

## STANDARDS COMMITTEE

A meeting of the Standards Committee was held on 6 March 2007.

**PRESENT:** G Fell (Chair)

Councillors Clark, J Jones and Williams

Independent Member:  
R Anderson

Parish Council Member:  
Councillor I Bruce

**OFFICIALS:** M Braithwaite, R G Long and D Robinson

**\*\* APOLOGIES FOR ABSENCE** were submitted on behalf of Councillors Brady and J Taylor.

**\*\* DECLARATIONS OF INTEREST**

No declarations of interest were made at the meeting.

**\*\* MINUTES**

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

### CONSULTATION ON AMENDMENTS TO THE MODEL CODE OF CONDUCT FOR LOCAL AUTHORITY MEMBERS

The committee received, for the purposes of consultation, a report of the Director of Legal and Democratic Services seeking Members' views in regard to the government consultation on the revised Code of Conduct.

The Local Government Act 2000 introduced the requirement that each local authority adopt a Code of Conduct covering areas of individual behaviour and set out certain rules governing disclosure of interests. Each Council's code was required to include the provisions of the Model Code of Conduct. Following the discussion paper "Standards of Conduct in English Local Government: The Future", the government had now issued a consultation on amendments to the current Code.

Appendix 1 to the report summarised the proposals and questions detailed in the consultation document. Appendix 2 enclosed a copy of the proposed Model Code of Conduct.

**ORDERED** that the views/comments expressed at the meeting as set out in the following table be conveyed to the Corporate Affairs Committee and be included in the Authority's response to the consultation.

Current Requirement	Proposals	Comments and Consultation	Response
<b>1. Unlawful Discrimination</b>			
Members must promote equality.	Members must not do anything which may seriously harm Authority's ability to comply with statutory duties with regard to equality (Section 2(2)(a)).	Adjudication Panel concluded that it had no jurisdiction to make findings on unlawful discrimination.	<b>The Committee had no comment on this proposal.</b>
<b>2. Bullying and Intimidation</b>			
None.	New requirement that a Member must not bully any		<b>The Committee welcomed the</b>

	<p>person (Section 2(2)(b)).</p> <p>A Member must not intimidate (or attempt to intimidate) anyone who might be a complainant, a witness, or staff supporting any investigations or proceedings. Section 2(2)(c)..</p>		<b>proposal.</b>
<b>3. Disclosure of Confidential Information</b>			
<p>A member must not disclose information given to him in confidence, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so.</p>	<p>Members will be able to disclose confidential information if the disclosure is reasonable and in the public interest, or made in good faith and does not breach any reasonable requirements of the Authority.</p>	<p>This change has been introduced following the High Court case relating to the Mayor of London.</p> <p><b>CONSULTATION QUESTION 2:</b> <i>Is the amendment, which only covers private activities that have been found unlawful by a court, appropriate?</i></p>	<p><b>Yes – However, the Committee acknowledged that it could be difficult to strike the correct balance between what is in the public interest and what would be of interest to the public and this proposal could cause some concern in the future.</b></p>
<b>4. Behaviour Outside Official Duties</b>			
<p>A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.</p>	<p>Members will only breach the Code in respect of private behaviour for which the Member has been convicted. This will include offences committed before taking office, but where the Member is convicted after taking office.</p>	<p>This change has been introduced following the High Court case relating to the Mayor of London.</p> <p><b>CONSULTATION QUESTION 2:</b> <i>Is the amendment, which only covers private activities that have been found unlawful by a court, appropriate?</i></p>	<p><b>No - The view expressed was that the public perception of Councillors was that they should be honest and have integrity in their public and private life.</b></p>
<b>5. Use of Position and Resources</b>			
<p>Members must not use their position improperly to confer on or secure for themselves (or any other person), an advantage or disadvantage</p> <p>Members must ensure that</p>	<p>This is to be broadened to include using <u>or attempting to use</u> their position (etc) .....</p> <p>In future Members must: "Ensure that (Council) resources are not used improperly for political purposes, including party political purposes"</p>	<p><b>CONSULTATION QUESTION 3:</b> <i>Is the Code of Publicity serving a useful purpose? Should the provisions be promoted in other ways (e.g. through the LGA)? Should the Code be extended to cover Fire and National Park authorities (which are bound by the Code of</i></p>	<p><b>The Committee noted that where Members were uncertain about the use of Council resources for particular activities, advice was always available.</b></p> <p><b>The Committee did not comment on the usefulness of</b></p>

Council resources are not used for political purposes “unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed”.	A proposed new requirement that Members must have regard to the Local Authority Code of Publicity made under the Local Government Act 1986	Conduct)?	the Code of Publicity
<b>6. Duty to Report</b>			
Members currently have a legal duty to report suspected breaches of the Code of Conduct	The proposal is that this requirement is to be removed	The present requirement is perceived to have encouraged trivial allegations.	<b>Yes – The Committee had no comments or concerns regarding this proposal.</b>
<b>7. Gifts and Hospitality</b>			
At the present time Members are not required to register any gift or hospitality over the value of £25, they must simply inform the Monitoring Officer.	It is now proposed that gifts and hospitality over the value of £25 will have to be included in the public register.  The requirement to declare the gift or hospitality to a meeting will cease after 5 years, although the record of receipt will remain on the register of personal interest.	<b>CONSULTATION QUESTION 4:</b> Does the proposal combine the need for transparency as well as proportionality in making public information with regard to personal interests?	The Committee had no comments or concerns regarding this proposal
<b>8. Bodies Influencing Public Opinion or Policy</b>			
Members have a ‘Personal Interest’ if they are members of, or have a position of control or management in, bodies which might influence public opinion or policy.	It is proposed that there will be a specified requirement to declare membership of, or positions of control or management in, a political party.	This is simply to clarify the current intent.	The Committee had no comments or concerns regarding this proposal.
<b>9. Interest of Family and Friends</b>			
Members must regard themselves as having an ‘interest’ in a matter if a	It is proposed that the definition is extended to include any person with whom the Member has a “close personal association”.	<b>CONSULTATION QUESTION 5:</b> Does the proposed wording of friends, family and those with close personal	No - The Committee expressed some reservations regarding the wording of this

<p>decision on it affects to a greater extent than other people in the area, the well-being or financial position of the Member, or a relative or friend.</p>	<p>The definition of 'relative' (eg parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, etc) is being omitted, as it will be covered by the above new wording.</p> <p>In future, the requirement to declare an interest of a friend, family member, etc will only apply where the Member is aware, or ought to be reasonably aware, of the existence of the interest.</p>	<p>relationships cover the breadth of relationships that ought to be covered, including – quote – “business associates and personal acquaintances”?</p>	<p><b>proposal as it could be even more difficult to determine the meaning of “close personal relationship”.</b></p> <p><b>Members working closely with the community often, over time, develop “close personal relationships” but as part of their professional duties rather than as a personal friend.</b></p> <p><b>The lack of any specific reference to business associates was also of concern.</b></p>
<p><b>10. Personal Interests</b></p>			
<p>Under the existing Code a Member has a personal interest in a matter if they would be affected more than other council tax payers or inhabitants of the authority's area</p>	<p>The proposal is that a personal interest will only arise where the matter might reasonably be regarded as affecting the Member to a greater extent than the majority of other council tax payers or inhabitants of the ward which is affected by the matter.</p>	<p>The intent is to allow Members more freedom to debate in meetings on issues that their communities would expect them to address – the intent is that a personal interest will no longer arise where interests are shared by a substantial number of inhabitants in the Authority's area.</p> <p>Because elected Mayors do not represent Wards, the relevant test will be whether the issue affects the Mayor more than the majority of people in the ward affected by the particular issue</p>	<p><b>The Committee had no comments or concerns regarding this proposal.</b></p>
<p><b>11. Public Service Interests</b></p>			
<p>None</p>	<p>The proposal is for the introduction of a new category of interests which arises where a Member is also a member of another public body.</p> <p>Members would only have to declare a public service interest during a meeting if</p>		<p><b>The Committee had no comments or concerns regarding this proposal.</b></p>

	they speak on the issue (instead of at the start of the meeting as at present).		
<b>12. Prejudicial Interest – Exemptions</b>			
Currently there is a list of circumstances where a Member is deemed not to have a prejudicial interest.	That the following circumstances where a Member is deemed not to have a prejudicial interest should be added to the list: <ul style="list-style-type: none"> <li>• Indemnities under s101 of the Local Government Act</li> <li>• Setting of the Council Tax</li> <li>• Considering new Freemen.</li> </ul>	<b>CONSULTATION QUESTION 6:</b> <i>Would it be appropriate for new exemptions to be included in the text as additions to the list of items which are not to be regarded as prejudicial?</i>	<b>Yes – The Committee agreed with the additional exemptions</b>
<b>13. Prejudicial Interest – Participation in Meetings</b>			
At present any Member with a prejudicial interest in any matter must withdraw from the room when the matter is being considered (unless dispensation has been obtained from the Standard Committee)	<p>A Member will only have a prejudicial Public Sector interest if the matter under discussion relates to the financial affairs of the body, or approval, consent, license or permission (e.g. planning or licensing) for the body.</p> <p>A Member will not be considered to have a prejudicial interest if they attend a meeting to make representations, to give evidence or to answer questions, provided that the Committee agrees. After Members have made representations, given evidence or answered questions they will be required to withdraw from the room.</p> <p>All Members will still be subject to the requirement that they do not seek improperly to influence any decision.</p>	<b>CONSULTATION QUESTION 7:</b> <i>Is the proposal to relax the rules to enable increased representations at meetings appropriate?</i>	<b>Yes – in so far as it provides Members the opportunity to represent the views of constituents and, it was also felt that the Member should be permitted to remain in the room following their representations, evidence or responses to questions.</b>
<b>14. Registering and Declaring Sensitive Information</b>			
At the present time a Member must register, and then declare at meetings, certain interests.	It is proposed that if the information being registered is likely to create a serious risk for the Member, or someone in their household, then that information will not appear in the public register. Also, there will be no requirement to declare the nature of 'sensitive		<b>The Committee acknowledges that the proposals are sensible.</b>

	information' at a meeting (though they will still need to declare that they have an interest).		
<b>15. Overview and Scrutiny</b>			
The current Code does not allow Members to be involved in the scrutiny of any decisions of other Committees of which they are a member.	In future this will only apply where the Member was a member of, and present at, the Committee at the time the decision now being scrutinised was made.	The effects are twofold: first, if the Member was a member of the decision making committee but is no longer on that committee, then they can now participate in the scrutiny of that decision.  Second, if the Member is still a member of the decision making committee, but was not present when the decision now being scrutinised was made, then they can now participate in the scrutiny of that decision.	<b>The Committee felt that the Member concerned should be permitted to remain after giving their evidence to the scrutiny committee and listen to the full debate. This would ensure that if the scrutiny committee referred the matter back to the decision making body, they would be in full possession of all the facts and be better informed in making their decision.</b>
<b>16. Gender Neutral Language</b>			
	The new Code refers to 'he or she', 'him and her', etc.	<b>CONSULTATION QUESTION 8:</b> <i>Would other forms of wording - such as 'you' - be clearer and more accessible?</i>	<b>No – The Committee were satisfied with the current wording of the Code.</b>

## MEMBERS' INDUCTION TIMETABLE

The Director of Legal and Democratic Services presented a report seeking the Committee's views in relation to the draft Members' Induction Programme for 2007 in preparation for the intake of new Members following the May elections.

The programme, attached at Appendix 1 to the report, was divided into three main sections:

Section 1 (initial induction sessions 1-5) offer a basic introduction to the Council with five individual sessions taking place during the first three week after the election. The sessions would cover:

- Basic toolkit: Administration; access to resources; dealing with constituents; etc.
- Member Support: Members' support and information services; the Members' One-Stop Casework service; IT resources and information systems; etc
- Mapping the Council: Governance arrangement; the roles of Council, the Mayor, Committees, Scrutiny and how it all fits together; roles of Councillors; etc.
- The Constitution: procedural rules; the Members' Code of Conduct; codes and protocols; registering and declaring interests; the roles of political groups; etc.

- How the Council delivers its business: Corporate Performance Assessment; Middlesbrough Partnership; Local Area Agreements; working with key partners; etc.

Section 2 (sessions 6 to 12) offer individual briefings on the work of the Council's main Departments (Environment & Neighbourhood Service; Regeneration; Adult Care; Children Families & Learning), along with briefings on Finance matters, Service Middlesbrough (HBS), the role of Scrutiny, and responsibilities of Members who serve on Outside Bodies (Police, Fire, other bodies).

The above sessions are planned at one per week over the 7 weeks following the initial induction sessions.

Section 3. The final section comprises the training that Members sitting on certain Committees are now required to undertake, as previously agreed by Standards Committee (as part of the consideration of the Member Development Strategy).

The relevant Committees are Licensing Committee; Planning & Development Committee; Staff Appeals Committee; Complaints & Appeals Committee; Standards Committee; and the Teesside Pension Fund and Investment Panel.

**ORDERED** that the proposed Members' Induction Programme 2007 be approved.

### **MAYOR KEN LIVINGSTONE V ADJUDICATION PANEL FOR ENGLAND – IMPLICATIONS OF HIGH COURT DECISION**

The Director of Legal and Democratic Services submitted a report advising the committee of a decision of the High Court in a recent appeal by Ken Livingstone, Mayor of London against the finding of the Adjudication Panel for England that he had failed to follow the Code of Conduct. Members were also advised of the implications of the Court's ruling for any future investigations of breaches of the Code of Conduct.

**NOTED**

### **STANDARDS BOARD BULLETIN NO.32**

The Director of Legal and Democratic Services submitted a report highlighting a number of issues discussed in the latest Standards Board Bulletin No. 32. The salient points raised referred to:

- Model Code of Conduct (proposed changes to the Code are referred to above).
- Local Government and Public Involvement in Health Bill.

The Bill fulfils the Government's commitment to put a framework in place which allows local standards committees to deal with all aspects of the receipt and determination of allegations that a Member has breached the Code of Conduct, allowing the Standards Board to take on a more strategic role.

The main provisions of the Bill relating to standards were:

- Standards Committees will be responsible for the receipt of allegations and determining whether they should be investigated. If they are to be investigated, it needs to be decided whether it will be undertaken by the monitoring officer or the Standards Board.
- An independent member must chair standards Committees.
- There will be a duty on Standards Committees to provide periodic information to the Standards Board about the allegations the Standards Committee has received and how it has dealt with them.
- The Secretary of State will make regulations for the circumstances in which the Standards Board can suspend a Standards Committee from deciding whether allegations should be investigated.

- Standards Committees will be allowed to undertake joint working for some or all of their responsibilities.
- There will be a general power to allow the creation of Sub Committees to deal with any of the functions of a Standards Committee.
- The provisions regarding confidentiality of reports are to be relaxed to allow information to be shared with Standards Committees.
- A Standards Committee will be able to refer a report to the Adjudication Panel for England if it considers that the sanctions available to it are insufficient. The sanctions available to the Adjudication Panel for England are also to be widened to include lower level sanctions. This will allow it to deal with any reports that are referred to it.
- Guidance Programme for 2007

The Board is working to provide guidance in the form of a new DVD and written guidance in connection with the new Code of Conduct and advice relating to declarations of interest.

- Roadshows

The Board is to undertake a series of roadshow focussing on the revised Code of Conduct and the filter system for complaints in regard to breaches of the Code from 2008. Members were advised that the nearest venues for the events were Leeds to be held on 7 June and Newcastle, to be held on 21 June 2007.

- Ken Livingstone (details are also referred to above).

A copy of the Bulletin had been placed in the Members' Library.

**NOTED**

#### **URGENT ITEM**

In accordance with the provisions of Section 100(B) (4) (b) of the Local Government Act 1972, the Chair agreed to deal with the following as an urgent item in order to ensure that the matter was concluded prior to the start of the new municipal year.

#### **PROTOCOL RELATING TO RESIDENTS OF OTHER WARDS**

The Director of Legal and Democratic Services tabled a report requesting approval to a protocol for Members regarding their dealings with matters affecting constituents of other Wards. Adoption of the protocol would formalise current local 'custom and practice' arrangements agreed in 2002.

**ORDERED** that the Protocol Relating to Resident of Other Wards be approved and referred to the Constitution Committee for consideration and subsequent inclusion in the Council's Constitution.