

STANDARDS COMMITTEE

—Minutes—

10 NOVEMBER 2004

Present:

Mr.Christopher Troke
Ms Rafela Fithugh (in the Chair)
Mr.Steven Moussavi
Councillor Colin Aherne
Councillor Chris Allen
Councillor Nicholas Botterill

ITEM	ACTION
<p>Item 1 ELECTION OF CHAIR</p> <p>The Committee agreed that Mr Troke should remain as Chair for the remainder of the municipal year. As he was suffering the effects of a dental appointment , it was also agreed that Ms Fitzhugh should chair the present meeting.</p>	<p>PAD(JPC/RL) to note.</p>
<p>Item 2 APOLOGIES FOR ABSENCE</p> <p>None.</p>	
<p>Item 3 MINUTES - 19 APRIL 2004</p> <p><u>Matters arising</u> – Re: item 5 of the minutes, Councillor Allen clarified that he had volunteered to attend the 3rd Standards Committees Conference in Birmingham on 13 & 14 September in principle, subject to his outstanding diary commitments, but that due to a clash, he had not in fact been able to attend.</p> <p><u>RESOLVED</u> - That the minutes be confirmed and signed as an accurate record.</p>	<p>PAD(JPC/RL) to note.</p>
<p>Item 4 DECLARATIONS OF INTEREST</p> <p><u>Councillor Aherne</u> - declaration of a personal and prejudicial interest on item 12 – Application for grant of dispensation: Administration members of the Planning Applications</p>	<p>PAD(JPC/RL) to note.</p>

Committee. Councillor Aherne did not speak or vote on the item, and left the meeting while the item was discussed.

Councillor Allen - declaration of a personal interest on item 12. Councillor Allen remained in the meeting and spoke and voted on the item.

Councillor Botterill – declaration of a personal interest on item 6.2 – revised advice from the Standards Board regarding membership of the Freemasons – as a Freemason

Item 5 **3rd ANNUAL ASSEMBLY OF STANDARDS COMMITTEES**

Mr Troke advised the Committee that he had attended the 3rd Standards Committee Conference in Birmingham on 13 & 14 September where there had been a general overview with case studies, but no specific discussion on the s.66 Regulations. Two booklets, supplied to delegates at the Conference, would be circulated to members of the Committee for information

PAD(JPC/RL) to circulate for information

Noted the Standards Board's summary paper of the delegates' workshops on the review of the Code of Conduct. This was likely to take the form of a 3-month long review, with input from a wide selection of stakeholders, including the public. It was noted that the consultation document had not yet been issued but was due in December 2004 .

RESOLVED – That the report be noted.

Item 6 **ADVICE AND GUIDANCE FOR MEMBERS FROM THE STANDARDS BOARD FOR ENGLAND**

6.1 Noted the advice issued recently by the Standards Board for England concerning Lobby Groups, Dual-hatted members, and prejudicial interests.

Councillor Aherne noted that potential conflicts of interest could arise for those Councillors who were members of the Council's ALMO (HFHMS) because its interests could be inconsistent with those of the Council. The problem of any potential conflicts of interest as a dual-hatted member had been pre-empted on Licensing Committee, as the ward councillors were debarred from sitting when considering applications from their own wards, which enabled them to continue to represent their constituents.

The Head of Legal Services stated that the advice from the Standards Board had been prompted by the recent case of ***Richardson vs. North Yorkshire County Council***, which had clarified that a councillor with a prejudicial interest could not simply put aside their councillor's hat and make representations to committee in the same way as an ordinary member of the public could. HLS offered to circulate details of the case to members for their information.

- 6.2 Noted Councillor Botterill's declaration of personal interest as a Freemason on item 6.2. Councillor Botterill remained at the meeting and spoke on the item.

Councillor Botterill pointed out that there was a lack of clarity in the SBfE advice relating to registering and declaring membership of the Freemasons. He stated he was not aware of the existence of the Freemasons' "Grand Charity" and also found the SBfE's criteria for declaration of the interest to be unclear.

From the Chair, Ms Fitzhugh asked whether it was possible for Councils to go further than the national guidance issued by the Standards Board. The Head of Legal Services advised that, in theory, Councils could exceed the national guidance, but this could lead to potential difficulties with issues such as application of the Human Rights Act. This council, along with most others, had chosen to stick with the national model code, not least to reduce the risk of differing interpretations of local codes by the Standards Board for England. The full Council would also require to agree any changes to the existing LBHF code..

RESOLVED :

1. That details of the **Richardson** case, together with the Standards Board's further advice to members, be circulated to all councillors with a covering summary.
2. That in future any bulletins and other advice / information published by SBfE be circulated to independent members on receipt, and the minutes be circulated separately before the meeting.

PAD (MC) to circulate details of **Richardson**.

PAD (JPC/RL) to note and action.

Item 7 **A MODEL CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES**

Noted the ODPM Consultation paper outlining the proposed Model Code of Conduct for Local Government Employees. Also noted that the issue was being dealt with via the Employers Organisation, Trade Unions, LGA and ALG and that local Standards Committees would not be involved in determining breaches of the Code as this would fall under normal employees' disciplinary procedures.

The Monitoring officer informed members that District Audit would shortly be conducting a further review of the authority's ethical framework to update their previous findings, and that he would circulate the DA brief to all committee members in due course.

PAD(HP) to action & circulate

RESOLVED: That the ODPM Consultation paper be noted.

Item 8 **THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) (AMENDMENT) REGULATIONS 2004**

The Monitoring Officer informed the Committee that the long-awaited local investigation Regulations (S.I. 2004 No.2617) were now in force (as of 4th November), and that the Committee in future could expect to be the recipient of any misconduct allegations referred for local investigation and/or determination from an ESO or the Standards Board. At the present time, no referrals to the Council from the Standards Board were pending.

Mr Troke advised the Committee that an item on the agenda of Brent's Standards Committee, which he had attended as an observer on 19 October, had been a statistical table which showed by individual Council the number of allegations of misconduct received by SBfE. LBHF had had 7 referrals, while Brent had had 29. The statistics were only issued to councils on request, however SBfE were minded to cease production of the table. Brent had found the statistics table useful for comparison purposes with other London Boroughs, and was seeking support from other Councils for their retention.

Following discussion, the Committee's view was that the tables were not particularly informative, in that they gave no indication of the nature of the allegations, or whether multiple allegations referred to one, or a number of different Councillors. It was not generally felt to be a particularly helpful tool for Councils' use, and accordingly, the Committee could not support Brent's request.

Mr Troke undertook to write to the Independent Chair of Brent's Standards Committee with the Committee's views.

Chair to advise
Brent accordingly

RESOLVED: That the Statutory Instrument permitting local investigations by Monitoring officers / Standards Committees, effective 4 November 2004, be noted.

Item 9 **MISCONDUCT: COMPLAINTS AND INVESTIGATIONS FOR MONITORING OFFICERS AND STANDARDS COMMITTEE MEMBERS – TRAINING COURSE**

Noted the details of a training course for members on misconduct / local investigations which was taking place in central London on 1 December.

Mr Troke advised that he would be willing to attend, subject to confirmation of his diary commitments.

PAD (JPC/RL) to
arrange

Independent members also asked for a detailed briefing session with the Monitoring officer / Deputy Monitoring officer (Head of Legal Services) on certain issues which they would notify to him shortly.

Mr. Troke to advise MO

Item 10 **DETERMINATIONS AND INVESTIGATIONS – PROCESS AND PROCEDURES**

Members were informed that the draft model procedures for the conduct of local investigations & determinations had been updated in line with members' wishes from the previous Committee meeting held on 19 April, and in the light of the final local investigation Regulations issued by the ODPM which came into force on 4 November 2004.

Councillor Allen asked for an additional explanatory paragraph to be inserted about the written pre-hearing process, which was agreed.

RESOLVED: – That the Model Procedures, as modified above, be approved for implementation.

Item 11 **LBHF LOCAL PROTOCOL ON USE OF COUNCILLORS' SECRETARIAT – PROPOSED CESSATION OF THE "BULK MAIL-OUT" FACILITY**

The Monitoring Officer explained that while the Council's existing facility for 'bulk mail-outs' from Councillors was in practice rarely used, a majority of occasions on which it was used led to contention between the parties on the council. The process of vetting letters and investigating allegations of improper use of the bulk mail-out facility was onerous and time-consuming, both for officers and the District Audit to whom complaints had been made. The Standards Committee had itself reviewed and strengthened the protocol on use of the facility on two occasions. While it would still be acceptable for Councillors to mail out letters to named recipients, it was proposed that the facility for widespread bulk mail-out of unsolicited letters to constituents should cease, with effect from the decision of the Standards Committee.

Councillor Botterill stated that the Opposition viewed the facility as a useful administrative tool albeit one rarely used, and therefore supported retention in its current form. Other Committee members argued that the facility remained at risk of being abused for party political purposes. It was necessary therefore to find the correct balance between Councillors undertaking legitimate constituency representation work and that of using publicly funded resources for party political purposes.

Following discussion, , it was agreed to put to the vote the recommendation of the Monitoring officer that the bulk mail-out facility cease.

FOR – 4
AGAINST – 1
NOT VOTING – 1

RESOLVED:

1. To endorse the recommendation from the Council's Monitoring Officer to cease the current practice whereby ward Councillors can request bulk mail-outs.
2. To agree that this change takes effect following the Standards Committee decision, and that consequential changes to the protocol on use of Secretariat facilities are made for the annual re-adoption of the Council's Constitution in May 2005.

PAD(HP/MC/PS
to note.

PAD (JPC) to
note and action

Item
12

**APPLICATION FOR GRANT OF DISPENSATION:
ADMINISTRATION MEMBERS OF THE PLANNING
APPLICATIONS COMMITTEE**

Councillor Aherne declared a personal and prejudicial interest on this item, did not speak or vote, and left the meeting.

PAD (JPC/RL) to
note

Councillor Allen declared a personal interest on the item, remained at the meeting and spoke and voted.

Councillor Botterill re-stated his view that the quorum of the Planning Applications Committee should be lowered in order to avoid the disruption caused to the operation of the Committee every time an Administration Councillor chose to submit a planning application. He queried why the long-standing policy had been changed whereby, providing the matter were non-contentious, it was dealt with by officers under delegated powers. The Head of Legal Services explained that it was currently standard procedure for planning applications from councillors to be determined by committee, rather than officer delegation, for reasons of transparency.

The acting Chair stated that she found the current dispensation process highly unsatisfactory, as the Committee was being asked to rubber-stamp a process whereby the granting of dispensations was an effectively inevitable requirement if the business of the Planning Applications Committee was to be able

to proceed. The decision was implicit by the number of dispensation applications being requested by the Planning Applications Committee members.

Councillor Allen stated that the Committee had the duty of considering whether more than 50% of the planning committee members were prohibited from participating in the business of the authority, and if so, then the Committee should grant the dispensations requested. The process provided transparency, even if it was accepted that the outcome was in no great doubt where the conditions in the legislation applied.

The Head of Legal Services reminded the committee of the terms of the legislation on dispensations, and stated that the Committee could make known its view that individual members should examine more forensically their relationships and level of 'friendship' with a fellow councillor making a planning application, in line with the SBfE's advice on this issue, before seeking dispensations. If the committee were minded not to grant dispensations, there would need to be some reasoning or justification for this. It was agreed after further discussion that the Head of Legal Services would present a report to the next meeting of the Committee, taking account of the concern of independent members over the process and giving possible alternatives to the current arrangements for dealing with such applications.

PAD(MC) to
action for next
mtg.
PAD (RL) to note
for PAC

It was agreed to put the matter to a vote:

FOR – 3
AGAINST – 1
NOT VOTING – 1

RESOLVED: That the grant of dispensations to Councillors Aherne, Cartwright, Harcourt, Khaled and Treloggan be agreed as requested.

Meeting began 7:00 pm
Meeting ended 9:00 pm

Chair.....