

STANDARD COMMITTEE

A meeting of the Standards Committee was held on 11 December 2007.

PRESENT: G Fell (Chair)
Councillors Davison, Kerr, McPartland, Taylor and Williams
Parish Council Member: Councillor I Bruce
Independent Member: C Nestor.

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

****AN APOLOGY FOR ABSENCE** was submitted on behalf of Councillor Majid.

NEW MEMBER WELCOME

The Chair welcomed Mr Chris Nestor, newly appointed Independent Member to the meeting.

**DECLARATIONS OF INTEREST

There were no declarations of interest for this meeting.

**MINUTES

The minutes of the meeting of the Standards Committee held on 11 September 2007 were taken as read and approved as a correct record.

INDEPENDENT MEMBER – RESIGNATION

The Director of Legal and Democratic Services reported that due to other commitments Mr W Anderson had tendered his resignation from the committee. Notice of the vacancy would be published shortly and the practice previously applied for other vacancies adopted. A letter thanking Mr Anderson for his service on the committee had been submitted on Members' behalf.

NOTED

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT

The Director of Legal and Democratic Services reported that the Local Government and Public Involvement in Health Act 2006 had received Royal Assent on 30 October 2007. Part 10 of the Act deals specifically with Ethical Standards and gave effect to proposals to reform standards in local government, the main thrust of which was to devolve most decision making on the conduct regime to local authorities, and to provide a revised regulatory role for the Standards Board. The report summarised the following sections of the Act:

Section 183: Conduct that may be covered by the code - Amends sections 49-52 of the Local Government Act 2000 (LGA);

Section 185: Assessment of allegations (Paragraphs a-e) – Inserts sections 57A-D and section 58 of the Local Government Act 2000

- (a) Section 57A makes provision for local authorities to conduct initial assessment of allegations of misconduct;
- (b) Section 57B provides that, where a standards committee has decided that no action should be taken, the person who made an allegation may ask the committee to review its decision;
- (c) Section 57C provides for standards committees to take reasonable steps to give a written summary of the allegation to the person who is the subject of the allegation, to give notice of reasons for any decision that no action should be taken, and where a standards committee receives a request to review such a decision to take reasonable steps to give notice to the subject of the allegation;
- (d) Section 57D enables to Standards Board to direct that a standards committee's power to undertake initial assessment of misconduct allegations should be suspended;

(e) Section 58 sets out the courses of action open to the Standards Board when an allegation is referred to it for investigation.

Section 186: Information to be provided to Standards Board by relevant authority – Requires relevant authorities to furnish the Standards Board with periodic information on allegations of misconduct received by standards committees;

Section 187: Chairman of standards committees – Amends section 53.4 of the LGA 2000 to provide for standards committees to be chaired by a person who is neither a member nor an officer of the relevant authority;

Section 188: Sub-committees of standards committees – Provided for the appoint of a sub-committee to undertake any of the standards committee functions, including any function concerning parishes;

Section 189: Joint committees of relevant authorities in England – Inserts section 56A to the LGA 2000 to empower the Secretary of State to make regulations for two or more authorities to establish a joint committee to exercise the functions of their standards committees;

Section 190: Standards Board for England: functions – Provides for the Standards Board to issue guidance to ethical standards officers with respect to the exercise of their functions;

Section 191: Ethical standards officers: investigations and findings – Amends sections 59,62 and 63 of the 2000 Act amending the description of two of the findings which an ethical standards officer can make, to provide access to documents and to allow disclose of information;

Section 192: Ethical standards officers: reports etc. – Amends sections 64 and 65 of the 2000 Act to provide that an ethical standards officer's report on the outcome of an investigation or interim report on the investigation can be passed to the relevant standards committee and to provide powers to the Secretary of State to make regulations concerning the withdrawal of a reference by an ESO of matters which are the subject of the report or interim report to the Adjudication Panel;

Section 193: Disclosure by monitoring officers of ethical standards officers reports – Inserts section 65A to the 2000 Act to allow monitoring officers to inform any member or officer of an authority of the outcome of an ESO's investigation and to provide them with a copy of the report or any part of the report where it will help to promote high standards of conduct by members and co-opted members;

Section 194: Matters referred to monitoring officers – Amends section 66 of the 2000 Act to provide for regulations to enable a monitoring officer to refer back cases referred to him by a standards committee. Regulations may make provision with regard to access to and disclosure of information;

Section 195: References to Adjudication Panel for action in respect of misconduct – Inserts section 66A to allow regulations to be made in respect of the referral by standards committees of a case to the Adjudication Panel where it considers that the sanction available to it would be insufficient;

Section 196: Consultation with ombudsmen – Extends provisions in section 67 to allow the Local Government Ombudsman to consult the standards committee (as well as the Standards Board) about a particular case where it is considered that it relates partly to a matter which may be of concern to the committee;

Section 197: Interim case tribunals – Amends section 78 to provide that, where an interim case tribunal decides that a member should be suspended, the effect of the tribunal's notice is to suspend or partially suspend the member, rather than, as currently, requiring the authority to take action to put the notice into effect. A further provision is made for an appeal to the High Court against a decision by an interim case tribunal only to be possible where permission of the High Court has been given;

Section 198: Case tribunals: England – Inserts section 78A and 78B, a new power for the Secretary of State to make regulations concerning sanctions which a case tribunal can impose and to provide notice of its decisions to both the subject of the allegation and to the person who made it and to publish its decision in local newspapers.

Section 200: Exemption from Data Protection Act 1998 – Inserts new sub-sections 31(7) and (8) of the Data Protection Act. This provides that personal data processed by a monitoring officer or an ESO for the purpose of discharging any function under Part 3 of the LGA 2000 are exempt from the subject information provisions of the Act to the extent to which the application of the provisions to the data would be likely to prejudice the proper discharge of that function;

Section 202: Politically restricted posts: grant and supervision of exemptions – Amends the Local Government and Housing Act 1989 so that the granting and supervision of exemptions from the political restrictions disqualifying a person holding a politically restricted post from becoming a member of a local authority now rests with the standards committee. The section also provides that the Secretary of State may issue a general advice with regard to the making of decisions on political restrictions and that before giving that advice the Secretary of State must consult those representatives of local government he considers appropriate:

Section 204: Political assistants' pay – Provides for the Secretary of State to make an order which will specify the maximum pay of political assistants by reference to a point on a relevant pay scale.

NOTED

JOINT STANDARDS COMMITTEE

As referred to in the forgoing minute, Section 189 of the Act provides for the establishment of joint committees and the Director of Legal and Democratic Services reported that approaches had been made by other Tees Valley monitoring officers to consider whether it was advantageous to establish such a joint committee. The Director suggested that at this stage the option should not be ruled out but that officers be authorised to investigate further the advantages and disadvantages of the proposal.

ORDERED that further discussions take place with other authorities.

STANDARDS BOARD BULLETIN

Members' attention was drawn to two of the main issues outlined in the Standards Board Bulletin 35, namely: Lobby Groups and Single Issue Campaigns, and Complaints. Changes in the 2007 Code of Conduct for Members place less restrictions on Members and provide for a Member who has campaigned as an individual, as opposed to being a member of a lobby group, may not have a prejudicial interest and would therefore be eligible to vote on the matter, subject to there being no other reason outside of the Code why they should not participate in the decision making process. Also of particular relevance to lobbyists is the exception in the new code of having a prejudicial interest in the following circumstances:

- (i) Where the decision does not affect the members financial position or interests, or
- (ii) it does not relate to a planning or regulatory matter in which they have an interest.

The new provisions within the Local Government and Public Involvement in Health Act provide for standards committees to receive and consider all complaints previously referred to the Standards Board England and to decide whether further action should be taken locally, whether to refer the complaint to the Standards Board or to take no further action. Under the current regime cases can be rejected or referred for investigation. The new regime will enable cases to be resolved by alternative means, e.g. mediation or training. The Standards Board England anticipated that committees could receive approximately 6 complaints per year, of which approx. 25% would be referred for investigation; however members were advised that a more likely estimate could be between 10 to 12 cases per year.

The future role of the Standards Board would be to promote high ethical standards within authorities by developing effective procedures for managing the local systems, to monitor the position and provide support and guidance.

Full copies of the Bulletin had previously been issued to all members of the council

NOTED

ETHICAL GOVERNANCE AUDIT

The Director of Legal and Democratic Services presented a report requesting approval to commence work on an ethical governance audit for the authority. The audit would ensure that the authority complied with the ethical governance standards introduced by the Local Government Act 2000 (e.g. adoption of the code of conduct, establishment of a standards committee) that the authority promotes and demonstrates ethical behaviour and manages risk of fraud both of itself and working in partnership with others.

In order to establish the current position it was recommended that an in house desktop exercise be carried out using the pro-forma attached at appendix 1 to the report and via a sample survey of members and officers to assess how well the council's policies have been communicated. It was recommended that final consideration of the questions to be posed be approved by the Corporate Management Team.

ORDERED that a desktop exercise be undertaken to establish the current position in respect of policies etc. identified in appendix 1.

CORPORATE COMPLAINTS MONITORING

The Member' Office Manager submitted a report outlining the first half yearly report in respect of the Council's Corporate Complaints Procedures. Appendix 1 to the report provided a breakdown of complaints by department, where complaints were dealt with by other organisations or providers, those dealt with by the authority at each of the different stages, their outcomes and timescales for completion of the 224 complaints received for the period 1 April 2007 to 30 September 2007, of which 186 required further consideration.

Of the 186 cases, 108 were upheld in full and 30 were partly upheld. As this equated to 70% of the complaints investigated the report suggested that complainants were receiving fair treatment in consideration of their complaints. Work had recently commenced on a survey to assess satisfaction levels in relation to the way complaints were handled. Eight responses had been received to date from the 27 questionnaires circulated.

NOTED

OMBUDSMAN TRAINING

Further to the previous meeting the Members' Office Manager presented a report regarding arrangements made to purchase training from the Local Government Ombudsman for staff undertaking complaints investigations.

Appendix 1 to the report outlined the details of the course. Two potential training dates, Tuesday 26 February 2008 and Tuesday 4 March 2008 had been identified which would accommodate 30 people per day. As there had been significant initial interest in the course with approximately 80 applications received a third session may be required.

NOTED

CHAIR'S REPORT ON 2007 ANNUAL STANDARDS CONFERENCE

The Chair reported verbally on the issues considered as part of the 2007 Annual Standards Conference which consisted of a two day full programme of events at which 800 delegates attended. The main thrust of the event focussed on the proposals with the Local Government and Public Involvement in Health Act which was expected to be introduced in phases commencing around April to June 2007.

NOTED**LOCAL INVESTIGATION – SBE 20435.07**

The Director of Legal and Democratic Services reported receipt of a request from the Standards Board England to carry out a local investigation of a complaint against a member.

NOTED**LOCAL INVESTIGATION – JOINT TRAINING SESSION**

Councillor Bruce, Parish Council representative referred to the recent training event hosted by Stockton Borough Council for members and officers of the Tees Valley authorities in relation to the new arrangements for dealing with local investigation of complaints against members. Members who attended the training session felt that it was a timely and extremely useful event presented by a first class trainer.

NOTED