

BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK

STANDARDS COMMITTEE

**Minutes of a Meeting of the Standards Committee held on
Monday 28 September 2009 at 10.20 am in the Council Chamber,
Town Hall, Saturday Market Place, King's Lynn**

PRESENT:

Mr M Sale (Independent Member – Chairman)
Mr R Steward (Independent Member), Mr J Dawson (Parish Representative),
Mr H Malik (Parish Representative), Mr D Shepperson (Parish Representative)
Councillor I Goodson, J Legg, A Tyler, Mrs V Spikings (for Item 7 only),
C Walters, Nicola Leader (Legal Services Manager/Monitoring Officer)
Jacqui Bullen (Senior Lawyer), Wendy Vincent (Democratic Services Officer)

The Chairman welcomed Councillor Mrs Spikings, Portfolio Holder for Development to the meeting for Item 7 only.

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor D Harwood and Mr G Brierley.

3 MINUTES

The Minutes of the Meeting of the Full Committee held on 22 June 2009, Local Assessment Sub-Committees held on 13 July, 12 August and 1 September 2009 were agreed and signed by the Chairman.

4 DECLARATIONS OF INTEREST

There were none.

5 EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED: "That under Section 100(a)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they may involve the likely disclosure of exempt information as defined in paragraphs 1 and 3 of Part 1, 2 and 3 of Schedule 12A to the Act."

6 LOCAL ASSESSMENT OF COMPLAINTS

The Monitoring Officer presented the report detailing the number of complaints received and determined by the Local Assessment Sub-Committee. She explained that all complaints received were dealt with within the timescale of 20 working days as set out in the guidance issued by the Standards Board for England.

Amendments to the schedule were noted accordingly.

RESOLVED: That the update report be noted.

- RETURN TO OPEN SESSION –

7 REVISIONS TO MEMBER'S CODE OF GOOD PRACTICE FOR DEVELOPMENT CONTROL

This item was taken first on the Agenda.

The Monitoring Officer explained that the report before Members sought the adoption of amendments to the Code of Good Practice for Development Control to ensure probity and fairness in decision making.

In consultation with the Standards Committee a Members' Code of Good Practice for Development Control ("the Code") was adopted by Council on 31 July 2008.

In May 2009, the Local Government Association (LGA) published a document entitled 'Probity in Planning – a revised guidance note on good planning practice'. The Council's Monitoring Officer considered and compared the revised guidance against the Code as currently drafted, with Members of the Development Control Board (DCB) at a training session in June 2009.

The Code as drafted already reflected the guidance produced by the LGA and therefore only two amendments were proposed as set out below:

Section 5 – Making decisions with a 'closed mind' and the issue of bias

The Monitoring Officer explained that the first amendment reflected advice in the guidance in respect of the situation where a Ward Member who was also a Member of the DCB wished to campaign for or against a proposal and to represent their ward interests. The guidance confirmed the position that the Member having declared their pre-determined position could continue to represent those ward interests as a spokesperson for their local community; notwithstanding their DCB Membership, by addressing the Board pursuant to the Council's Standing Orders, which gave Members the right, subject to the giving of notice to attend and speak at any meeting.

The insertion of the proposed wording to read as follows:

A pre-determined Member can continue to represent his/her ward interests by attending the Board pursuant to Standing Order 34. However, he/she shall withdraw from the room once the opportunities to speak under Standing Order 34 have been completed. This is to counter any suggestion that Members of the Board may have been influenced by their continuing presence.

Section 12 – Referring applications to the Board

The Monitoring Officer explained that the proposed amendment to this section arose not in connection with the guidance, but as a result of an issue that was raised at the DCB training session in June. Members agreed that when Members exercised their right to refer matters to the Board, that application was outside of their ward that, before they referred the matter, they would approach the Ward Member and give them the opportunity to refer the matter to the Board first.

The insertion of the proposed wording to read as follows:

Members shall not normally refer proposals outside of their ward to the Board. However, where the Member considers that there are planning reasons or reasons of wider concern which require the proposal to be considered by the Board, he/she will before referring the proposal to the Board approach the Ward Member and give them the opportunity to refer the matter to the Board.

The Committee was invited to comment on the proposed amendments as outlined above.

There were no questions from the Committee relating to Section 5 of the Member's Code of Good Practice Code for Development Control.

In response to questions relating to Section 12, the Monitoring Officer explained that her advice to Members would be to attend the Development Control Board under Standing Order 34 if they wished speak regarding a particular application. This would allow the Member to speak for 5 minutes, instead of 3 minutes given to members of the public. Once the Member had addressed the Board, he/she should withdraw from the meeting.

At the invitation of the Chairman, Councillor Mrs Spikings addressed the Committee. She advised that the Development Control Board fully endorsed the Member's Guide of Good Practice for Development Control and reiterated that the proposed amendment to Section 12 was as a result of an issue raised at a training session held in June 2009. The proposed amendment encouraged better dialogue between Members.

RECOMMENDED: That the Standards Committee recommend to Council the adoption of the amendments to the Code of Good Practice for Development Control as drafted.

Councillor Mrs Spikings left the meeting at 10.30 am.

8 NOTIFICATIONS TO PARISH COUNCIL'S CONCERNING COMPLAINTS

The Monitoring Officer reported that the Standards Board for England had suggested that each Parish Council should adopt procedures for notifications of complaints as part of their Standing Orders. This would

make it clear at the outset as to how the Parish Council would deal with notifications that it received from the Monitoring Officer as part of the local assessment process.

The Committee was advised that there was currently no guidance available to Town and Parish Councils. The proposed draft policy would therefore introduce certainty and consistency for Town and Parish Councils.

The Committee was invited to comment/ask questions on the report.

In response to questions, it was noted that generally Parish Councils welcomed regulations and certainty. Rules were required and should be adhered to. The Monitoring Officer advised that consultation would take place with Town and Parish Councils rather than impose the draft policy. The outcome of the consultation with Town and Parish Councils would be reported to the next Standards Committee in January 2010.

It was suggested that the draft policy should form part of the Parish Clerk's training when appointed.

The Chairman suggested that the words "will" be changed to "shall" in paragraphs 1 and 8 of the draft policy to ensure consistency within the document.

RESOLVED: (1) The contents of the report be noted.

(2) The Borough Council would consult Town and Parish Councils on the proposed Policy set out in paragraph 2 of the report.

9 NEW STANDARDS COMMITTEE REGULATIONS

The Monitoring Officer explained that the purpose of the report was to advise Members of the new regulations in relation to the suspension of arrangements for the local initial assessment of complaints, the power for local authorities to establish joint Standards Committees and the power for Standards Committees to grant dispensations to local authority Members, to allow them to participate in meetings even when they had prejudicial interests.

The regulations came into force on 15 June 2009. The Monitoring Officer highlighted the salient points as set out in Sections 2, 3 and 4 of the report as set out below:

Section 2 – Initial Assessment of Complaints

The Local Government and Public Involvement in Health Act 2007 amended Part III of the Local Government Act 2000, which regulated the conduct of local authority Members. The 2007 Act introduced a system in which assessment of allegations of breaches of the Code of Conduct of local authorities would be undertaken by the local authorities' own Standards Committees. However, provision was made, at Section 57D of the Local

Government Act 2000, for the Standards Board for England in prescribed circumstances to suspend the initial assessment functions of Local Standards Committees, and direct them to refer allegations to the Standards Board for England, or to the Standards Committee of another local authority. The regulations specify the circumstances in which the Standards Board for England may give such a direction as outlined below:

- The Standards Committee has failed to have regard to guidance issued by the Standards Board.
- The Standards Committee has failed to comply with a direction issued by the Standards Board.
- The Standards Committee or the local authority's Monitoring Officer has failed to carry out functions in a reasonable time or a reasonable manner.
- The local authority or its Standards Committee has invited the Standards Board to give a direction.

In response to a question, the Monitoring Officer explained that a monitoring form was completed on a quarterly and annual basis and submitted to the Standards Board for England. This enabled the Standards Board for England to assess whether local authorities were carrying out their functions properly.

Section 3 – Joint Standards Committees

The Committee was advised that the Regulations allowed two or more local authorities to set up a joint Standards Committee to discharge all or some of their standards functions in Part III of the Local Government Act 2000 or functions relating to local authority Members, officers, staff and committees in Part 1 of the Local Government and Housing Act 1989.

The Monitoring Officer explained that to date, the Borough Council had not received any request to set up a joint Standards Committee. She also reported that she was not aware of any other Norfolk authorities seeking to set up a joint Standards Committee. However, with shared services on the agenda, it might be something to revisit in the future. A guidance note was attached to the report outlining how to establish and operate a joint Standards Committee if a decision was taken to go down that route.

There were no questions from the Committee on this section of the report.

Section 4 – Dispensations

The Monitoring Officer reported that the Members' Code of Conduct required Members to withdraw from meetings of their authorities when any matter in which they had a prejudicial interest was being discussed. However, they were not required to do so if they had obtained a dispensation for their local authority's Standards Committee. The new Regulations introduced new provisions to clarify the grounds on which

Standards Committees may grant dispensations to a Member as set out below:

- The transaction of business of the authority would be impeded because either more than 50% of the Members who would otherwise be entitled to vote at a meeting would be prohibited from voting, unless they are granted a dispensation, or the number of Members that are prohibited from voting at a meeting would upset the political balance of the meeting unless dispensations are granted.
- The Member had submitted a written request to the Standards Committee for a dispensation, explaining why it is desirable.
- The Standards Committee concluded that, having regard to the fact that the business of the authority would otherwise be impeded and to the written request and to any other relevant circumstances, it is appropriate to grant the dispensation.

It was highlighted that dispensations may be granted for speaking only or for speaking and voting. The Regulations required Standards Committees to ensure that the granting of any dispensation was recorded in writing and that this was kept with their local authority's Register of Members' Interests.

The Borough Council had not received any requests to date.

In response to questions, the Monitoring Officer explained that any request for a dispensation would need to be made in writing to the Borough Council's Standards Committee. A special meeting of the Standards Committee would then be convened to consider the request. Further information was outlined on Page 6 of the guidance attached to the report.

The Monitoring Officer advised that external funding had been sought by the Borough Council's Democratic Services Section to conduct training sessions during January 2010 for all Councillors relating to the changes in the Code of Conduct.

RESOLVED: That the Committee note the provisions of the new Regulations.

10 ANNUAL STANDARDS CONFERENCE OCTOBER 2009

The Chairman reported that he would not be attending the Annual Standards Conference in October 2009 as the Borough Council had withdrawn funding for national courses. In the past the Conference had provided opportunities to network with other Independent Members and share valuable experiences. Councillor Tyler explained that this funding was being withdrawn across the Council for both Members and officers. The Chairman advised that dependant upon the Council's funding for next year, he would take the opportunity to discuss his attendance at the 2010 Conference with the Borough Council's Chief Executive.

Reference was made to the regional meetings previously held at which Independent Members attended. However, these meetings appeared to no longer take place.

RESOLVED: That the comments made above be noted.

11 ANY OTHER BUSINESS

The Chairman invited the Committee to raise any other issues.

Mr Malik referred to an email regarding availability for dates for a Panel Hearing on 9 and 15 October. The Democratic Services Officer confirmed that these dates were no longer required and could therefore be removed from diaries. She would be in contact shortly to canvass for a new date.

10 DATE OF NEXT MEETING

RESOLVED: That the next meeting of the Standards Committee be held on Monday 18 January 2010 at 10 am in the Committee Suite, King's Court, Chapel Street, King's Lynn.

The meeting closed at 11.12 am