signed, subject to the following amendment to Minute No 4 “Good Practice in Standards – Research Project”:-

First bullet point, last sentence, the word “his” to read “this”.

18. Declaration of Interest

Councillor Mrs Allgrove declared a personal interest as Chairman of the Somerset Association of Local Councils.

19. Standards Board Intervention, Joint Standards Committees and Dispensations

Reported that the Standards Committee (Further Provisions) (England) Regulations 2009 (SI 2009/1255), came into force on 15 June 2009.

The regulations made provision for the Standards Board for England (SBE) to suspend the functions of a local Standards Committee where the Committee was failing to perform its functions satisfactorily. They also gave Councils a power to establish Joint Standards Committees and extended the power of Standards Committees to give Members dispensations where they would otherwise be prohibited from participating on a matter because of a prejudicial interest.

(i) Suspension of Standards Committee Functions

The function of initial assessment of complaints in respect of a breach of the Code of Conduct by Members was transferred from the SBE to local Standards Committees from 8 May 2008. Although most local authorities had taken on this new responsibility and were discharging this function effectively, the new regulations now gave a power for the SBE to intervene in an individual authority if it was considered necessary to do so.

An intervention could be triggered by the SBE in a number of ways, including if it was felt the authority’s Standards Committee had failed to have regard to SBE guidance or a direction from the SBE, or the authority’s Monitoring Officer had failed to carry out his/her functions within a reasonable time or in a reasonable manner.

Where the SBE considered intervention, it had to give the authority notice of its intentions and reasons and give the authority at least 28 days to respond before a direction was made. The effect of a direction was to transfer the initial assessment function to either the SBE itself, or to the Standards Committee of another named authority (“the substitute authority”).

During the period of the intervention, the SBE or the substitute authority would undertake the initial assessment and decide whether to refer the allegation for a local or a SBE investigation, alternative action or no action, as appropriate.

The intervention was strictly in respect of the initial assessment function, so the regulations also provided a discretion to the SBE as to how any subsequent hearing should be conducted.

Noted that an intervention could be terminated by the SBE at any time.

(ii) Joint Standards Committees

The regulations gave a discretion for two or more local authorities to set up a Joint Standards Committee, and made it clear that such a Joint Standards Committee could be established to discharge all of each participating authority's standards functions if it so wished. Alternatively, if it was decided that only some functions should be dealt with by a Joint Committee, each participating authority would retain its own Standards Committee to deal with the remaining functions.

Where authorities wished to establish a Joint Standards Committee, the Full Council of each participating authority would need to resolve a number of issues including which standards functions were to be allocated to the Joint Committee, the administrative arrangements, the number of Members, including Independent and Parish members, to be appointed and how the costs incurred by the Joint Standards Committee would be shared between the participating authorities.

(iii) Dispensations

The new regulations had updated the original 2002 Dispensations Regulations which provided that a Member who had a prejudicial interest in a matter which was coming before the Council could apply to the Standards Committee for a dispensation to allow him/her to speak and to vote on the matter at meetings.

The regulations specified two grounds for dispensation:-

- (a) Where the business of the authority would be impeded because more than 50% of the Members of the decision-making body (Council, Committee, Sub-Committee or Cabinet) would otherwise be prohibited from voting on the matter; and
- (b) Where the business of the authority would be impeded because the absence of Members as a consequence of prejudicial interests would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting.

A dispensation could be granted for a particular meeting or for a period, not exceeding four years. A dispensation could not however be granted to a Member who was prohibited from participating at an Overview and Scrutiny Committee by virtue of having been involved in taking the original decision, or to an Executive Member for the exercise of delegated powers. All dispensations granted were entered in the register of Members' interests.

In practice, the grant of dispensations would continue to be problematic because Members were rarely aware of the numbers of Members who would be debarred from the consideration of a particular matter by reason of prejudicial interests until it was too late to call a Standards Committee.

During the discussion of this item, it was agreed that the merits of possibly establishing a Joint Standards Committee with neighbouring Councils should be considered in greater detail at a future meeting of the Committee.

Members also asked whether the granting of dispensations could be delegated to the Monitoring Officer, in consultation with the Chairman of the Standards Committee, to overcome the situation described above where in normal circumstances, a decision of the Standards Committee appeared to be required. Mrs Meers agreed to report back on this point at the next meeting.

Resolved that:-

- (1) the Standards Committee (Further Provisions) (England) Regulations 2009 be noted; and
- (2) the Monitoring Officer advises all Members of the new grounds for application for a dispensation.

20. Probity in Planning

Mrs Meers reported that the Local Government Association (LGA) had recently published a document titled "Probity in Planning : The role of Councillors and Officers – Revised guidance note on good Planning practice for Councillors and Officers dealing with Planning matters".

Unfortunately, this guidance had already been issued to Members of Taunton Deane's Planning Committee without any changes to previous guidance being highlighted.

The Vice-Chairman, Maurice Stanbury, suggested that a comparison should be undertaken between existing guidance and the new document from the LGA.

Messrs Malim and Symons agreed to undertake this analysis and would report their findings to a future meeting of the Committee.

21. Draft Protocol for the Local Assessment Scheme

Mrs Meers submitted for comment a draft protocol which had been prepared in conjunction with the Vice-Chairman. Its purpose was to ensure that every complaint made against a Councillor or Parish Councillor was dealt with promptly and efficiently. The protocol would be used alongside the guidance issued by the SBE.

The protocol was divided into the following three sections:-

- Actions from initial receipt of the complaint to the decision of the Assessment Sub-Committee;
- Investigation and subsequent process; and
- Application and monitoring of sanctions.

Members welcomed the protocol although it was hoped the flowchart which accompanied it could be modified to include the key time limits for easy reference.

Resolved that the Complaints Protocol be formally adopted.

22. Exclusion of the Press and Public

Resolved that the press and public be excluded from the meeting for the following item because of the likelihood that exempt information would otherwise be disclosed relating to Clause 9 of Schedule 12A to the Local Government Act, 1972 and the public interest in withholding the information outweighed the public interest in disclosing the information to the public.

23. Update on Complaints

Mrs Meers circulated a spreadsheet which provided a complete update on the five complaints received against Taunton Deane Councillors since May 2008 when the Local Assessment Framework had been introduced.

The Chairman reported on the case involving Councillor Stone (Reference 2008/02) which had been subject to a hearing on 16 April 2009. Part of the sanction imposed on Councillor Stone was to appear at the Full Council meeting on 14 July 2009 to apologise to his fellow Members for not withdrawing from a previous meeting of Full Council when he had declared a prejudicial interest.

Without any explanation, Councillor Stone had submitted his apologies shortly in advance of the meeting on 14 July and had not therefore delivered the required apology. The Chairman had attended the meeting of Full Council and had expressed her concern at Councillor Stone's "cavalier attitude". She had sought and received backing for an appropriately worded letter to be sent to Councillor Stone.

Mrs Meers confirmed that she was in contact with the SBE as to what further steps could be taken to ensure Councillor Stone complied with the sanction imposed on him. It was possible that a further complaint might need to be lodged but this would be confirmed once further SBE guidance had been received.

24. Visits to Parish Councils

The Democratic Services Manager, Richard Bryant, circulated information to the Independent Members as to the Parish Councils which were still due to be

visited.

Only Bradford on Tone and Wellington Without had not been visited during the “first round” and with meetings scheduled for September 2009, Messrs Cottrell and Symons volunteered to attend on behalf of the Standards Committee.

In terms of providing further or refresher training, Mrs Meers informed Members that there was likely to be a revision to the Code of Conduct later in the year. This would give the opportunity for further training to be delivered to Parish Councils as well as updating them on the new regulations concerning dispensations.

During the discussion of this item the Vice-Chairman suggested that it might be helpful for the Independent Members to receive some further information about Parish Council procedures and protocols to gain a greater understanding of the how meetings should be conducted.

The Chairman warned that it was beyond the remit of the Committee to become involved in how a Parish Council meeting should be run. If anything of concern was noted, this should be reported to the Parish Liaison Officer to follow up, if appropriate.

25. “The Way Forward”

Mrs Meers reported that she had recently discussed with the Chairman a number of ideas for the future working of the Standards Committee.

It was felt that arranging an informal meeting of the Committee away from The Deane House would be of considerable benefit to allow discussions to take place on obtaining a better understanding of the work of the Legal and Democratic Services Unit, to consider the Committee’s Terms of Reference, to decide the “way forward” for the Committee and how best to build a relationship with the rest of the Council.

The next scheduled meeting of the Committee was on Tuesday, 11 August 2009 and it was suggested that the informal session should take place that morning at a venue to be notified. This suggestion was agreed.

26. Date of the next meeting

The next meeting would be on Tuesday, 11 August 2009 at 2.30 p.m. in The John Meikle Room at The Deane House.

(The meeting ended at 4.18 p.m.)