

STANDARDS COMMITTEE

THURSDAY 6 JANUARY 2005 AT 2.00 PM

PRESENT: Councillor Dodd (Chairman), Councillors Farmer (P), Hendry, Stevenson and McDevitt

ALSO PRESENT: Mr A Fraser, Councillor J Holland

ST.01/05 APOLOGIES FOR ABSENCE

An apology for absence was received from Dr Tiplady and Councillor Hendry's apology for lateness was submitted.

ST.02/05 DECLARATIONS OF INTEREST

There were no declarations of any personal or personal and prejudicial interests related to any item on the Agenda.

ST.03/05 MINUTES

The Minutes of the meeting of the Standards Committee held on 10 May and 15 September 2004 had been circulated.

RESOLVED – The Minutes of the meetings of the Standards Committee held on 10 May and 15 September were signed by the Chairman as a true record of the meetings.

ST.04/05 LOCAL INVESTIGATION OF STANDARDS COMPLAINTS

The Head of Legal and Democratic Services reported (LDS.59/04) on the effect of new regulations and advice from the Standards Board for England on investigating Code of Conduct Complaints locally and he circulated a model procedure for carrying out such local investigations.

He reminded Members of the current arrangements whereby the Standards Board refer complaints to an Ethical Standards Officer for investigation and he outlined the new arrangements whereby an Ethical Standards Officer would decide whether to allocate it to one of the Standards Board's own investigators or to refer it to the authority's Monitoring Officer and he reported on the procedures to be followed in such instances.

He added that if the Investigating Officer concluded that there had been a failure to comply with the Code of Conduct or, if the Investigating Officer had found that there was no breach, the Standards Committee would make the

final decision as to whether or not there was a case for the Member to answer.

Members in considering the matter made the following comments:

- In respect of paragraph 3.2 of the report – Appointment of the Investigating Officer, that in addition to appointing a representative from the City Council and seconding an officer from another authority, the Monitoring Officer could also be authorised to appoint people recently retired from Local Authorities as well as experienced commercial investigators.
- In respect of the procedure for local investigations to look at the wording in 3.3 (f) (ii) of the report and to replace the wording from “merely a conclusion by the Standards Committee that they are not prepared at that stage to accept the Investigating Officer’s conclusions” and its replacement with “that they wish to consider further the Investigating Officer’s conclusions.”
- Under the procedure for local investigation of referred complaints at Appendix 1, under item 4 (a) of the draft report to consider whether the Council’s procedure should follow that of the Ombudsman in that the draft report circulated for comments includes only those areas with the Statement of Facts with the conclusion being added once the Statement of Facts had been approved.

The Head of Legal and Democratic Services commented that it was proposed to circulate the draft report which included both the Statement of Fact and the draft conclusion as this followed the precedent set for the Standards Board for England. If there were changes following the consultation on the draft, then the revised draft would also be circulated for consultation.

- In respect of item 2 (f) Notification of Reference of Allegation to the Monitoring Officer – initial response of the Councillor that there should be included in that section the words “within reason” as this would enable the Monitoring Officer to have some discretion should he consider the demands of the Councillor to be disproportionate to the complaint.
- With regard to paragraph 3.2 – Appointment of Investigating Officer, that the words “suitably experienced Investigator” could be inserted.
- Members also noted under paragraph 5 of the Procedure – Final Report, that a copy of the final report was required to be sent to the Member complained against a total of three times, including the draft report, final report and following consideration by the Standards Committee.

The Head of Legal and Democratic Services commented that he would look at the regulations to see whether there was a possibility of reducing that figure. However, if the regulations required those actions, then they would need to be included in the Procedure.

- Members also commented on the power of the Monitoring Officer to request witnesses to attend meetings of the Standards Committee.

The Head of Legal and Democratic Services commented that whilst it was likely that both Councillors and Officers could be required to attend, there was no powers to require representatives of third parties to attend as the Monitoring Officers did not have the same powers as the Ethical Standard Officers in the conduct of investigations.

RESOLVED – (1) That the Committee note the implementation of the regulations which enable complaints into alleged breaches of the Code of Conduct to be investigated locally and the Standards Board guidance on how such investigations should be carried out as summarised in report LDS.59/04.

(2) That subject to the amendments suggested by Members in relation to the procedure as set out above, the Committee approve the procedure for carrying out local investigations as attached to Appendix 1 to report LDS.59/04 which reflect the Standards Board guidance on the matter.

(3) That the Committee note the proposal to monitor the potential budgetary consequences which may arise from the new duty to carry out local investigations.

(4) That the Head of Legal and Democratic Services be authorised to make appropriate amendments to both the previously approved procedures for hearing complaints following investigation and report by Ethical Standards Officer and by a local Investigating Officer in order to bring them into line with the new regulations and guidance.

(5) That the Head of Legal and Democratic Services circulate a copy of the above procedures for hearing complaints to Members and Officers and advise them that the Standards Committee will expect their co-operation in any local investigations carried out by the Standards Committee.

ST.05/05 CASELOAD

A Member sought details of the number of cases which had been referred to and considered by Ethical Standards Officers which might fall within the Standards Committee's jurisdiction.

The Head of Legal and Democratic Services commented that there had been a number of cases concerning City Councillors and Parish Councillors within the City Council's area which had been referred to the Standards Board for England.

He added that in the majority of cases, particularly in respect of the Parish Councils, these had, in the main, related to administrative details relating to the Code of Conduct.

He added that the Standards Board for England's web-site contained a central index/ record of complaints which detailed complaints submitted in the City Council's area but there could also be a number of additional complaints which were not detailed in respect of complaints which are not referred for investigation.

RESOLVED – That the report be noted.

(The meeting ended at 2.40 pm)