

Standards Committee

A meeting of Standards Committee was held on Thursday, 9th June, 2011.

Present: Mr F W Hayes(Chairman), Mr M Armstrong(Vice-Chair), Cllr David Wilburn, Cllr Cook (Vice Cllr Baker) Mr C.V Algie(Parish Representative), Mr T Bowman(Parish Representative), Mr C Nestor(Substitute Independent Member)

Officers: Mr D.E.Bond, Miss K. Wannop(LDS)

Also in attendance: None

Apologies: Cllr Paul Baker, Cllr Ken Dixon,

S Declarations of Interest

1/11

There were no interests declared.

S Assessment Sub Committee Minutes of the Meeting held on 14th April 2/11 2011.

Members received minutes of a meeting held on 14th April 2011.

S Standards Committee Membership 2011/12

3/11

The Committee received a report that confirmed its membership for 2011/12

The Standards Committee Chair and Vice Chair continued to be Francis Hayes (Independent) and Michael Armstrong (Independent) respectively.

Edna Chapman (Independent) had resigned through ill health. Chris Nestor continued as an Independent Member (Substitute). It was not therefore proposed to seek a replacement for Edna Chapman.

Both Colin Algie (Maltby Parish Council) and Tom Bowman (Ingleby Barwick Town Council) were re-elected following the 5 May Local Elections, and continued as parish representatives on the Committee.

The two former substitute Parish Representatives were no longer Committee Members. Roger Mosley did not stand for election to Thornaby Town Council, and neither did Reg Rowlinson for Egglecliffe and Eaglescliffe Parish Council. It was not at this stage proposed to seek replacement substitute parish representatives.

At the Council's Annual Meeting, the following Councillors were appointed to the Committee:-

Councillor P Baker
Councillor K Dixon
Councillor D Wilburn

There were two vacancies.

The following Councillors were appointed as Standards Committee substitute

members:-

Councillor R Gibson
Councillor D Harrington
Councillor T Laing

There were two vacancies.

Local Assessment training would be provided to those Members who had not previously received the training. It was intended to try to fill vacancies on committees and panels at the next full Council meeting.

RESOLVED that the information be noted.

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4/11 **Constitutional Update**

Consideration was given to a report that updated the Committee regarding the Council's Constitutional and political management arrangements following the Annual Meeting on 25 May 2011.

Councillor Paul Baker was elected Mayor for 2011/12.

The Deputy Mayor for 2011/12 was Councillor Lynne Apedaile.

The 5 May Local Elections resulted in the following political composition:-

Labour	27	
Conservative	12	
Ingleby Barwick Independent Society		6
Thornaby Independent Association	5	
Liberal Democrats		4
Billingham Independent Association	2	
Total	56	

Based on this, a power share arrangement between the Labour Group and IBIS was agreed.

The Leader of the Council was Councillor Bob Cook. He had been elected for four years under the Authority's new executive arrangements. A revised version of the Constitution had been published to reflect these new arrangements.

The Leader had appointed the following Cabinet Members:-

Corporate Management and Finance David Harrington
Access and Communities David Coleman
Children and Young People Ann McCoy
Deputy Leader – Adults Services and Health Jim Beall
Regeneration and Transport Mike Smith
Arts, Leisure and Culture Ken Dixon
Housing and Community Safety Steve Nelson
Environment David Rose

Committees/Panels

Membership of the Council's Committees and Panels was also provided.

RESOLVED that the information be noted.

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5/11

Misconduct Allegations Update

The Committee was provided with an update regarding misconduct allegations received by the Authority.

Complaints Determined

The last report regarding complaints was considered by the Committee at its meeting on 6 January 2011.

Since then, complaints from three persons had been received regarding the same alleged incident involving the same two Councillors.

The complaints were considered by the Assessment Sub-Committee on 14 April 2011. The Sub-Committee decided that no action should be taken about the matters alleged.

Complaints Outstanding

Subsequently, two of the three complainants had requested a review. A date for a Review Sub-Committee was in the process of being arranged.

Other Matters

Contact had been made with the Authority by three individuals concerning separate allegations of misconduct by Councillors. The information and documentation to facilitate the submission of formal complaints was provided to the persons concerned, and one of them had completed a complaints form.

RESOLVED that the report be noted.

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6/11

LGO Annual Review Letter 2010/11 - Provisional Statistics

The headlines were that in 2010/11 there were 37 enquiries and complaints regarding Stockton's services. Of these 13 new matters were forwarded to the Ombudsman's investigative team. The team determined 15 complaints during the year, none of which required a formal report. The average time for the Authority to respond to first enquiries rose to 32.3 calendar days, from 24 days in 2009/10. This was due to one case involving special educational needs where it was necessary to request extra time in order to reply to the Ombudsman's enquiries. For the other two first enquiries, the average time to respond was 19 calendar days. The Ombudsman's target time for replies from Authorities was 28 calendar days.

The Local Government Ombudsman's Annual Review Letter for Stockton for 2010/11 would be issued later in the month.

RESOLVED that the information be noted.

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7/11

The Bribery Act 2010

The report provided details of the new legislation, its implications for local authorities, and for the Council in particular, and identified action which should be taken by way of response.

The Act would come into force on 1 July, 2011. It repealed legislation which had been in force for a century or more (Public Bodies Corrupt Practices Act 1889 and the Prevention of Corruption Acts 1906/1916. Four new substantive offences would be introduced. Two offences aimed at commercial/business organisations (section 6 bribery of foreign public officials and section 7 failure of commercial organisations to prevent bribery) had caused concern to the private sector. In response, the Ministry of Justice had now issued detailed guidance, in order to reassure companies that the Act would be enforced sensibly and proportionately.

The guidance explained the procedures which commercial organizations could put into place to prevent persons associated with them from bribing, whilst recognising that combating the risks of bribery was largely about common sense, not burdensome procedures.

In particular, the guidance provided that bona fide hospitality and promotional, or other business expenditure which sought to improve the image of a commercial organization, better to present products and services, or establish cordial relations, was recognised as an established and important part of doing business and it was not the intention of the Act to criminalise such behaviour.

Whilst this was clearly aimed at commercial business, section 7 would be relevant to Local Authorities operating Companies carrying on a business. The principle of appropriate, permissible hospitality was also equally applicable to local government.

The other two offences to be introduced by the Act were of direct relevance to local authorities. These were the offences of bribing another person (Section 1) and being bribed (Section 2).

Section 1 Offence of bribing another person

This related to a person who (either directly or through someone else) offered, promised or gave a financial or other advantage to another person, intending that this would induce a person (who could also be someone else) to perform improperly a relevant function or activity, or in order to reward a person for the improper performance of such a function or activity.

Alternatively the offence concerned a person who (either directly or through someone else) offered, promised or gave a financial or other advantage to another person, knowing or believing that the acceptance of the advantage would of itself constitute the improper performance of a relevant function or activity.

A relevant function or activity included all functions of a public nature, and all

activities performed in the course of employment. This therefore covered local authority functions and activities.

Improper performance was performance which breached an expectation that the functions should be carried out in good faith, or impartially, or any expectation as to the manner in which or reasons for which a function or activity which was the responsibility of someone in a position of trust, would be performed.

Section 2 Offence of being bribed

This offence related to a person who (directly or through a third party) requested, agreed to receive or accepted an advantage (for their own or another's benefit) whether or not he actually received it, either intending improper performance (by the recipient or another) of a relevant activity to follow as a consequence; or where the actual request, agreement to receive or acceptance by the recipient amounted to such improper performance (whether or not the person knew or believed the performance was improper) or alternatively, where the advantage might be a reward for the recipient or another having performed the function or activity improperly.

The offence also covered the situation where in anticipation or in consequence of a person requesting, agreeing to receive or accepting a financial or other advantage (either directly or through another and either for their own or another's benefit), a relevant function or activity was performed improperly by that person, whether or not they knew or believed that the performance was improper, or by someone else at their request or with their assent or acquiescence (whether or not the other person performing the function or activity knew or believed the performance to be improper).

Prosecution for alleged offences could only take place if either the Director of Public Prosecutions or the Director of the Serious Fraud Office WAS satisfied that conviction was more likely than not, and that prosecution WAS in the public interest.

Maximum penalties for offences (sections 1, 2 or 6) were (summary) imprisonment for up to 12 months, or to be a fine (up to £5,000), or to both and (indictment) imprisonment for a term up to 10 years, or to a fine (no limit) or to both.

The following steps had been identified as appropriate ones for the authority to take in response to the new legislation:-

- Inform Officers and Members generally of the key provisions and implications of the Act.
- Review and update Contract Procedure Rules, and standard contract documents and terms.
- Specifically brief Planning and Licensing Committee Members in relation to the implications of the Act under the Planning Code of Good Practice and the Licensing Protocol.

- Review and update the Employees' Code of Conduct.
- Amend the guidance to Members (on Gifts and Hospitality) and Officers. A suggested revised version was provided to Members.
- Identify any other codes, protocols, rules, procedures or guidance which may need to be updated to recognize/reflect the new legislation.
- Update the Constitution to take account of any changes arising from above.

RESOLVED that the information be noted and that the revised version of the guidance be agreed.

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8/11

Localism Bill Update

The Committee considered a report ensuring Members were kept up to date regarding the proposed changes to the national and local standards regime.

The Localism Bill had been published and presented to Parliament on 13 December, 2010. Amongst many other matters, it formalised the Governments proposals for the national standards regime.

The Bill HAD started in the House of Commons and had progressed as follows:-

First reading: House of Commons – 13 December 2010
 Second reading: House of Commons – 17 January 2011
 Committee debate – 25 January to 10 March 2011 (24 sittings)
 Report stage: House of Commons – 17 May 2011
 Report stage: House of Commons – 18 May 2011
 Third reading: House of Commons – 18 May 2011

1st reading of the Bill had taken place in the House of Lords (a formality usually with no debate) on 19 May 2011. The 2nd reading, which enabled the main principles and purpose of the bill to be debated was scheduled for 7 June.

The key standards proposals outlined in the Bill, as introduced to the House of Commons, were as follows:-

- The relevant Authorities (General Principles) Order 2001, which set out the principles which governed the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, would be revoked.
- The Local Authority (Model Code of Conduct) Order 2007 (S.I 2007/1159) which prescribed the model code of conduct to apply to members of relevant authorities would be revoked.
- The requirement for local authorities to have standards committees would be abolished.
- Standards for England would be abolished. Established by the Local Government Act 2000 and the regulator for local authority standards committees, the Standards Board required primary legislation to abolish it and

its legislative functions. None of the Standards Board functions would be transferred to other bodies.

- The first tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, would lose its jurisdiction over the conduct of local authority members.

- Elected members would be required to continue to register and declare personal interests and would not be allowed to use their position improperly for personal gain. The government intended that wilful failure to comply with these requirements would constitute a criminal offence.

- The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code would be abolished. However, local authorities would be free to adopt their own, voluntary code of conduct should they so wish.

- The requirement for councils to maintain a standards committee would be abolished. However, local authorities would be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees would, according to councils' local constitutions, be able to censure but would not be able to suspend or disqualify members from council membership.

None of these proposals had changed during the Bill's committee debate or Report stage and third reading. Although the optional provision about an authority publicising the adoption, revision or withdrawal of a code of conduct had been changed to make it a requirement.

Currently, therefore, based on local circumstances, Local Authorities would be able to decide whether or not to retain standards committees and whether or not to have voluntary codes of conduct, or whether or not they would have any alternative arrangements at all.

RESOLVED that the information be noted.

S **Local Assessment Case Studies**

9/11

Members considered a case study and discussed what decisions they would make.

S **Standards Committee Forward Plan**

10/11

Consideration was given to the updated version of the Standards Committee Forward Plan. Members were again asked to consider whether there were other matters which should be included in the programme for future meetings. Members also received the Councils Statutory Forward Plan.