

# STANDARDS COMMITTEE

## —Minutes—

**30 JULY 2003**

Present:

Mr. Christopher Troke (Chair)  
Mr. Steven Moussavi  
Councillor Colin Aherne  
Councillor Chris Allen  
Councillor Nicholas Botterill

<b>ITEM</b>	<b>ACTION</b>
Item 1 <u>ELECTION OF CHAIR</u>	All to note
<p>Mr. Moussavi, as outgoing Chair, opened the meeting.</p> <p>In accordance with the agreement to rotate the Chair among the independent members on a yearly basis, the Committee agreed that Mr. Christopher Troke be elected as Chair for the 2003/4 Municipal Year.</p> <p>Mr Troke (in the Chair) proposed a Vote of Thanks to Mr. Moussavi for his work as Chair of the Committee during its difficult formative period in 2002/3, which was unanimously agreed.</p> <p><b><u>RESOLVED:</u></b> Accordingly.</p>	
Item 2 <u>APOLOGIES FOR ABSENCE</u>	
<p>Apologies for absence were received from Ms Rafela Fitzhugh</p>	
Item 3 <u>MINUTES OF THE MEETING HELD ON 31 MARCH 2003</u>	
<p><b><u>RESOLVED:</u></b> That the minutes of the meeting held on 31 March 2003 be confirmed and signed as an accurate record.</p>	

Item 4 DECLARATIONS OF INTEREST

None

Item 5 2nd NATIONAL ASSEMBLY OF STANDARDS COMMITTEES CONFERENCE - BIRMINGHAM, 9-10 JUNE 2003

Councillor Allen tabled a report giving feedback from the 2<sup>nd</sup> Standards Committees Conference held in Birmingham on 9 & 10 June and took questions from the Committee on the proceedings.

(Text of Cllr Allen's report attached as **APPENDIX A** to these minutes.)

**RESOLVED:** That the report be noted

Item 6 LOCAL INVESTIGATION AND DETERMINATION OF MISCONDUCT ALLEGATIONS - RESPONSE TO ODPM CONSULTATION EXERCISE (9 JUNE 2003)

The Monitoring Officer (Henry Peterson) introduced the report, which set out the responses received to the ODPM's earlier Consultation with local authorities and others as to how local investigation and determination of misconduct allegations were to be carried out at local level. It was noted that there had been a good response (over 1,000 replies) to the Government's consultation exercise.

It was noted that the Government had taken on board some of concerns raised by local authorities and had legislated to permit a range of sanctions for a Councillor found guilty of having breached the Code of Conduct, up to a maximum penalty of a 3-months' suspension. However, Members still had concerns regarding the definition and imposition of such sanctions - for example, the Regulations now in force (see item 7 below) mentioned that a "partial suspension" could be imposed, but the definition of what this might involve or how it would actually operate in practice remained unclear.

Cllr Aherne queried in particular the effectiveness of a sanction imposed toward the end of a councillor's term of office or prior to an election. In addition, he queried whether a sanction could apply if the Committee felt one should be imposed immediately, but the member concerned had lodged an appeal against it to the Adjudication Panel. In such an instance, would the sanction be deferred to allow for this appeal process to take place? The Guidance from the SBfE appeared silent on the matter.

Cllr Aherne also felt strongly that it would be contrary to natural justice and a member's rights under the Human Rights Act if

the identity of an accuser was to be kept secret from the accused in such cases, particularly as this could prejudice the member's ability to gather evidence.

The Committee agreed that further advice should be sought on the above concerns from the Standards Board.

DPA/HP to note and action.

Item 7 THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) REGULATIONS 2003 & ODPM CONSULTATION ON THE PROVISION OF INDEMNITIES TO MEMBERS/OFFICERS IN CODE OF CONDUCT CASES

The Committee noted the new Regulations in force from 30 June, but felt that further clarification was needed about the nature of Standards Committee hearings.

There was concern that the Committee was charged only with determining the sanction to be imposed on referred complaints, and would not be able to re-open an ESO's investigation. It also appeared that the accused member was to be allowed to address the committee in his/her defence, call witnesses and be represented by a solicitor, barrister or other person, but the person making the accusation would not be present and could not be cross-examined by the member accused on the evidence they had given to the ESO. The Committee felt that to deny the accused the right to cross-examine their accuser in person before the Committee would be unjust, and asked whether further clarification on this point could be obtained.

MC/ Legal Services & DPA/HP to seek SBfE advice

Regarding the Consultation Paper on the provision of indemnities for members' in Code of Conduct investigations, the Monitoring Officer advised members that initial Finance Dept. research indicated that Insurance Companies such as Zurich Municipal were already putting in place a general insurance cover for members' at a cost of some £29 per member. While the cost itself was cheap, the level and degree of cover was unspecified, and was conditional on the Insurance Company handling all legal matters themselves.

The Committee noted the Government's view (set out at para.39(c) of the Consultation paper) that indemnities should not be provided for Councillors against whom a misconduct allegation was upheld. Members expressed grave concern that, if this view prevailed, it could lead to an accused Councillor being deterred from defending themselves, or employing proper legal representation, in case s/he lost and thus became liable for the whole legal costs. Also, if Insurance Companies were handling the matter, the question arose of whether they might refuse to proceed with an action unless they felt their chances of winning were 100% , other wise they would pull the plug.

It was the view of the Committee that Councillors needed the reassurance of knowing that indemnity cover would be provided in all instances, not just in those cases where they were found not guilty of alleged breaches of the Code, as suggested by the Government.

Cllr Allen also queried whether the indemnity cover being offered to Councillors applied equally to Co-opted Members as well, as there was no mention of them in the Consultation paper.

Finally, on the fourth question posed by the Government, the Committee felt that a cap on expenses/ limit per case would probably be a suitable method of deterring Councillors from over-reliance on legal representation in these matters.

It was agreed that the above views would be communicated to the Government as the authority's response to the Consultation paper.

DPA/HP to note and action.

**RESOLVED:**

1. That the new Regulations governing the local determination of misconduct allegations be noted.
2. That the Monitoring Officer prepare a draft response to the ODPM Consultation, for circulation for comment to all Members and the Chair, based on the Committee's expressed views.

DPA/HP to note and action.

Item 8 **STANDARDS COMMITTEE DETERMINATIONS - GUIDANCE FOR MONITORING OFFICERS & STANDARDS COMMITTEES**

The Monitoring Officer advised the Committee that so far, only the part of the Section 66 framework dealing with local *determination* of cases investigated by an ESO and referred to local authorities for adjudication had been published. The SBfE's Guidance was a suggested procedural system for dealing with such matters. The Guidance was not compulsory, but any local procedures needed to be consistent with it.

Further legislation and Regulations governing the local *investigation* of breaches of the Code of Conduct awaited the changes set out in the Local Government Bill, currently before Parliament. It was likely that when the local determination / investigation framework was complete, the Standards Board would only deal with major cases in future, referring all others back to Monitoring Officers/Standards Committees at local level for investigation and determination.

The Government's proposed legislative changes would enable local Standards Committees to establish one or more

investigatory Sub-Committees and to delegate powers; and would also empower Monitoring Officers to delegate matters to other officers where a conflict of interests arose, none of which was presently possible under the current legislation set out in the Local Government Act 2000. The possibility was also raised of local Monitoring Officers being able to deal with each other's cases inter-Borough where this proved necessary or desirable.

**RESOLVED:**

1. That the SBfE Guidance on handling local determination of referred misconduct allegations be noted.
2. That the Monitoring Officer begin preliminary discussions with his counterpart West London Alliance members on the role and sharing of investigations by Monitoring officers in anticipation of the proposed legislative changes awaited.

DPA/HP to note and action

Item 9 **REVISED GUIDANCE FOR MEMBERS ON REGISTERING & DECLARING INTERESTS, GIFTS AND HOSPITALITY**

Noted the revised Guidance issued by the SBfE and that this item contained further clarification for members on the distinction between personal and prejudicial interests, and when and how they should be declared.

Noted that the revised booklet would be circulated to all members with a covering letter drawing the above to members' attention.

PAD/JC to note and action

**ANY OTHER BUSINESS**

At Cllr Aherne's request, the Committee agreed that this item (AOB) should in future form part of the Standards Committee agenda.

PAD/JC to note and action

Meeting began 7:00 pm  
Meeting ended 8:40 pm

Chair.....

RL (19.7.02)