

**BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK**

**STANDARDS COMMITTEE**

**Minutes of a Meeting of the Standards Committee held on  
Tuesday 24 March 2009 at 10.00 am in Meeting Rooms 1 and 2,  
King's Court, Chapel Street, King's Lynn**

**PRESENT:**

Mr M Sale (Chair - Independent Member), Mr R Steward (Independent Member),  
Mr G Brierley (Independent Member), Mr J Dawson (Parish Representative),  
Mr H Malik (Parish Representative), Mr D Shepperson (Parish Representative)  
Councillors D Harwood, J R Legg, A Tyler and C Walters,  
Nicola Leader (Legal Services Manager/Monitoring Officer)  
Kathy Wagg (Democratic Services Officer)

Councillor Mrs K Mellish and Mr R Harding (Chief Executive) present for Item 5

**1 WELCOME**

The Chairman welcomed Councillor Mrs K Mellish and the Chief Executive who would present Item 5 to the meeting. He also welcomed Mr G Brierley (Independent Member) and Mr D Shepperson (Parish Representative) to their first meeting.

**2 APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor Goodson.

**3 MINUTES**

The Minutes of the Meeting of the Full Committee held on 9 December 2008 were agreed and signed by the Chairman.

**4 DECLARATIONS OF INTEREST**

There were none.

**5 MEMBER/OFFICER PROTOCOL**

The Committee considered the report which would be presented to Cabinet on 31 March 2009. The Chief Executive explained that:-

- The existing protocol had been reviewed and amended to recognise national models and best practice advice
- The protocol was designed to promote openness and trust between Officers and Members.
- Was intended to be used as a reference tool and might prove especially useful for staff who join the Council from outside the public sector.

Councillor Mrs Mellish added that it would also be helpful as a guide to Members in their dealings with staff.

Councillor Harwood stated that he felt that in general there was a mutual respect between Members and officers and he could not recall any circumstances where there had been a need to refer to the existing protocol.

Councillor Walters stated that he felt that there were aspects of protocol that were not clear and that some of the wording needed to be 'tightened up'. He made reference to paragraph 39 'to promote equality by not discriminating unlawfully against any person' and also paragraph 25 which referred to Members seeking advice from senior colleagues but he considered that all Members were equal.

Councillor Walters also considered that the protocol did not emphasise that the Council was a Member led authority.

Councillor Mrs Mellish added that the overall aim of the protocol was for Members and officers to be able to work together.

Councillor Tyler asked if there was any mechanism to feed any comments in or to seek clarification on any point. It was confirmed that advice could be sought from the Monitoring Officer.

Discussion took place on the use of the words 'discriminate unlawfully' and the Monitoring Officer advised that the expression was used to describe discrimination which is prohibited by statute.

The Chair added that in his view the protocol would offer guidance to both staff and Members and would add to and clarify the existing Code of Conduct. He also suggested that in order to monitor its effectiveness, that an annual report should be received by the Standards Committee. The Chair also asked whether staff had been formally consulted on the protocol and whether it had been endorsed by Unison. The Chief Executive explained that this had been seen by a number of staffing groups but would check to ensure that consultation had taken place through the usual channels.

The Chief Executive explained that the protocol would form part of the induction process for new employees.

In response to a question, the Monitoring Officer explained that the protocol would not form part of officers' contract of employment.

Mr Brierley suggested that there needed to be clear guidance for staff and Members relating to how the protocol would be used.

The Chair added that he considered that staff should be formally consulted before the Committee endorsed the protocol. The Chief Executive confirmed that following the consultation, if there was a need to make any

major changes to the protocol, then it would come back to the Committee to consider.

**RESOLVED:** That Cabinet be informed that the Committee endorses the Member/Officer Protocol, subject to full consultation with staff to ensure they have had the opportunity to make any representations on the protocol before it is adopted.

## 6. LOCAL ASSESSMENTS

The Monitoring Officer advised that since the beginning of January 2009 she had received 4 complaints. One in January, which had been referred for investigation; one in February which the Monitoring Officer had determined disclosed no breach of the Code and two in March. Of the complaints received in March, one had been considered by an assessment sub-committee and was not referred for investigation and the second complaint was due to be considered by the assessment sub-committee on the 1<sup>st</sup> April.

## 7. OUTCOME OF A COMPLAINT TO THE STANDARDS BOARD

The Chair reported on the outcome of a complaint he had made to the Standards Board for England on behalf of the Committee in October 2007 against a local parish councillor who had failed to comply with a sanction imposed by a Panel in February 2007. The Board had concluded that:-

- a. It considered that the councillor had failed to comply with the sanction and that this failure was conduct which amounted to a failure by him to comply with the Code of Conduct 2001 and
- b. No action needs to be taken

In reaching the decision that no action should be taken the Board took note of the fact that *'the sanction imposed by the Committee in February 2007 was effectively unenforceable if the councillor chose not to cooperate. The Standards Committee failed to set out any further sanction which would be imposed on the Councillor if he refused or failed to apologise. In that regard the sanction was deficient as it left it open to the councillor to avoid complying it without any immediate consequence'* The Board also took account of *'the time that has elapsed since the matter giving rise to the allegation occurred and do not consider that it would be in the public interest to refer this matter to a hearing'*

In a covering letter which accompanied the written decision the Ethical Standards Officer who considered this matter stated *'in my personal view I am unsure how appropriate it is to require a member to apologise to someone to whom he or she is deemed to have been disrespectful, unless the member clearly indicates during the course of the hearing that they accept the fault and would wish to apologise. In my view, an apology which is required to be made under duress of a sanction is unlikely to be viewed*

*by the recipient as sincere or genuinely meant and accordingly it will have less value'.*

Members expressed concerns at the time it had taken the Board to agree that the matter should be investigated by one of its officers' and, consider the complaint. They also questioned whether it would have been seen as proportionate for the original panel to have imposed the alternative sanction of suspension for a relatively minor breach of the code. They expressed disappointment that the Board had not seen it in the public interests to pursue this matter.

**RESOLVED:** That the advice offered by the Board should be followed by the Committee at future hearings

**8. GUIDANCE NOTE**

The Monitoring Officer confirmed that following consultation with members a Guidance note on 'How to make a complaint under the Code of Conduct' had been made available to the public. This had also been circulated to Town and Parish Councils and was available through the Council's website. Members thanked the Monitoring Officer for the work she had undertaken on this.

**9. NOTIFICATIONS TO PARISH COUNCILS CONCERNING COMPLAINTS**

Mr Dawson drew attention to an article on this which had appeared in the last issue of the Standards Board's 'Town and Parish Standard' The Monitoring Officer agreed to consider whether any action by the Committee was necessary and report back to the next meeting.

**10. DATE OF NEXT MEETING**

**RESOLVED:** That the future meetings of the Standards Committee be arranged for:

- Monday 22 June 2009 at 10.00 am in Meeting Rooms 1 and 2, King's Court, Chapel Street, King's Lynn.
- Monday 28 September 2009 at 10.00 am in the Committee Suite, King's Court, Chapel Street, King's Lynn.

**The Meeting closed at 11.02 am**