

STANDARDS COMMITTEE MINUTES

14 DECEMBER 2011

Chairman:	* Dr J Kirkland	
Councillors:	* Mano Dharmarajah	* Paul Osborn
	* Brian Gate	* Richard Romain (2)
	* D Lawrence	* Victoria Silver
Independent Persons:	* Mr J Coyle	
	* D Lawrence	

* Denotes Member present
(2) Denotes category of Reserve Member

61. Attendance by Reserve Members

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Member:-

Ordinary Member

Councillor Simon Williams

Reserve Member

Councillor Richard Romain

62. Declarations of Interest

RESOLVED: To note that the following interest was declared:

Agenda Item 9 – Application for Dispensation

Councillor Paul Osborn declared a prejudicial interest in that he was one of the Councillors requesting a dispensation. He would make his representation then immediately leave the room prior to the matter being considered and voted upon.

63. Minutes

RESOLVED: That the minutes of the meeting held on 13 September 2011 be taken as read and signed as a correct record.

64. Public Questions, Petitions and Deputations

RESOLVED: To note that no public questions were put, or petitions or deputations received at this meeting.

RESOLVED ITEMS

65. Standards Sub-Committees

The Committee received a report which sets out statistics in relation to the operation of the Assessment, Review and Hearing Sub-Committees, since first being introduced.

The Chairman explained that the report had been requested by the Independent Members and provided a useful record on statistics relating to the operation of its Sub-Committees. He commented that the statistics reflected well on the Council and that sanctions imposed as a result of formal Hearing Sub-Committees had been at the lower end of the scale. He explained that the Localism Act 2011 would provide more discretion in the future and would enable the Council to consider a number of issues.

In response to questions raised by the Committee, officers responded as follows:

- the report had been based on the number of complaints received as opposed to the number of Sub-Committee held. It was important to note that in some cases, one complainant submitted more than one complaint against a Member, which for the purposes of this report had been counted separately;
- it was expected that any conditions applied to an apology requested would depend on the seriousness of the alleged breach of the Code of Conduct (The Code). This was a matter for each Sub-Committee to determine. If a direction from the Sub-Committee was not complied with, there could be a further complaint submitted for a possible breach of the Code by not complying with a direction.

Members of the Committee provided a number of comments on the report which included:

- consideration should be given to a complainant providing costs to the Council if it was found that their complaint was frivolous or vexatious in any way;
- Members and officers involved with the operation of dealing with complaints against Members should be commended. There was

confidence that if a complaint was made, it would be dealt with in a confidential and professional manner.

RESOLVED: That the report be noted.

66. The Future of a Standards Regime at London Borough of Harrow

The Committee received a report which provided an update on the Localism Act 2011 (The Act). The Head of Legal Services introduced the report and explained that the provisions contained within the Act were significantly different to those contained within the Bill. The Act contained several key provisions that the Council needed to implement which included the following:

- there was a duty to promote and maintain high standards of conduct;
- a Code of Conduct needed to be formally adopted. This Code would no longer require a reference to the ten current principles but only to seven. The principle of respect was no longer a statutory requirement;
- the Council had a duty to have in place arrangements to deal with complaints of the breach of the Code of Conduct (The Code). More aspects during the process could now be delegated. This could allow for more minor or tit-for-tat complaints to be dealt with at an earlier stage;
- there was no longer a statutory requirement to have a Standards Committee;
- there was a requirement that one or more Independent Persons needed to be appointed. However a person could not be appointed as an Independent Person of within the past five years if they had been a Member or Co-opted Member of the authority. This implied that all existing Independent Members of the Standards Committee were ineligible to be appointed. They could however be appointed as non-voting co-opted Members of any future Standards Committee. This was an issue that the Association of Council Solicitors and Secretaries was currently seeking further clarification on, as there was a belief that this may have been an unintended consequence;
- the whole regime of Register of Interests would be altered. A Register would still need to be kept. The types of interests would change to disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests. The definitions of what constituted these would be contained in future regulations;
- the grounds on which a dispensation may be granted had been extended and the power to grant a dispensation could now be delegated to the Monitoring Officer;

- the Act provided that authorities would have a period of two months from the implementation of the Act to resolve all outstanding complaints.

In response to queries raised by the Committee, officers responded as follows:

- the current Code would cease to operate on 1 April 2011. The only way that this date would alter is if there was a change to the implementation date of the Act;
- the Act provided a significant amount of discretion to the Council in certain areas;
- further principles could be added to those provided for in the Act. Respect could be one of the principles added;
- any final decision on permanent arrangements arising from the Act, would be made by the Full Council.

During the discussion on this item, the Committee made a number of comments which included:

- any future structure relating to complaints made against Members, should involve other Members making a determination on it. It was unfair to place any burden on officers to resolve such complaints;
- interests involving spouses or partners would contribute towards being more transparent as an authority. It was however unfortunate that there was no duty to disclose interests at meeting if it was already contained on the Council's Register of Interest. This could affect transparent decision making. One option could be to have a document circulated at any relevant meeting detailing the interests declared on the Register for relevant Members;
- it was important to consider whether there should be a blanket withdrawal of a Member's addresses if desired, as this could potentially cause issues;
- there was concern that any future Standards Committee would now have to be constituted in accordance with political proportionality. It was felt that this was unnecessary especially as the Independent Members on the Committee had played a key role in its function. There was also concern at the public perception of the lack of an independent chair, and with the perception of voting taking place on political party lines;
- respect for others was a key principle and should be included within the Code. This was an important principle to demonstrate to the public. High standards in public life was something that should always be

aimed for and the principles of any future Code should link to public expectations and the Council's CREATE values;

- when a report on the permanent arrangements arising from the Act were presented to Full Council, the information should be presented in a coherent and relevant manner;
- consideration had to be provided on the costs of any future permanent standards regime, especially in the current financial climate;
- it would be better if there was more than one Independent Person appointed as this would allow them to alternate and avoid potential conflicts of interest.

Following the discussion on this item, a Member of the Committee suggested that care should be taken in deciding on and implementing new proposals out of the Act. The reason for this was that if incorrect decisions were made, particularly in relation to dealing with complaints against Members, there was ultimately the risk of reputational damage. As a result and given the short timescales, he proposed that the future arrangements of the Standards regime should therefore be divided into two stages. Firstly by 1 April 2012, the current standards regime, including those relating to retaining a committee and the current complaints procedure, should be retained as much as possible to ensure that the minimum legal requirements were met. The Council could then study the options available closely with permanent arrangements then being agreed at a later date. The Committee supported this proposal.

The Head of Legal Service explained that at a minimum the Council had to adopt a Code of Conduct, have a complaints procedure and appoint one or more Independent Person. It was also important to note that a Standards Committee and its Sub-Committees after April had to consist of a chair who was a Member of the Council. Current Independent Members could only become non-voting Co-opted Members if the Standards Committee were to be a decision making body. Additionally the regulations relating to holding Sub-Committee meetings in private no longer would exist. If a meeting was to be in private, there would have to be reliance on the relevant exemptions.

Following agreement on the proposed way forward, the Chairman proposed that there would no longer be a need for a working group to look at the initial proposals for the future of the Standards Regime, as there would only be a need to discuss preliminary issues at this stage with further permanent arrangements then coming into force at a later date. A special meeting could then be established in late January / early February 2012, so that recommendations could potentially then be forwarded to the Council meeting on 16 February 2012. The Committee agreed with the proposal.

RESOLVED: That a special meeting of the Committee be arranged in late January / early February 2012 to consider the initial future arrangements arising out of the provisions of the Localism Act 2011 and to produce recommendations to be submitted to the Full Council.

67. Application for Dispensation

The Committee received a report setting out details of an application made by a number of Members of the Overview and Scrutiny Committee to grant a dispensation.

Councillor Osborn addressed the Committee on behalf of those Members requesting a dispensation. He explained that the request had arisen out of a debate which occurred at a recent Overview and Scrutiny Committee meeting where an issue relating to academies had been debated. Many of the Members of the Committee, who were also governors, left the room during the discussion as they believed that they had prejudicial interests and were therefore unable to provide their expertise to the debate.

It was his belief that the legal criteria provided for the granting of a dispensation had been satisfied. In his view, more than 50% of Members had been prohibited from voting on the matter and the political balance had been affected. He further explained that the dispensation was only requested to remain the room and speak on any relevant item, not to vote.

In response to other Members of the Committee, Cllr Osborn confirmed the following:

- the political balance on the Overview and Scrutiny had been and would be affected if a similar item was debated again. The 50% threshold had also clearly been met;
- it was not clear why some Members of the Overview and Scrutiny Committee had not applied for a dispensation.

Councillor Osborn then left the room and Members of the Committee made the following comments:

- there had been an effect on the quality of debate at that relevant meeting of the Overview and Scrutiny Committee. Expertise had been lost;
- the topic of discussion may have arisen again and the Committee may face a similar issue again in the future;
- it was important to note that if the dispensation was granted, it would only be applicable until the new arrangements arising from the Localism Act 2011 came into force or for a period of one year, whichever was the earlier. Its impact may therefore be minimal;

RESOLVED: That

- (i) a dispensation be granted to those Members, who had made a request, as follows:

Councillor Jerry Miles
Councillor Ann Gate
Councillor Sachin Shah
Councillor Kamaljit Chana
Councillor Paul Osborn
Councillor Krishna Suresh
Councillor Tony Ferrari
Councillor Christine Bednell;

- (ii) the dispensation be applicable at meetings of the Overview and Scrutiny Committee where matters are discussed relating to general discussions about schools, including academies (not specific schools) including discussions about education results and service level agreements;
- (iii) the dispensation be applicable where the relevant Member felt that they had a prejudicial interest in the matter because they were a school governor;
- (iv) the dispensation be applicable to allow the relevant Member to remain in the room and speak, but not to vote;
- (v) the dispensation be granted for a period of one year or whenever the provisions on dispensations from the Localism Act 2011 come into force.

(Note: The meeting, having commenced at 7.30 pm, closed at 8.50 pm).

(Signed) DR J KIRKLAND
Chairman