

# **STANDARDS COMMITTEE AGENDA**



**Tuesday 9 February 2010**

**at 4.00 p.m.**

**in Committee Room C,  
Civic Centre, Hartlepool.**

MEMBERS: STANDARDS COMMITTEE:

Councillors Coward, Fleet, Lauderdale, Preece, Shaw, Simmons and Turner

Co-opted Members: Barry Gray, Ted Jackson, 1 vacancy

Parish Councillor Alan Bell, Hart Parish Council

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 15 December 2009
4. **ITEMS FOR DECISION / DISCUSSION**
  - 4.1 Business Report – *Chief Solicitor* (to follow )
5. **ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT**

# **STANDARDS COMMITTEE**

## **MINUTES AND DECISION RECORD**

15 December 2009

The meeting commenced at 4.00 p.m. in the Civic Centre, Hartlepool

**Present:**

Mr Barry Gray (In the Chair)

Councillors: John Coward, Mary Fleet, Arthur Preece, Jane Shaw, Chris Simmons and Mike Turner.

Parish Councillor Alan Bell (Hart Parish Council)

Independent Member: Mr Ted Jackson.

Officers: Peter Devlin, Chief Solicitor and Monitoring Officer  
David Cosgrove, Democratic Services Team.

### **19. Declarations of interest by members**

None.

### **20. Confirmation of the minutes of the meeting held on 20 October 2009**

Confirmed.

### **21. Transfer of the Adjudication Panel for England into the Unified Tribunal Structure** *(Chief Solicitor)*

The Chief Solicitor reported that the Adjudication Panel for England, established by the Local Government Act, 2000, is a disciplinary body to hear and determine references concerning the conduct of local authority Councillors. Furthermore, regulations allowed the Adjudication Panel to act as an appellate body to determine appeals against the decisions of Local Standards Committees. The 2000 Act also established an ethical governance framework designed to maintain high standards of behaviour for Members of local authorities and associated bodies. Accordingly, all relevant authorities are required to act in accordance with a Code of Conduct, wherein a failure to comply with the Code can lead to a Member being suspended from office or disqualified from being a Member.

On the 1st September, 2009, the General Regulatory Chamber (GRC) was launched as part of the First-tier Tribunal. At that time, the work of four jurisdictions transferred into the GRC, namely: Charity, Estate Agents, Consumer Credit, and some functions of the Transport Tribunal. It is anticipated, that the work of the Adjudication Panel for England will be transferred in to the GRC in January, 2010. Further, the Claims Management Services Tribunal, Gambling Appeals Tribunal, the Immigration Services Tribunal and the remaining part of the Information Tribunal, is similarly being transferred into the GRC at this time. A “Transfer of Tribunal Functions Order” allowing for the above, is presently before Parliament, for consideration. The effects of the Order when in place, is to abolish the Adjudication Panel for England. Its functions would, thereafter, be undertaken by the First-tier Tribunal. The jurisdiction will be known as the First-tier Tribunal (Local Government Standards, England). It should be noted that since being established, the Adjudication Panel has operated without any formal Rules. That situation will change as a result on the transfer of work into the First-tier Tribunal. The Procedure Rules provide more explicit powers of direction to the First-tier Tribunal than were available to the Adjudication Panel, including the power to summon witnesses. All proceedings taking place after the Transfer Order comes into effect will be conducted in accordance with the Rules applicable to the First-tier Tribunal. However, in regard to those cases of which proceedings have already started prior to this formal Transfer, will proceed and be in accord with the procedures operated by the Adjudication Panel.

#### **Decision**

1. That the report be noted.
2. That a further report be brought to the Committee outlining the changes to the First-tier Tribunal (Local Government Standards, England).

## **22. The Impacts and Effectiveness of the Ethical Framework for Local Government in England – Centre for Local and Regional Government Research (Cardiff University)** *(Chief Solicitor)*

The Chief Solicitor reported that the Standards for England had commissioned the Centre for Local and Regional Government Research to investigate the impacts and effectiveness of the ethical framework, primarily upon Local Government processes, culture and values. This research is a five year analysis, collecting data in 2008, 2010 and 2012 across nine different local authority case studies. The research is based on a “multi-method” approach, including interviews (with Monitoring Officers, Council Leaders, Chief Executives, Party Group Leaders, Partner Bodies etc.), document and media analysis and public surveys. Overall, it appears that many interviewees felt that the conduct of Councillors had improved in recent years and that ethical issues were being treated more seriously than they had been in the past. In those Councils which generally displayed good conduct, with few complaints, a number of “mutually reinforcing ingredients” were in place. The report highlighted some of the initial findings of the report.

Members commented on the issue of meetings of Standards Committee with group leaders and the attendance of the Chief Executive at meetings. It was suggested that the Chief Executive and group leaders be invited to attend the next meeting of the committee.

Councillor Shaw commented that at the recent Standards Board of England Conference, it was apparent that many other authorities received 'Councillor on Councillor' complaints, as opposed to the majority in Hartlepool being received from members of the public. The committee did consider that conclusion, the research, as set out below, were already being met by the committee and the authority, though restating the position and emphasising the committee's stance would do no harm

- “• The requirement for the Standards Committee to be proactive working with Council leaders, brokering conversations with political parties/groups in dealing more swiftly with trivial complaints;
- The importance of seeing the Ethical Framework and good conduct generally as being integral to a wider process of governance;
- Ensuring political parties/groups locally take full responsibility for the conduct of Members, including considering ethical risks when recruiting new Members, being one example;
- To identify the Ethical Framework not just as a set of standards to be met but part of an ongoing process of improving conduct.”

#### **Decision**

1. That the report be noted.
2. That the Chief Executive and the political group leaders be invited to attend a future meeting of the Committee.

### **23. Standards for England – “On-line Guides / Case Summaries”** (*Chief Solicitor*)

The Chief Solicitor reported that Standards for England had produced a range of Code of Conduct 'On Line Guides' which related to those matters most frequently encountered through telephone enquiries by Standards for England personnel. One of the key functions of Standards for England is to provide guidance for authorities in relation to the Code of Conduct. Such guidance is primarily intended to aid the interpretation of the provisions of the Code of Conduct and builds upon the 'Code of Conduct: Guide for Members', as issued in May, 2007. Submitted with the report were those guides that provided a short synopsis of the following matters;

- Bullying and the Code of Conduct;
- Lobbying;
- Personal and prejudicial interests;
- Disclosing confidential information;
- Gifts and hospitality;
- Pre-disposition, predetermination or bias and the code.

The Chief Solicitor also submitted for Members information two recent Case Summaries publicised by the Standards for England, for Members' information. The Case Summaries related to case no: SBE06045 relating to Essex County Council and an allegation that a Member failed to withdraw from a meeting in which he had a prejudicial interest and failed to complete his Register of Interests. The second reported case under case references: SBE06680 and 06681 related to Plymouth City Council and an allegation that a Member failed to treat others with respect, brought their office or authority into disrepute and misused the authority's resources.

The Committee Members considered the documents to be of great interest and it was suggested that they be circulated to all Members of the Council as reference material.

#### **Decision**

That the report be noted and the appendices to the report be circulated to all Members of the Council.

### **24. Convening of a Consideration Sub-Committee of Standards Committee** *(Chief Solicitor)*

The Chief Solicitor reported that following previous referrals for investigation under references SC05 -2009 and SC06, SC07, SC08 - 2009, it was requested that the Standards Committee form two Consideration Sub-Committees relating to the Monitoring Officer's findings in respect of these particular matters. That relating to case reference SC05 - 2009 relates to a matter involving a Member of a Parish Council and accordingly a Parish Council representative of Standards Committee will be required to sit on this particular Sub-Committee. The second matter relates to three Members of the Borough Council and follows an allegation relating to the conduct of those Members in a "planning matter". Again a Sub-Committee would need to be formed to fully consider the Monitoring Officer's report in relation to those matters of complaint.

It was therefore suggested, that the Standards Committee form two separate Consideration Sub-Committees and that an officer from the Council's Democratic Services Team liaises with Members of the Committee to form the composition of these particular Sub-Committees. It was agreed that the two sub committees would meet in the New Year.

#### **Decision**

That appropriate Consideration Sub-Committees be established in accordance with the report of the Chief Solicitor.

### **25. Local Government (Access to Information) Act 1985**

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined

in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006

Minute 26 – Appointment of Independent Member to the Council's Standards Committee (Para 1) – This item contains exempt information under Schedule 12A Local Government Act 1972, namely, paragraph 1 "Information relating to any individual".

## **26. Appointment of Independent Member to the Council's Standards Committee** (*Chief Solicitor*)

The Chief Solicitor stated that the Relevant Authorities (Standards Committees) Regulations, 2001 and subsequently the Standards Committee (England) Regulations, 2008, provided that Standards Committees must ensure that at least 25 per cent of its membership are "independent members". As previously noted, the 2008 Regulations also provide the criteria for the appointment of independent members, as follows:

- approved by majority of the members of the authority;
- advertised in one or more newspapers circulating in the area of the authority, and in such other publications or websites as the authority considers appropriate;
- of a person who submitted an application to the authority;
- has within a period of five years immediately preceding the date of the appointment has not been a member or officer of the authority; or
- is a relative or close friend of a Member or Officer of the authority.

Following an earlier publicity exercise, an application was forthcoming from Professor Brian Footitt, for appointment as an independent and therefore a coopted member of the Council's Standards Committee.

A copy of Professor Footitt's application was provided to the Committee in conjunction with the formal interview. Professor Footitt was present and met and briefly discussed issues with the Committee Members. This section of the meeting was subject to an exclusion of the press and public in accordance with Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006, paragraph 1 "Information relating to any individual". During the discussion with Professor Footitt, he was asked if he would also consider appointment as an independent member of the Authority's Independent Remuneration Panel.

Members were unanimous in recommending to Council that Professor Footitt be appointed as an independent Member to the Standards Committee for a term of four years and also to the Authority's Independent Remuneration Panel. The Chief Solicitor indicated that an appropriate report would be submitted to the next Council meeting.

**Decision**

That a report be submitted to the next available meeting of Council proposing that Professor Brian Footitt be appointed as an Independent Member of the Standards Committee and the Independent Remuneration Panel for a period of four years.

CHAIRMAN

## **STANDARDS COMMITTEE**

9<sup>th</sup> February 2010



**Report of:** Chief Solicitor

**Subject:** Business Report

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### **1. THE ADJUDICATION PANEL FOR ENGLAND**

- 1.1 As previously reported, the work of the Adjudication Panel for England was to be transferred into the unified tribunal structure and into the new General Regulatory Chamber (GRC) within the First-tier Tribunal. This change took place on 18<sup>th</sup> January, 2010, and accordingly, all proceedings taking place after this date, will be conducted in accordance with the Rules of the First-tier Tribunal. However, where a matter relates to proceedings which have already started, the procedures adopted previously, will continue to apply if it would be unfair to apply the particular provisions of those Rules. Although, the relevant Transfer Order abolishes the Adjudication Panel for England, its work and personnel will be transferred to the First-tier Tribunal.
- 1.2 Where a Standards Committee wishes to make a referral under Regulation 17 of the Standard Committee Regulations, the Committee will need to complete an “Initiating Application” form. Further, “Decision Notices” issued to Members following a determination by a Standards Committee, will need to reflect the amendments to the Standards Committee Regulations on the Right of Appeal. Members will now have 28 days in which to seek an appeal, from the determinations of a Standards Committee and previous references to the Adjudication Panel for England will now need to reflect the name change “First-tier Tribunal (Local Government Standards in England).”
- 1.3 Any party can also apply for permission to appeal against a decision of the First-tier Tribunal. Such appeals will now be to the upper Tribunal but permission needs to be first sought from the First-tier Tribunal.

### **RECOMMENDATION**

1. Members are asked to note the transfer of the work of the Adjudication Panel for England into unified tribunal structure.



## **2. NOTIFICATIONS TO PARISH AND TOWN COUNCILS CONCERNING COMPLAINTS ABOUT THEIR MEMBERS AND THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008**

- 2.1 There is an explicit requirement within the 2008 Regulations that Parish/Town Councils must be given notification that a complaint concerning one of their Members has been assessed. Unless the initial Assessment Sub-Committee decides to take no action on a complaint, the Parish/Town Council must then be informed of certain significant subsequent steps taken in dealing with that complaint.
- 2.2 Where a Sub-Committee of a Standards Committee meets to assess an allegation or to review a decision it must send in writing to the Parish/Town Council concerned, main points considered, its conclusions, the reasons for its decision and may name the Member unless to do so is not in the public interest or would prejudice an investigation. Further, a Parish/Town Council should also receive notification after a Standards Committee meets to consider the report into an investigation and whether to accept a finding about whether a Councillor has breached the Code of Conduct or not. They should also receive notification on the outcome of the hearing and reasons for it, if one is held.
- 2.3 Although, the requirement to give notifications has no specific time frame, such notification should be given as soon as is reasonably practicable. That said, Standards for England recommend that notification be sent out within 5 working days of the decision, for example, where the complaint is referred for investigation and within two weeks of any hearing being concluded. For the information of the Committee, notification is given to the respective Parish Clerk as to the receipt of a complaint, the decision made by any Assessment or a Review Sub-Committee and the outcome of any hearing. As indicated through the Standards Board for England *“the rationale of the notification is to facilitate the Standards Committees action, not to start new action within the Parish or Town Council”*.
- 2.4 It is also recommended by Standards for England, that Parish/Town Councils should consider putting in place protocols to deal with access to information, the sharing of information and how various legal obligations are met including those under the General Law of Confidentiality, the Freedom of Information Act and the Data Protection Act. Standards for England also indicate that Parish/Town Councils should adopt procedures about how to deal with notifications. However, the following is provided by way of guidance from Standards for England in order to achieve such compliance:
- Ensure that if the Council is to be informed that all such notification is normally done by sending out an information item for Members, rather than including notification on the agenda of a Council meeting.
  - Choose a nominated employee (usually the Clerk) and select a Council Committee to deal with and be informed of such notifications when they are received.

- The nominated employee and the Committee should, if required to discuss the notification at a Council meeting;
  - Draft the Summonses and Agendas so the identity and subject matter of the complaint are not disclosed;
  - Ensure that any background papers are not made public;
  - Ensure that the public and press are excluded from the meetings where appropriate;
  - Ensure that the minutes of meetings are written so as to preserve confidentiality;
  - Make appropriate arrangements where the complainant is an employee, between the employee and the subject member.
- Take into account who will deal with providing further evidence or information needed by the Standards Committee about a complaint, be it the nominated employee or a Member of the selected Council Committee.

### RECOMMENDATION

That the notification procedures relating to Parish/Town Councils is noted.

## 3. ASSESSING THE IMPACT OF STANDARDS COMMITTEES

- 3.1 This report commissioned through Standards for England relates to nine case studies which in turn provide examples of 'notable practice' in Standards Committees. This research conducted through the University of Hull and Teesside University "Assessing the Impact of Standards Committee" (October 2009) is appended herewith (**Appendix A**).
- 3.2 Within these case studies, the "key finding" is that "notable Standards Committees" were committed to a variety of innovative practices. It was recognised, that leadership was essential most notably in relation to the political support operating within an authority. It was also indicated, that the composition of Standards Committee needs to be appropriately balanced, with the emphasis on the skills and knowledge based experience of the Independent Members of the Standards Committee. The Standards Committees learning from each other was also seen as being an important aspect of the organisational learning within Standards Committees and better ethical governance within the respective authorities.

### RECOMMENDATION

That Members note the contents of the appended report and discuss.