

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

**STANDARDS COMMITTEE**

**Minutes of a Meeting of the Standards Committee held on  
Thursday 17 May 2012 at 10.30 am, in the Committee Suite,  
King's Court, Chapel Street, King's Lynn**

**PRESENT:**

Mr M Sale (Chairman - Independent Member),  
Mr J Dawson (Parish Representative), Mr E Langford (Parish Representative),  
Mr D Shepperson (Parish Representative), Mr R Steward (Independent Member),  
Councillors B Ayres, R Bird and Mrs Z Christopher  
Nicola Leader (Legal Services Manager/Monitoring Officer)  
Kim Newbould-Richardson (Investigating Officer)  
Emma Duncan (Investigating Officer)  
Wendy Vincent (Democratic Services Officer)

The Chairman welcomed Councillor Mrs Christopher to her first meeting and informed the Committee that she had replaced Councillor Wareham, the Mayor who had had to resign from the Committee to allow him to undertake his Mayor duties.

**1 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors D Harwood and D Johnson.

**2 MINUTES**

The Minutes of the following meetings were agreed as a correct record and signed by the Chairman.

**Full Standards Committee**

9 February 2012

**Standards Committee – Local Assessment Sub-Committees**

**9 February 2012**

Mr Martin Sale (Independent Member – Chairman)  
Mr Rae Steward (Independent Member)  
Mr David Shepperson (Parish Representative)

**1 March 2012**

Mr Martin Sale (Independent Member– Chairman)  
Mr Rae Steward (Independent Member)  
Mr John Dawson (Parish Representative)

**20 March 2012**

Mr Martin Sale (Independent Member – Chairman)  
Mr Rae Steward (Independent Member)  
Mr David Shepperson (Parish Representative)

**26 April 2012**

Mr Martin Sale (Independent Member – Chairman)  
Mr Rae Steward (Independent Member)  
Mr John Dawson (Parish Representative)

Standards Committee – Review Sub-Committee

**24 April 2012**

Mr G Brierley (Chair - Independent Representative)  
Councillor R Bird  
Mr E Langford - Parish Representative

**3 DECLARATIONS OF INTEREST**

Mr E Langford declared a prejudicial interest in relation to Agenda Item 5 – Complaints 06/11, 11/11 and 12/11 and left the meeting room during consideration of the complaints.

Councillor B Ayres declared a prejudicial interest in relation to Agenda Item 5 – Complaint 13/11 and left the meeting room during consideration of the complaint.

**4 EXCLUSION OF PRESS AND PUBLIC**

To consider passing the following resolution:

“That under Section 100(A)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2 and 3 of Part 1 of Schedule 12A to the Act.”

**5 PRIVATE AND CONFIDENTIAL REPORTS OF THE INVESTIGATING OFFICERS RELATING TO COMPLAINTS 06/11, 11/11, 12/11 and 13/11**

Complaint 11/11

Kim Newbould-Richardson, the Investigating Officer presented the report relating to complaint 11/11.

The Committee was invited to ask questions of the Investigating Officer.

There were no questions from the Committee to the Investigating Officer.

**RESOLVED:** The Standards Committee agreed with the findings of the Investigating Officer's report that there was no breach of the Parish Council's Code of Conduct

Complaints 6/11 and 12/11

Emma Duncan, the Investigating Officer presented the report relating to complaints 6/11 and 12/11.

The Committee was invited to ask questions of the Investigating Officer.

There were no questions from the Committee to the Investigating Officer.

**RESOLVED:** The Standards Committee agreed with the findings of the Investigating Officer's report that there was no breach of the Parish Council's Code of Conduct.

Complaint 13/11

Emma Duncan, the Investigating Officer presented the report relating to complaint 13/11.

The Committee was invited to ask questions of the Investigating Officer.

There were no questions from the Committee to the Investigating Officer.

**RESOLVED:** The Standards Committee agreed with the findings of the Investigating Officer's report that there was no breach of the Parish Council's Code of Conduct.

**RETURNED TO OPEN SESSION**

**6 NEW STANDARDS REGIME**

The Monitoring Officer presented a report on the New Standards Regime, which would be considered by the Council's Cabinet on 6 June 2012 and Full Council on 21 June 2012.

The proposed recommendations were outlined as set out in the summary of the report.

It was highlighted that the Act abolished the Standards regime established under the Local Government Act 2000 and replaced it with a simpler, less prescriptive method of addressing Standards and Ethics issues within Local Authorities. The responsibilities of the Monitoring Officer in respect of Parish

and Town Council's within the Borough remained unaltered.

The key features of the Act's provisions in relation to Standards and Ethics were outlined as set out below:

- A statutory duty to promote and maintain high standards of conduct by Members and co-opted Members of the Council.
- The abolition of the Standards Board for England from the 31<sup>st</sup> January 2012 ("Standards for England").
- The mandatory adoption of a Code of Conduct intended to promote and maintain behaviour consistent with the following principles.
  - a. Selflessness
  - b. Integrity
  - c. Objectivity
  - d. Accountability
  - e. Openness
  - f. Honesty
  - g. Leadership.
- The option for Local Authorities to have a Standards Committee to assist in carrying out the statutory duty.
- A flexible non-prescriptive framework for dealing at local level with Standards complaints.

#### A New Code of Conduct

The Monitoring Officer explained that in keeping with the Localism principles of the Act each Local Authority (including Parish and Town Councils) was given the discretion to decide on the contents of its own Code. It must, however, serve to promote and maintain high standards of conduct and must be consistent with the seven principles outlined above.

The Council's current Code will be repealed as from 1 July 2012.

It was noted that during the passage of the Act through Parliament, Peers in the House of Lords suggested that the LGA should develop methods to support Councils when developing codes. The LGA had produced a template.

The Code satisfied the criterion in that it was consistent with the seven principles of conduct in public life and had the advantage that it was likely to be adopted by a considerable number of Authorities - including Authorities in Norfolk.

The Code permitted individual Authorities to prescribe their own arrangements for registration and disclosure of interests.

The Committee was advised that the adoption of a Code (and any subsequent revision or replacement) under the Act could only be done by full Council. The Council must publicise the adoption, revision or replacement of a Code.

### Members' Interests

The Act abolished the concepts of 'personal and prejudicial' interests. There were two new types of interests, 'Disclosable Pecuniary Interests' (DPI's) which must be notified to the Monitoring Officer and put on the register and 'interests other than pecuniary interests' that the Council agreed needs to be registered.

The Code must include appropriate requirements for the registration and disclosure of Member's interests. However, whilst the Act specified that the Secretary of State would make regulations to describe 'disclosable pecuniary interests' the regulations had not yet been published. It was therefore proposed that as an interim arrangement the Council adopted the registration, disclosure and declaration procedures that were currently in use.

The Act placed a duty upon the Monitoring Officer to establish and maintain a register of interests. The register must be available for public inspection and published on the Council's website. The Monitoring Officer must also publish the Parish and Town Council's registers of interests on the Borough Council's website.

### Disclosable Pecuniary Interests

It was highlighted that Members should note that in addition to the duties relating to interests contained in the Code, the Act also created specific criminal offences in relation to the disclosure of pecuniary interests.

The Committee was informed that it would be necessary for the Borough Council to amend its current Standing Orders in relation to Disclosable Pecuniary Interests (DPI's). A Member with a DPI may not participate or vote on the matter. It would therefore be a requirement to amend the Council's Standing Orders to allow the Member to leave the meeting room during consideration of that particular Agenda item.

### The Arrangements

The Monitoring Officer explained that the Monitoring Officers from the principal Norfolk authorities had drafted the proposed arrangements for considering allegations made against Members of the Borough, Town and Parish Councils. The differences between the current and proposed schemes were outlined. It was highlighted that if the Monitoring Officer decided not to refer the complaint for investigation, or some other action then the matter was closed. There would not be provision for appeal or

review of that decision by the Council or any other person. The only other legal recourse would be judicial review.

The Authority must put in place:-

- a) arrangements under which allegations against Members of the Borough Council and Members of the Town and Parish Councils within the Borough can be investigated and
- b) arrangements under which decisions on allegations can be made.

The draft arrangements were outlined as detailed at Appendix 2 to the report. The arrangements must include the appointment of at least one Independent Person.

### The Independent Person

The role of the Independent Person in the new Standards arrangements was two-fold. Firstly, the views of the Independent Person may be sought by the Authority generally or by the Member who was the subject of the allegation.

Secondly, the views of the Independent Person must be sought and taken into account by the Authority before it made its decision on an allegation that it had decided to investigate. The role therefore differed from the previous role of an Independent Member upon a Standards Committee.

Any appointment must be preceded by a public advertisement, an application and approval by the majority of the Authority's Members. It was highlighted that because of the above criteria, the current Independent Members of the Council's Standards Committee were not eligible to be this Council's "Independent Person".

It was proposed to Members that an Independent Person be appointed in collaboration with other Local Authorities in Norfolk so that in effect a "pool" of available independent persons was established. The independent persons in that pool were appointed as Independent Persons for one authority and reserve Independent Persons for the other Authorities which would provide resilience, particularly where the Council's own Independent Member was 'conflicted out' of a particular matter.

### Standards Committee

It was highlighted that there was no obligation under the Act on Local Authorities to appoint a Standards Committees.

The arrangements for dealing with Standards' Allegations set out a proposed list of sanction powers available to the Standards Committee upon a finding of a breach of the Code. The Committee was advised that the sanction powers no longer included the powers of suspension and

disqualification available under the previous regime. The Act in fact prescribed no powers of sanction and the suggested sanctions were based upon use of existing express or implied powers.

The current statutory requirements for the appointment to Standards Committees of Independent and Parish Members with full voting rights and for Independent Members to be Chairman and Vice-Chairman of those committees would cease when the new standards regime was implemented. The Council could, if it so wished, co-opt Parish Council representative(s), in a *non-voting* capacity to the new Standards Committee. Were the Council to co-opt Parish Member(s) in this way, it would have to be on the understanding that their role would be somewhat limited. It would be possible to appoint the Council's Independent Person(s) to the Standards Committee, but they would not be voting members.

Following investigation, where a hearing was required it was proposed that the complaint was, as was the case under current arrangements, considered by a Hearing sub-committee comprising of three members of the Standards Committee.

#### Dispensations

The Act provided for dispensations from the speaking and voting restrictions of Members with disclosable pecuniary interests.

#### Parish and Town Councils

The provisions of the Act applied to the Parish/Town Councils, but with some changes:

- The Parish/Town Councils could adopt their own Code of Conduct, or adopt that of the Borough Council.
- The Borough Council's Monitoring Officer must maintain and manage the Parish/Town Council's Registers of Interests and the Parish/Town Councils Registers of Interests must be published on the relevant Parish/Town Council's website and also on the Borough Council's.

A Parish/Town Councillor against whom an allegation was made would be free to consult the Borough Council's Independent Person.

All the rules about disclosing interests and participation would apply equally to Parish/Town Councillors as they did to Borough Councillors.

There would be a particular difficulty in respect of Parish/Town Councils in respect of sanctions as the Localism Act gave the Council or its Standards Committee no power to do any more in respect of a Parish/Town Council, other than make a recommendation to the Parish/Town Council on action to be taken in respect of a Member. Parish/Town Councils will be under no obligation to accept any such recommendation, notwithstanding the

Council's duty to uphold the standards of behaviour within the Parish/Town Councils, and their duty to investigate any complaints against Parish/Town Councillors.

### Transitional Arrangements

Regulations under the Act will provide for:

- a transitional period for the determination of any outstanding complaints under the current Code of Conduct;
- removal of the power of suspension from the start of the transitional period.

Members were invited to note and comment on the report, a summary of which is set out below.

In response to questions from Mr Langford regarding sanctions, the Monitoring Officer explained that, if a hearing concluded that there had been a breach of the Code, the Committee would consider whether and what sanction might be appropriate. The Committee could only recommend appropriate action to the relevant Town or Parish Council, but would not be able to enforce it.

Following comments and questions from Mr J Dawson on Disclosable Pecuniary Interests, the Monitoring Officer explained that it would be for the complainant to instigate the legal process. The cost of any defence representation would be met by the individual member or the Town/Parish Council if such a policy was in place.

In response to questions on reporting the findings in the press and confidentiality, the Monitoring Officer advised that at present nothing had been included to cover any issues relating to confidentiality. The Chairman, commented that a safeguard ought to be built in to cover the important issue of confidentiality. It was proposed, seconded and agreed by the Committee that the following recommendation be forwarded to Cabinet and Council for consideration:

*“That the Council’s arrangements for dealing with complaints include provisions for all information to be treated as confidential save where there is a finding of a breach of the Code.*

In response to questions from Mr Langford on sanctions and resignation of a Councillor, the Monitoring Officer explained that a resignation would not automatically stop an investigation. A discussion would be held between the Monitoring Officer, the Chairman and the Standards Committee to formally agree to discontinue the investigation. In some cases, the decision may be taken to continue the investigation.



Mr J Dawson suggested that a letter be sent to Parish and Town Clerks reminding them to review their financial declarations.

The Chairman commented that he had concern if Monitoring Officers determined not to investigate the complaint, there would be no other legal recourse but judicial review. He therefore proposed that if this was the case, then there should be a requirement for the Monitoring Officer to consult with the Independent Person.

Following comments and questions from Councillor Bird, the Monitoring Officer explained that the Regulations were awaited. However, it was anticipated that future investigations would be conducted under the current arrangements and a deadline would be set in which current investigations should be completed. Post 1 July 2012, the sanction of suspension would be removed. If the Council chose to have a Standards Committee, it would comprise seven elected Members, and the Council would have the option to co-opt Parish representatives in a non-voting capacity to the Committee. The Monitoring Officer advised those present, that this option had not been included in the Cabinet report.

The Chairman commented that the input from Parish Councils had been a valuable asset and suggested therefore that the Council allow the influence of Parish Councils in the future. Mr Langford added that if there appeared to be a consensus among the Norfolk Monitoring Officers, then the recommendation should be included in the Council's Cabinet report.

In response, the Monitoring Officer explained that this would be a decision for the Borough Council to make and could be reviewed in the future.

**RESOLVED:** That Cabinet be advised that the Standards Committee supports the recommendations as set out in the report to Cabinet, with the additional recommendations as follows:

- 1) When a decision is made not to proceed with a complaint the Council should apply the arrangements found in the present regulations for dealing with confidentiality.
- 2) The details of the action taken by the Monitoring Officer, where investigation concludes that there is evidence of a breach of the Code and the matter is resolved without the need for a hearing, shall be made publicly available
- 3) That the Monitoring Officer be required to consult the Independent Person before determining not to refer a complaint for investigation.

## **7 Any other Business**

The Chairman thanked Members and officers for all their efforts and input into the Standards Committee over the past years.

**The Meeting closed at 12.05 pm**