

PLEASE NOTE VENUE

STANDARDS COMMITTEE AGENDA



Tuesday 30th October 2007

at 4.00pm

in The Board Room,
Smith and Graham,
Church Street Chambers, Hartlepool

MEMBERS: STANDARDS COMMITTEE:

Councillors R W Cook, Griffin, Laffey, Preece, Shaw, Turner and Wallace.

Co-opted Members: Mr K Fisher and Mr B Gray.

Parish Councillor Ray Gilbert, Elwick Parish Council.

Mr John Elwood (For Information Only).

1. **APOLOGIES FOR ABSENCE**

2. **TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

3. **MINUTES**

3.1 To confirm the minutes of the meeting held on 14th August 2007 *(to follow)*

4. **ITEMS FOR DECISION**

4.1 Corporate Performance Assessment Report – Pro-Active Standards Committee
– *Chief Solicitor (to follow)*

4.2 Code of Conduct – Standards Board Guidance – *Chief Solicitor (to follow)*

STANDARDS COMMITTEE

MINUTES AND DECISION RECORD

14 August 2007

The meeting commenced at 4.00 p.m. in the Belle Vue Community, Sports and Youth Centre, Hartlepool

Present:

Mr Barry Gray (In the Chair);

Councillors Rob Cook, Sheila Griffin, Pauline Laffey, Arthur Preece and Jane Shaw.

Co-Opted Members: Mr Keith Fisher and Parish Councillor Ray Gilbert.

Officers: Tony Brown, Chief Solicitor
David Cosgrove, Principal Democratic Services Officer

7. Apologies for Absence

None.

8. Declarations of interest by members

None.

9. Confirmation of the minutes of the meeting held on 19 June 2007

Confirmed.

10. Revisions to Standards Committee Procedures *(Chief Solicitor)*

Issue(s) for consideration by the Committee

The Chief Solicitor reported on the need to commence a review of the Standards Committee procedures, in readiness for the changes which will be necessary to accommodate the arrangements for 'first sieve' as discussed at the previous meeting of the Committee.

Clause 186 of the Local Government and Public Involvement in Health bill inserts new sections 57A and 57B into the Local Government Act 2000. The

effect of the new clauses is –

- Complaints will be directed to the Standards Committee, rather than the Standards Board
- The Standards Committee are to make an initial assessment (informally being referred to a ‘a first sieve’) of complaints and to decide whether
 1. To take no action
 2. To refer the complaint to the Monitoring Officer, or
 3. To refer the complaint to the Standards Board
- The Standards Committee will be required to review a decision to take no action upon request by the complainant

The Chief Solicitor reported that these provisions would necessitate a further stage in the committee’s procedures and the committee will be invited to consider the details of the necessary revisions in the period up to the implementation of the new provisions. The Chief Solicitor outlined the procedures previously adopted by the Committee, which were those outlined in the Standards Board Guidance “Standards Committee Determinations – Guidance for Monitoring Officers and Standards Committees”. An extract from the guidance was attached at Appendix 1 to the report, which dealt with the hearing process. Also submitted as Appendix 2 to the report were forms based on models contained elsewhere in the guidance, which it was proposed be used for the purposes of any hearing which the Committee may be required to hold.

The guidance advised in detail on -

- the pre-hearing process – a process conducted at an administrative level under the control of the Chairman of the Committee;
- the hearing – following circulation by the Chairman of a pre-hearing summary constructed having regard to the outcome of the pre-hearing process, the hearing must take place within 3 months of receipt by the Monitoring Officer of the Ethical Standards Officer’s report;
- the finding of the Committee
- penalty and
- notice of the Committee’s findings

Submitted as Appendix 3 to the report was a draft procedure document for the whole of the hearing process, from receipt of the Ethical Standards Officer report, incorporating the principles set out in the relevant sections of the guidance.

The Committee discussed in detail the Hearing Procedure Rules set out in appendix 3 to the report and the guidance document produced by the Standards Board for England (appendix 1). The principle points raised by members were: -

- The wish for the Committee members to retain the right to ask questions when in hearings. The guidance suggested that all questions should be directed through the Chair of the Panel. Members considered that it was important for individual members to be able to pursue their own line of questioning.

- There should be a provision for an extension of the time limits set out in the procedure where there was reasonable cause for delay. While it was appropriate to have hearings held in a timely manner, some of the timings proposed needed to be a little flexible to allow for unforeseen circumstances.
- Members discussed the issue of the pre-hearing procedure and the discussions around a general statement of purpose of the hearing and any intended outcome of the hearing.
- Members were concerned at the apparent burden of proof and the statement in the guidance that the “Standards Committee may not need to consider any evidence other than the ESO’s report.” Members considered that the Member against whom the allegation has been made should always have the opportunity to respond and defend their actions.
- Members also identified that there was the need for clarification on participation of a parish representative substitute in the event that the nominated representative was excluded by being the 'relevant councillor'.

Councillor Shaw commented that it would be useful for the Committee to see the video again of a hearing at a future meeting.

Decision

That the procedure for hearings as set out in appendix 3 to the report be approved.

B GRAY

CHAIRMAN

STANDARDS COMMITTEE
30th October 2007



Report of: Chief Solicitor

Subject: CORPORATE ASSESSMENT REPORT –
PROACTIVE STANDARDS COMMITTEE

1. PURPOSE OF REPORT

The purpose of this report is to invite the Committee to address issues raised by the Audit Commission’s Corporate Assessment report issued in March 2007, relevant to the Standards Committee.

2. BACKGROUND

In the section of the report headed “Capacity”, the report assesses the capacity of the Council, including its work with partners, to deliver what it is trying to achieve. Having commented on various aspects of leadership, management, scrutiny and consultative forums, the report continues (at para 59):-

“..... There is little transparency within and outside the Council around the operation of the 'Administration Group'. There is confusion particularly with regard to its leadership and its ability to address standards of conduct among its members, who are otherwise not aligned to a political group. While the councillor training programme is comprehensive and clearly linked to priority areas, attendance is often low and has fallen during 2006/07. The Standards Committee is not proactive. These weaknesses reduce the capacity, effectiveness and potential of the Council's political system.”

This section of the report specifically highlights the role of the Standards Committee, but also juxtaposes the operation of the Administration Group in respect of which clearly, the report considers that the internal arrangements of the group give rise to concerns regarding its ability to address standards of conduct. The report also draws attention to the level of take up by members of training provided in the Councillor training programme.

3. ISSUES

The report comments that “The Standards Committee is not proactive”.

The remit of the Standards Committee is set out in Article 9 of the Constitution

9.03 Role and Function

The Standards Committee will have the following roles and functions:

- i) promoting and maintaining high standards of conduct by the Mayor, Councillors, co-opted members and church and parent governor representatives;*
- ii) assisting the Mayor, Councillors, co-opted members and church and parent governor representatives to observe the Members’ Code of Conduct;*
- iii) advising the Council on the adoption or revision of the Members’ Code of Conduct;*
- iv) monitoring the operation of the Members’ Code of Conduct;*
- v) advising, training or arranging to train the Mayor, Councillors, co-opted members and church and parent governor representatives on matters relating to the Members’ Code of Conduct;*
- vi) granting dispensations to the Mayor, Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members’ Code of Conduct;*
- vii) dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer; and*
- viii) the exercise of (i) to (vi) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.*

Although the nature of a ‘proactive Standards Committee’ is not defined in the report, research suggests that the phrase denotes a standards committee whose remit includes e.g. an audit function, an input into the Whistleblowing Policy, consideration of Ombudsman’s Reports. It is also fair to assume that the use of the word “proactive” calls into question the solely reactive role of a committee whose remit is defined by reference primarily to the statutory function of dealing with complaints of breach of the code of conduct. By way of response to the comment, the following options may be relevant –

- Accept the current remit as satisfactory, taking no action;
- Introduce roles relating to the Council’s Whistleblowing Policy and other probity based policies;
- Seek a role in reviewing and monitoring Ombudsmans reports (currently undertaken by the Performance Portfolio holder);
- Seek a role in relation to Officer Code of Conduct, and other codes e.g. the Planning Code of Practice;
- Promoting (in conjunctions with the Member Development Team) a compulsory level of training for members
- Addressing the issue of internal group control of member conduct highlighted by the CPA report

4. RECOMMENDATION

That the Committee consider steps to address the issues raised by the CPA report affecting the role of the Standards Committee.

STANDARDS COMMITTEE

30th October 2007



Report of: Chief Solicitor

Subject: CODE OF CONDUCT – STANDARDS BOARD
GUIDANCE

1. PURPOSE OF REPORT

The purpose of this report is to draw the Committee's attention to guidance issued by the Standards Board on 1st October 2007 which highlights the changes brought about by the revised code of conduct regarding personal and prejudicial interests. In view of its relevance to Members generally, this report is being circulated to all Councillors and co-opted members.

2. RECOMMENDATION

That the Committee note the guidance.

Personal and prejudicial interests

Relevant Code paragraphs: 8 – 13

Summary: This document provides key information and answers to frequently asked questions about the ethical framework for local government and the role of the Standards Board for England.

Date published: 1 October 2007

Key facts

Personal interests

There are two types of personal interest.

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- 1) An interest that you must register.
- 2) An interest that is not on your register but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of:
 - inhabitants of the ward or electoral divisions affected by the decision (in the case of authorities with wards or electoral divisions)
 - inhabitants of the assembly constituency affected by the decision (in the case of the Greater London Authority)
 - inhabitants of the authority's area (in all other cases)

Note:

- 1) You must declare that you have a personal interest and the nature of that interest, as soon as it becomes apparent to you in all meetings before the matter is discussed.
- 2) There are two exemptions to the rule on declaring a personal interest, which is a key change under the revised Code.

Exemptions apply where an interest arises solely from membership of, position of control or management on:

- Any other body to which you were appointed or nominated by the authority.
- Any other body exercising functions of a public nature for example, if you have been appointed as a school governor.

In these exceptional circumstances you only need to declare your interest if and when you speak on a matter, provided that you do not have a prejudicial interest (see below).

Prejudicial interests

Your personal interest will also be a prejudicial interest if it meets all of the following conditions:

- a) The matter does not fall within one of the exempt categories of decisions under paragraph 10(2)(c), for example, setting the council tax.
- b) The matter affects your interests financially or a licensing or regulatory matter, for example an application for a grant funding to a body on your register of interests, or a planning or licensing application made by you or a body on your register of interests.
- c) A member of the public, who knows the relevant facts, would reasonably think your personal interest so significant that it is likely to prejudice your judgement of the public interest.

Note: in order for your interest to be prejudicial, it must be a financial or regulatory matter.

What to do if you have a prejudicial interest

If you have a prejudicial interest in a matter being discussed at a meeting:

- You must declare that you have a prejudicial interest and the nature of that interest as soon as the interest becomes apparent.
- You should leave the room unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If this is the case, you can also attend the meeting for that purpose.
- You must leave the room immediately once you have finished speaking, or when the meeting decides that you have finished (if that is earlier).

Frequently asked questions

Q1 Is paragraph 12(2) mandatory for my authority?

Paragraph 12(2) is mandatory for most authorities. However, paragraph 12(2) is not mandatory for the following authorities:

- parish and town councils
- English and Welsh police authorities
- the Greater London Authority
- national park authorities
- fire and rescue authorities

If your authority wishes paragraph 12 (2) to apply, it will need to pass a resolution adopting the Model Code of Conduct including paragraph 12(2).

If your authority is a parish or town council and you wish to adopt paragraph 12(2), you can do so by adopting the Standards Board's *Model Code of Conduct for parish and town councils 2007*, which is available on our website on our website -

www.standardsboard.gov.uk

If paragraph 12(2) is included in your authority's Code, the Standards Board recommends that standing orders or procedural rules should be put in place for clarity. These should clearly set out the circumstances in which members of the public can attend the authority's meetings to make representations, give evidence or answer questions.

If your authority does not provide members of the public with any right to speak, paragraph 12(2) will have no effect at your authority. This means that members with a prejudicial interest would have to continue to leave the meeting room after declaring the nature and extent of their interest.

Q2 What rights are available to members with a prejudicial interest?

Paragraph 12(2) gives members with a prejudicial interest in a matter the same rights as members of the public to speak at a meeting on the matter. Members must then leave before the main discussion and voting takes place.

Additional information

- *The Code of Conduct: Guide for members May 2007* offers more guidance on the Code and can be downloaded from our website - www.standardsboard.gov.uk.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
- View our occasional paper on bias and predetermination, available online.
- Call our enquiries line on **0845 078 8181**.
- Email us at enquiries@standardsboard.gov.uk.