

## Standards Committee

Tuesday, 13th July, 2010

### PRESENT:

#### Independent Members

Gordon Tollefson (Chair) (Independent Member)  
Joanne Austin (Independent Member)  
Rosemary Greaves (Independent Member)  
Philip Turnpenny (Independent Member)

#### Councillors

B Gettings J L Carter E Nash  
J Harper R D Feldman

#### Parish Members

Councillor P Cook Morley Town Council  
Councillor John C East Keswick Parish Council  
Priestley

### APOLOGIES:

Councillors C Campbell, Walker and B Selby

#### **1 Appeals against refusal of inspection of documents**

There were no appeals against refusal of inspection of documents in accordance with Procedure Rule 25 of the Access to Information Procedure Rules.

#### **2 Exempt Information - Possible Exclusion of the Press and Public**

There were no resolutions to exclude the public.

#### **3 Late items**

There were no late items submitted to the agenda by the Chair for consideration.

#### **4 Declaration of interests**

There were no declarations of personal/prejudicial interests for the purpose of section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members' Code of Conduct.

## **5 Minutes of the Previous Meeting**

The minutes of the Standards Committee meeting held on 22<sup>nd</sup> April 2010 were approved as a correct record.

Further to Minute 85, the Committee was informed that the local assessment flowchart and FAQs would be considered by the Whips at its meeting that afternoon, and that the Chair of Standards Committee would be attending the meeting.

Further to Minute 92, the Committee was informed that the Standards Committee Procedure Rules had been updated in accordance with the Committee's resolutions, and that Sub-Committee meetings have been scheduled to take place every three weeks, rather than every month.

Further to Minute 93, the Committee was informed that General Purposes Committee had agreed to recommend to full Council that the specified elements of the Standards Committee training plan be made compulsory, and that full Council would consider this recommendation at its meeting on 14<sup>th</sup> July 2010.

Some concerns were raised by members of the Committee in relation to the Local Assessment regime, particularly with reference to the cost of investigations, trivial complaints, and the impact of the process on the Member involved. A report was requested on the support that could be provided to Councillors throughout the local assessment process. It was also suggested that the Committee should watch a DVD produced by Standards for England regarding local assessment of complaints.

## **6 Minutes of the Assessment Sub-Committee**

The minutes of the Assessment Sub-Committee meetings held on 13<sup>th</sup> April and 11<sup>th</sup> June 2010 were received and noted.

## **7 Minutes of the Review Sub-Committee**

The minutes of the Review Sub-Committee meetings held on 12<sup>th</sup> May and 11<sup>th</sup> June 2010 were received and noted.

## **8 Minutes of the Consideration Sub-Committee**

The minutes of the Consideration Sub-Committee meeting held on 11<sup>th</sup> June 2010 were received and noted.

## **9 Minutes of the Hearings Sub-Committee**

The minutes of the Hearings Sub-Committee meetings held on 11<sup>th</sup> and 17<sup>th</sup> May 2010 were received and noted.

## **10 Minutes of the Corporate Governance and Audit Committee**

The minutes of the Corporate Governance and Audit Committee meetings held on 14<sup>th</sup> April, 12<sup>th</sup> May and 23<sup>rd</sup> June 2010 were received and noted.

## **11 Politically Restricted Posts**

The Head of Health and Safety presented a report of the Chief Officer (Human Resources) setting out the background to work done in early 2010 to update the Council's list of politically restricted posts, and seeking approval of amendments to the Committee's Procedure for the Consideration of Politically Restricted Posts in light of legislative changes.

In response to the queries raised, the members of the Committee were informed that:

- There are currently around 250 posts on the list of politically restricted posts (including both specified posts and posts with sensitive duties);
- Posts with sensitive duties are defined as those which involve giving advice on a regular basis to the authority, any of its Committees or a member of the Executive, and/or speaking on behalf of the authority on a regular basis to journalists or broadcasters;
- The Standards Committee is responsible for considering applications for exemption from the list of restricted posts, and requests from any person to add a post to the list (if the relevant Director does not agree that the post should be added);
- Directors must have regard to the guidance provided by HR in deciding which posts should be added to the list;
- An up-to-date, central list of restricted posts is maintained by HR; and
- A list of the restricted posts would be circulated to members of the Committee for information.

**RESOLVED** – Members of the Standards Committee resolved to:

- (a) Note the work undertaken to maintain the list of politically restricted posts;
- (b) Adopt the revised Standards Committee Procedure for the consideration of applications to exempt posts from or add posts to the list of politically restricted posts; and
- (c) Request that the current list of politically restricted posts is circulated to members of the Committee for information.

## **12 Local Assessment - Progress Report**

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) providing members of the Standards Committee with a progress report in relation to all complaints received under the Members' Code of Conduct from 1<sup>st</sup> January to 30<sup>th</sup> June 2010.

The Chair provided an update to the Committee, further to Government's announcement that the Decentralisation and Localism Bill would contain a commitment to 'abolish the Standards Board regime'. CLG's draft structural reform plan was published on 8<sup>th</sup> July, which includes an action to 'abolish the

Standards Board'. The plan indicates that work will begin in November 2010 and will end in November 2011 with the passing of the Bill. However, as CLG have adopted a cautious view of the timescales, the Bill could be passed prior to November 2011.

No clarification had been received in relation to the First-Tier Tribunal, Code of Conduct or Standards Committees, however Robert Neill MP (Parliamentary Under Secretary of State) has said: 'We are committed to the highest levels of standards of behaviour by local authority members and will ensure any devolved regime achieves this'.

Several concerns were raised by members of the Committee in relation to local assessment, as follows:

- The authority has spent nearly £30,000 on investigations, however no Councillor has been found to be in breach of the Code;
- The Monitoring Officer cannot refuse to send a complaint to the Assessment Sub-Committee, even if it appears to be trivial;
- It is difficult to define what 'respect' means under the Code;
- The Council's insurance policy only covers a Councillor if they are found not to have breached the Code, and it would be unfair to require a Councillor to pay for their representation if they have only committed a 'technical' breach of the Code; and
- The cost for attending Sub-Committee meetings exceeded the cost of the investigation in one case, which is disproportionate.

**RESOLVED** – Members of the Standards Committee resolved to note the contents of the report.

(Councillor Harper left the meeting at 10.40am during the consideration of this item.)

### **13 Review of the Procedure for Standards Committee Hearings**

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) presenting proposed amendments to section 4 of the Standards Committee Procedure Rules and the general procedure for conducting hearings, in light of the two recent cases heard by the Hearings Sub-Committee.

The Committee discussed the proposals, and particularly discussed the following issues:

- The reason why the Monitoring Officer reviews draft investigation reports. The Monitoring Officer confirmed that this is because the investigator is essentially acting on her behalf;
- That solicitors from the local area should be used wherever possible. The Assistant Chief Executive (Corporate Governance) informed the Committee that there are a limited number of practices with the necessary expertise in the Leeds area, and the possibility of sharing such resources with the other West Yorkshire authorities is being considered;

- The pre-hearing forms, and the reasons why comments are only required on the findings of fact. This is to ensure that the parties and members of the Sub-Committee are clear on which facts are in dispute prior to the hearing. The subject Member would have the opportunity to comment on disagreements with other parts of the investigation report before it is finalised, and to raise other matters at the hearing itself where relevant;
- The lack of meeting rooms at Civic Hall, and the difficulty this may cause in sourcing separate rooms for the parties and their witnesses;
- Whether witnesses should be allowed to remain in the hearing room before they have given their evidence, and the advice of the First-Tier Tribunal that witnesses should be asked to wait outside of the hearing; and
- The appropriate amount of time to allow for a lunch break during a hearing.

**RESOLVED** - Members of the Standards Committee resolved to:

- (a) Note the issues raised by the hearing participants and the suggestions for amendment as listed in Appendix 1 to the report;
- (b) Support the proposals for amendment to the 'Procedure for External Code of Conduct Investigations' outlined in the report;
- (c) Support the proposed amendments to the pre-hearing forms;
- (d) Agree the proposed amendments to the general procedure for the hearing, including scheduling and accommodation for the hearing, the order of the agenda, and amendments to the Chair's guidance notes, with the following amendments:
  - (i) the Chair of the Hearings Sub-Committee should not verbally instruct the press not to publish anything about the hearing until the decision has been announced; and
  - (ii) the Chair's guidance note should be updated to remind the Chair that a lunch break of at least 45 minutes is required and to prompt him to suggest a comfort break every 2 hours or thereabouts;
- (e) Agree the proposed amendments to the Standards Committee Procedure Rules, to reflect the above resolutions.

(Councillor Carter left the meeting at 11.35am at the conclusion of this item.)

## **14 Options for Amendment to the Local Assessment Process**

The Senior Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance) proposing amendments to the local assessment process in Leeds (including the way that complaints are handled prior to being presented to the Assessment Sub-Committee), further to a review of advice received from legal practitioners and local assessment practice in some other authorities.

In particular, members of the Committee discussed the proposed amendments to the complaints form to require the complainant to provide sufficient details of their allegation, corroborating evidence, details of

witnesses and copies of documentary evidence. The Committee was supportive of this proposal, however the need to be careful not to disadvantage complainants was also highlighted. It was confirmed that officers in Governance Services would assist complainants in completing the form and sourcing relevant evidence as required.

**RESOLVED** – Members of the Standards Committee resolved to:

- (a) Support the proposals from the Monitoring Officer for amendment to the local assessment process, as set out in paragraph 7.1 of the report;
- (b) Approve the amended complaints form and guidance leaflet as attached at Appendix 1 to the report;
- (c) Approve amendments to their Assessment Criteria, as set out in paragraph 3.31 of the report;
- (d) Approve the revised terms of reference for the Assessment Sub-Committee, Review Sub-Committee, Consideration Sub-Committee and Hearings Sub-Committee, as attached at Appendices 3 – 6 of the report; and
- (e) Approve the proposed amendments to the Standards Committee Procedure Rules, as attached at Appendix 7 to the report, to clarify when meetings of the Assessment Sub-Committee are potentially open to the public or closed.

(Councillors Gettings and Cook left the meeting at 12 noon during the consideration of this item.)

## **15 Members' Induction Period 2010**

The Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance), informing the Committee of the following issues, following the local election which was held in May 2010:

- Members' declaration of acceptance of office and undertaking to comply with the Code of Conduct;
- Members' register of interests; and
- Training of Members.

**RESOLVED** – Members of the Standards Committee resolved to note the report.

(Councillor Nash left the meeting at 12.10pm during the consideration of this item.)

## **16 Review of the Members' Register of Gifts and Hospitality**

The Corporate Governance Officer presented a report of the Assistant Chief Executive (Corporate Governance), providing statistical data in relation to declarations of gifts and hospitality made by Members during the 2009/10 municipal year.

It was confirmed that the limit of £25 is set by the national Members' Code of Conduct, and therefore an amendment to the relevant legislation would be required to change the limit.

**RESOLVED** – Members of the Standards Committee resolved to:

- (a) note the information provided in the report; and
- (b) confirm that they are satisfied with the assurances provided.

## **17 First-Tier Tribunal (Local Government Standards in England): Decisions of Case Tribunals**

The Assistant Chief Executive (Corporate Governance) submitted a report providing summaries of recent decisions made by the First-Tier Tribunal (Local Government Standards in England) in its role of determining allegations of misconduct.

Further to a case involving a Councillor from another authority who had been suspended for forwarding 'joke' e-mails, some of which were based upon religion, the Committee agreed to recommend that the Members E-Mail Code of Practice be amended to include specific reference to messages that are discriminatory on the grounds of religion, age and disability.

**RESOLVED** – Members of the Standards Committee resolved to:

- (a) note the latest decisions of the First-Tier Tribunal's case tribunals; and
- (b) recommend to the Chief ICT Officer that the Members E-Mail Code of Practice is amended to include specific reference to messages that are discriminatory on the grounds of religion, age, and disability.

## **18 Standards Committee Work Programme**

The Assistant Chief Executive (Corporate Governance) submitted a report notifying Members of the Committee of the work programme for the remainder of the municipal year, and seeking comments from the Committee regarding any additional items.

It was agreed that a report on changes to the standards regime should be added to the 'unscheduled items' section, and be provided once further clarification on the Government's proposals has been received.

**RESOLVED** – Members of the Standards Committee resolved to:

- (a) note the work programme; and
- (b) add a report on changes to the standards regime to the 'unscheduled items' section.