

STANDARDS COMMITTEE

Monday 6 June 2005 at 6.00 p.m.

at the Council House, Walsall

Present

Councillor Bentley
Councillor Khan
Mr. R. Meller
Mrs. S.F. Parsons
Councillor Underhill

In attendance

Councillor Ansell
Councillor Anson
Councillor Ault
Councillor Burley
Councillor Douglas-Maul
Councillor Griffiths
Councillor Martin
Councillor Micklewright
Councillor Rochelle

157/05 Appointment of Chairman for this meeting

Resolved

That Mr. R. Meller be appointed Chairman of Standards Committee for this meeting.

Mr. R. Meller in the Chair

158/05 Changes of membership

There were no changes in membership for this meeting.

159/05 Apologies

Apologies for non-attendance at the first part of the meeting were submitted on behalf of Mr. L. Bates, Councillor O'Hare and Mr. R. Taylor.

160/05 Declarations of interest

There were no declarations of interest for the first half of the meeting.

161/05 Review of members Code of Conduct

The report of the Assistant Director of Legal Services and Monitoring Officer previously submitted to the 20th April 2005 meeting of Standards Committee was submitted:-

(see annexed)

Resolved

That the Assistant Director of Legal Services and Monitoring Officer be requested to forward the following comments in response to questions 1 to 15 asked in the consultation document on the review of the members Code of Conduct undertaken by the Standards Board for England:-

The general principles

1. *Should the ten general principles be incorporated as a preamble to the Code of Conduct?*

Response: The ten principles should be incorporated into the preamble to the members Code of Conduct.

2. *Are there any other principles which should be included in the Code of Conduct?*

Response: Yes, reference should be made to the exercise of discretion and the requirement to treat everyone as your neighbour.

Disrespect and freedom of speech

3. *Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?*

Response: No definition of disrespect is needed. Each case should be considered on its own merit.

4. *Should the Code of Conduct include a specific provision on bullying? If so, is the Acas definition of bullying quoted in the full consultation paper appropriate for this?*

Response: The definition provided does not cover one off incidents of bullying and it is the opinion of this Committee that it should, thus, an amended definition taking account of this is put forward.

“Bullying may be characterised as a pattern or an incident of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine an individual or a group of individuals gradually eroding their confidence and capability which may cause them to suffer stress.”

Confidential information

5. *Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?*

Response: A number of views were expressed on this matter and the Committee was unable to reach a consensus view. Some members supported an explicit public interest defence in relation to the disclosure of confidential information and some members were against the introduction of such a defence.

6. *Do you think the Code of Conduct should cover only information which is in law “exempt” or “confidential”, to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?*

Response: Yes, the Code of Conduct should cover only information which is in law defined as “exempt” or “confidential”.

Disrepute and private conduct

7. *Should the provision relating to disrepute be limited to activities undertaken in a member’s official capacity or should it continue to apply to certain activities in a member’s private life?*

Response: The existing test used in the Code of Conduct is appropriate. In considering whether a member has brought the office or the Authority into disrepute, it is important that there is linkage to the member’s public role.

8. *If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?*

Response: The existing test used in the Code of Conduct is appropriate, however, as with 7 above, it is important that there is linkage to the member's public role.

Misuse of resources

9. *We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?*

Response: Yes, but it is very difficult to define "inappropriate political purposes" except in extreme cases of electioneering.

10. *If so, how could we define "inappropriate political purposes"?*

Response: It is very difficult to define "inappropriate" political purposes except in extreme cases of electioneering.

11. *Is the Code of Conduct right not to distinguish between physical and electronic resources?*

Response: A variety of views were expressed by elected members and no consensus could be reached save that the issuing of a model protocol by the Standards Board for England on the use of resources would be welcomed.

Duty to report breaches

12. *Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether, or somehow narrowed?*

Response: The provision that requires members to report breaches of the Code by fellow members should be narrowed and relate only to when a member is acting in a public capacity.

13. *If you believe the provision should be narrowed, how would you define it? For example, should it apply only to misconduct in a member's public capacity, or only to significant breaches of the Code?*

Response: The provision in the Code should be narrowed and relate only to when a member is acting in a public capacity. Allegations should be in writing and signed by the party who is alleging the breach of the Code.

14. *Should there be a further provision about making false, malicious or politically-motivated allegations?*

Response: There is a need to reduce the making of false, malicious or politically motivated allegations. Proposals to deal with this matter in the preamble in the Code of Conduct would be ineffective as the preamble is not part of the Code which could lead to sanctions being imposed.

15. *Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?*

Response: There is sufficient protection for complainants against intimidation. The addition of further clauses would not provide any greater protection for complaints against intimidation. The real issue is not whether protection is available but whether it can be effectively utilised to provide the protection required.

162/05 **Adjournment of meeting**

Resolved

That consideration of questions 16 to 29 in respect of the consultation document on the review of the members Code of Conduct be deferred to the second part of the meeting to be held on Friday 10 June 2005 commencing at 5.00 p.m. in a Conference Room at the Council House.

The meeting adjourned at 7.45 p.m.

Chairman:

Date: