

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE
HELD AT FOLLATON HOUSE, TOTNES ON TUESDAY, 17 MARCH 2009**

MEMBERS

* Mr M Winterton - Independent Chairman

* Cllr B E Carson

∅ Cllr G Date

* Mr R Allison (Independent Member)

* Mr P Dredge (Parish Representative)

* Denotes attendance

∅ Denotes apology for absence

Also in attendance:

Mr S Dunham and Cllr M J Hicks

Officers in attendance:

All Agenda Items: Monitoring Officer; Member Support Services Manager;
Communications Officer; and Administration Assistant

S.23/08 **MINUTES**

The minutes of the meeting of the Standards Committee held on 17 February 2009 were confirmed as a correct record and signed by the Chairman.

S.24/08 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting but none were made

S.25/08 **URGENT BUSINESS**

The Chairman advised that he had agreed that one urgent item be raised at this meeting. The item related to a report of the Investigating Officer in respect of complaint SH06/240708 and was considered urgent due to it being received one day after the published agenda despatch date for this meeting. The Monitoring Officer advised that it was not reasonable to delay consideration of the matter until the next scheduled meeting of the Committee.

It was agreed that this exempt item would be considered as agenda item 9 (Minute S.30/08 below refers).

The Chairman also wished for it to be noted that he had given his consent for any such future complaints (which had been received after the published agenda despatch) to be considered as urgent items, if they could be published up to three working days before a meeting date.

S.26/08

INTRODUCTION OF A PROTOCOL COVERING THE RELATIONSHIP OF MEMBERS AND OFFICERS

The Committee considered a report which was presented as the first phase of a more comprehensive review of the Council's Constitution. The report recommended the adoption of a protocol which defined the respective roles of Members and Officers of the Council and how they should behave towards each other.

In her introduction, the Monitoring Officer confirmed that the protocol was also to be presented to the Joint Staff Consultative Forum at its meeting on 25 March 2009.

In discussion, the following points were raised:-

- (a) For clarity, it was agreed that the numerical ordering of the draft procedure for the 'need to know' principle should be revisited;
- (b) If any town and parish councils wished to adopt the protocol, the Committee was informed that it could be tailored and adapted to meet their individual requirements;
- (c) Prior to the protocol being adopted, officers agreed to examine whether reference should be included in the document to the entitlement(s) of those candidates standing for an election, who were not existing Members;
- (d) With regard to public relations issues, officers gave assurances that it was not the intention of the protocol to stifle the ability of Members to write to the press. Furthermore, this element of the protocol had been proposed for inclusion to ensure that the Council was protecting its image and did not see its reputation tarnished;
- (e) In welcoming the formalising of the approach, as outlined in the protocol, a Member advised that he was aware of instances where officers had not kept councillors informed about issues which may be of particular interest to their local ward. The Member felt that there had to be a degree of trust in the relationship between councillors and officers and believed that there was scope to improve the informing process. On this point, and to supplement the protocol, officers agreed to create some Frequently Asked Questions to accompany the document.

RECOMMENDED

That, subject to the inclusion of the comments as detailed above, Council be **RECOMMENDED** to adopt the Member – Officer Protocol (as outlined in Appendix A to the report presented to the Committee).

S.27/08

PROCEDURE FOR HEARING COMPLAINTS

Consideration was given to a report which presented suggested additions to the existing procedures for local determination of complaints against Members alleging failure to comply with the Code of Conduct.

The report stated that the adoption and implementation of clear procedures would assist the Committee, Members, and complainants to understand the processes and procedures and what was required of them.

During discussion, reference was made to:-

- (a) the potential number of opportunities available for the Committee to retire. The Committee felt that the ability for it to be able to retire on up to four separate occasions during a hearing was excessive and should be reduced to a maximum of two opportunities;
- (b) permitting both a Member and their representative to present evidence and make representations at a hearing. In instances where a Member and a representative were both in attendance, Members believed that the decision of whether or not to allow one or both parties to present evidence was a judgement call for the Chairman to determine at each hearing;
- (c) the 'consideration hearing'. The Committee requested that when a report was presented at the 'consideration hearing' stage, officers make reference in the document to guidance on potential sanctions available and to examples of similar cases and their consequent findings. Members felt that this would be useful whereby the Committee could judge whether the matter should be referred to the Adjudication Panel for England;
- (d) publicity of a 'no failure' finding. Whilst acknowledging that it was a legislative requirement, Members expressed their disquiet that a finding of 'no failure to comply with the Code of Conduct' would still result in the outcome being publicised. Although accepting that a Member could specifically request that the decision was not published, the Committee felt that there should be no such opportunity for the matter to be advertised.

RESOLVED

That the Hearing Procedure (contained in presented Appendix A to the report) be adopted.

S.28/08 EXCLUSION OF PUBLIC AND PRESS**RESOLVED**

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following items of business as the likely disclosure of exempt information as defined in paragraph 7(c) of Schedule 12A to the Act is involved.

S.29/08 REPORT OF INVESTIGATING OFFICER: COMPLAINT SH02/160608

Consideration was given to an exempt report presented under Regulation 17 of the Standards Committee (England) Regulations 2008 for the Committee to consider a report of the investigating officer into an allegation that a Member of a parish council had breached the Code of Conduct.

Following a discussion, the Committee concluded that the matter did justify a hearing on three potential grounds:

- failure to declare an interest (paragraph 9(1) of the Code of Conduct refers);
- failure to treat others with respect (paragraph 3(1) of the Code of Conduct refers); and
- conferring a disadvantage on a fellow councillor (paragraph 6(1) of the Code of Conduct refers).

It was then:

RESOLVED

1. That the matter should be referred for consideration at a hearing of the Standards Committee; and
2. That the Monitoring Officer be authorised to take all necessary steps to give effect to the decision (including arranging a mutually convenient date to convene the hearing), in accordance with the requirements of the Standards Committee (England) Regulations 2008.

S.30/08 REPORT OF INVESTIGATING OFFICER: COMPLAINT SH06/240708

As reported under item 2 (minute S.25/08 above refers), consideration was given to an urgent (and exempt) report presented under Regulation 14 of the Standards Committee (England) Regulations 2008. The Committee was tasked with considering a report of the Monitoring Officer, finding that a Member of a parish council had not breached the Code of Conduct.

In discussion, the following points were raised:-

- (a) Having been notified of his findings, the Committee was advised that the complainants had since sent a letter to the Investigating Officer. Extracts from the letter, which expressed disappointment at the findings, was subsequently read to the Committee;
- (b) Despite the Committee expressing its endorsement of the findings of the Investigating Officer, Members requested that the Monitoring Officer write to the Clerk of the Parish Council to highlight the need for “gentle lessons” to be drawn from this Investigation. Examples of lessons to be learned included: the importance of perception and councillors not being misinterpreted as portraying partiality; and the need for any statements on a site inspection to be confined to the assessment of planning issues.

RESOLVED

1. That the Committee accept the Monitoring Officer’s findings of no failure to comply with the Code of Conduct; and
2. That the Monitoring Officer be authorised to take all necessary steps to give effect to the decision in accordance with the requirements of the Standards Committee (England) Regulations 2008.

(Meeting commenced at 10.00 am and concluded at 10.55 am).

Chairman