

STANDARDS COMMITTEE

A meeting of the Standards Committee was held on 5 December 2006.

PRESENT: G Fell (Chair)

Councillors Clark, J Jones and Williams

Independent Member:
R Anderson

Parish Council Member:
Councillor I Bruce

OFFICIALS: M Braithwaite, C Davies, R G Long and D Robinson

****APOLOGIES FOR ABSENCE** were submitted on behalf of and Councillor J Taylor.

**** DECLARATIONS OF INTEREST**

No declarations of interest were made at the meeting.

**** MINUTES**

The minutes of the previous meeting held on 5 September 2006 were taken as read and approved as a correct record.

CORPORATE COMPLAINTS PROCEDURES REVIEW: CONSULTATION

The committee received, for the purposes of consultation, a report enclosing a draft copy of the Council's revised Corporate Complaints Procedures. In addition to the administrative processes required to implement the policy the procedures also provide advice in respect of matters such as good investigative practice, complaints remedies, 'Time and Trouble Payments' etc. The current procedures implemented in 2002 followed, where possible, the requirements imposed by regulations and government guidance for complaints relating to Social Services and followed a three stage process:

Stage 1 – Local resolution
Stage 2 – Formal investigation
Stage 3 – Review (Panel or Committee)

New regulations relating to adult social services and services to children were introduced in September 2006. The regulations retain the three stage process but simplify the Stage 1 procedures to focus on problem resolution rather than formal investigation and set out time frames for each stage. All complaints reaching the Stage 3 position, other than those relating to adult social services and children's service, will continue to be heard by the Council's Complaints and Appeals Committee. The regulations require the establishment of review panels to deal with complaints regarding adult social services and children's services. However, as the regulations relating to children do not permit elected members to sit on review panels, it was proposed that the review panels dealing with adult social services complaints follow the same principle. The procedures proposed were as follows:

Stage 1

It is recommended that with the exception of Children's Services, all complaints should be resolved within 20 working days of receipt, or 40 working days in complex cases. This will apply to all Council departments with the exception of Children's Services, which must complete the complaints in 10 working days, or in complex cases in 20 working days, in order to comply with the children's regulations.

The handling of the complaint will still be dealt with by the line manager responsible for providing the service which is the subject of the complaint with a view to resolving the complaint locally, and in order to keep the complaint handling time to a minimum.

Stage 2

It is recommended that the Corporate Complaints Procedures reflect the regulations, allowing 25 working days for the completion of an investigation, extended to 65 working days in complex cases. As now, a senior officer who does not have line management responsibility for the service which is the subject of the complaint will undertake the investigation.

Stage 3

It is recommended that all panels are comprised wholly of independent members, so as to ensure consistency in approach, to standardise administrative arrangements, and to build on 'best practice'.

A copy of the full draft procedures was attached as an appendix to the report.

ORDERED that the broad outline referred to in paragraphs 11 to 15 of the report and as detailed above be supported.

UNREASONABLY PERSISTENT COMPLAINANTS AND VEXATIOUS COMPLAINTS POLICY

The Director of Legal and Democratic Services presented a report in respect of a draft policy to deal with unreasonably persistent complainants and vexatious complaints. Based upon policies and guidance from a number of bodies including, the Local Government Ombudsman, the Information Commissioner, Government Departments of Health Education and Skills, the policy distinguished between what was to be regarded as unreasonably persistent complainants and vexatious complaints.

The report highlighted that it was important to distinguish between reasonably persistent complainants (where matters have not been properly addressed or new matters had arisen) and unreasonably persistent complainants and recognised that there would be instances where it was not unreasonable that a complainant was persistent.

In very exceptional circumstances it would be necessary to take action in order to try and control the disruption to staff and to services that could be caused by the actions of unreasonably persistent complainants. The policy:

identified the features of "unreasonably persistent complainants"
 set out what constituted a vexatious complaint
 offered a definition of unreasonably persistent complainants and vexatious complaints
 listed the criteria for determining unreasonably persistent complainants or vexatious complaints
 advised on actions that might be taken in response to unreasonably persistent complainants or vexatious complaints and
 established procedures for implementing the policy, along with safeguards for complainants

The policy recognised that complainants may sometimes act out of character in times of stress, anxiety or distress, and that some complainants may have a mental health problem. It was important that the Council could demonstrate in all cases that it was applying the policy in a fair and objective manner, and that any actions taken were properly recorded. Unreasonably persistent complainants should receive the same standards of response (in terms of being timely, accurate and courteous) as any other person.

A copy of the full draft policy was attached as an appendix to the report.

ORDERED that subject to the following amendment the draft policy be supported:

Paragraph 22 – Line 1

"The list at para 16 is not extensive".....

Delete the word extensive and insert exhaustive.

OMBUDSMAN REPORT

The Director of Legal and Democratic Services submitted a report advising the committee of a recent decision by the Ombudsman in respect of Members interests and maladministration following complaints made to the Standards Board for England and the Local Government Ombudsman. The complaints alleged that three Members, who were members of the Erimus Housing Board had failed to declare a personal and prejudicial interest in a report on housing in central Middlesbrough considered at a meeting of the Executive on 20 July 2006.

The outcome of the Ombudsman's report followed on from an investigation undertaken by the Standards Board for England, found that neither the processes undertaken by the Council, nor any of the decisions taken constituted maladministration. However, the Ombudsman did consider that the failure to declare a personal interest did amount to maladministration but decided to take no action for the following reasons:

There was no injustice suffered by the complainants;
The councillor's interests were 'personal' interests and they would have been permitted to remain in and fully participate in the meeting, so the outcome would have been the same.

The relevant paragraphs of the Ombudsman's letter were reproduced at Appendix 1 to the report. A copy of the letter subsequently issued to the three Members concerned and to a further recently appointed Member of the Board was attached as Appendix 2.

The Director of Legal and Democratic Services also advised that where any Member attends any meeting of the Council in their capacity as:

decision maker,
committee member,
invitee,
observer
or in some other capacity,

when that committee is considering a matter in which they have an interest, including that as a representative of the Council on an outside body, they should declare their personal or prejudicial interest.

ORDERED that the report be received and noted.

LOCAL GOVERNMENT WHITE PAPER: STRONGER AND PROSPEROUS COMMUNITIES

The Director of Legal and Democratic Services submitted a report outlining proposals set out in the Local Government White Paper: Stronger and Prosperous Communities in relation to proposed changes to the conduct regime in relation to elected members. The new proposals follow through government proposals in the then ODPM report entitled Standards of Conduct in English Local Government: The Future.

The key issues addressed in that report included simplifying and clarifying the Members' Code of Conduct and localising the investigation of complaints relating to Members' conduct. The role of the Standards Board for England would change to become regulatory providing supervision, support and guidance to local authorities. The relevant extract from the White Paper was appended to the report.

The Director referred to the two most recent investigations referred by the SBE for local investigation which had been conducted by the Members' Office Manager which had required considerable officer time to complete. The potential resource implications for Monitoring Officers and their staff in carrying out local investigations were highlighted.

Attention was also drawn to one important aspect of the intended changes to the Code of Conduct proposing amendments to the rules on personal/prejudicial interests. The change would remove the current barrier to councillors speaking at meetings on behalf of their constituents, e.g.

at Planning and Development or Licensing Committees, or for the public bodies on which they had been appointed to serve.

NOTED

WHISTLEBLOWING POLICY

In accordance with the Committee's agreed work programme, the committee was asked to review the Council's current Whistleblowing Policy. The Director of Legal and Democratic Services presented the report outlining the current policy adopted in June 2000. The purpose of the policy was to enable staff to raise, without fear of retribution or harassment, concerns about what may or may not be happening at work. This related in particular to possible unlawful practices by the council e.g. breaches of Health and Safety, individual malpractice by officers, e.g. financial irregularities, or contractors e.g. corruption.

As only one disclosure, which was currently being investigated, had been made since adoption of the policy, no officer recommendations for changes to the policy were proposed.

Members suggested however that the initial paragraphs of the policy be revised to focus more on (a) what the policy was about and (b) to provide assurances to staff who may report issues, rather than lead with the current paragraphs on the Council's aspirations in upholding standards of conduct.

ORDERED that the Director of Legal and Democratic Services re-examine and revise the Whistleblowing Policy to incorporate the above points and to update officer contact details.

PROCUREMENT – MEMBERS' TRAINING

In accordance with the committee's agreed work programme, the Director of Legal and Democratic Services reported on recent training made available to Members by way of a seminar in regard to Procurement. Copies of the presentation slides from the seminar together with a copy of the Council's step by step guide to procurement were appended to the report.

NOTED

ASSOCIATION OF INDEPENDENT MEMBERS

The Director of Legal and Democratic Services submitted a report drawing attention to the recently established Association of Independent Members of Standards Committees in England whose purpose was to represent the interests of, and provide support to, independent members of standards committees. A copy of the association's constitution was appended to the report. Members' were asked whether they wished to sign up to membership of the body.

In addition to the national forum, efforts had also been made by Darlington Council to elicit support from councils in the northern area to establish a local forum for independent members. An initial meeting of several local councils held to explore the suggestion identified a willingness for councils to host meetings but there had been little enthusiasm or volunteers in order to deal with the associated administration. As such, the matter had not progressed further.

ORDERED that no action be taken at this time.

DECLARATION OF INTERESTS

The Director of Legal and Democratic Services reported verbally to the committee clarifying the position on Members Interests following recent articles and letters in the local press. His report provided background information on the circumstances concerning the issue of a letter to a Member advising on the rules relating to bias in regard to matters under consideration by quasi-judicial committees (e.g. Planning and Licensing Committees). Alongside that advice he reiterated advice, which had previously been drawn to the attention of all Members, regarding the requirements and protocols for dealing with the acceptance of gifts and hospitality.

NOTED