

STANDARDS COMMITTEE

MINUTES

11 SEPTEMBER 2012

Chairman: * Councillor Mano Dharmarajah

Councillors: * Brian Gate * Paul Osborn
* Mitzi Green (1) * Simon Williams

Independent Persons: * Mr James Coyle * Dr John Kirkland

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

83. Appointment of Chairman

RESOLVED: That Councillor Mano Dharmarajah be appointed as Chairman for the remainder of the Municipal Year 2012/13.

84. Attendance by Reserve Members

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

Ordinary Member

Councillor Victoria Silver

Reserve Member

Councillor Mitzi Green

85. Declarations of Interest

Members of the Committee raised a general issue regarding blanket dispensations for Members when voting on Council Tax and how this could be done.

The Head of Legal Services explained that whether or not a dispensation was required was dependent on the interpretation of the statutory instruments and that this was being considered at present.

RESOLVED: To note that there were no declarations of interests made by Members.

86. Appointment of Vice-Chairman

RESOLVED: That Councillor Osborn be appointed Vice-Chairman for the remainder of the Municipal Year 2012/13.

87. Minutes

RESOLVED: That the minutes of the meeting held on 14 June 2012 be taken as read and signed as a correct record.

88. Public Questions, Petitions and Deputations

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

RESOLVED ITEMS

89. INFORMATION REPORT: The Standards Regime - Arrangements made by other boroughs for dealing with Member complaints

The Head of Legal Services introduced the report which outlined the arrangements which had been made by some other London boroughs to deal with complaints against councillors who it was alleged had breached the Council's code of conduct. The Head of Legal Services also reported the following points:

- most boroughs had adopted similar arrangements to those which the Council had agreed at its Full Council meeting on 5 July 2012 with an initial filter and then either an Assessment or Hearing Sub-Committee;
- an additional report considering the arrangement adopted by other councils could be submitted to the next meeting of the Committee.

Members of the Committee made a number of comments including the following:

- an additional report would be useful if it emerged that any council had adopted substantially different arrangements;
- a future review of the arrangements adopted by Harrow Council should include consideration of the arrangements of other councils;

- the annual benchmarking event hosted by the London Borough of Brent had been constructive and it would be useful to continue with this event;
- the key issues relating to the new arrangements were transparency and public confidence. There were concerns about public perception because the Committee was now chaired by a Councillor and was politically proportionate;
- experience and time would demonstrate how well the new arrangements worked and after a period of time the arrangements should be reviewed;
- a report considering effective sanctions and any innovative ideas which had been introduced by other Councils would be interesting. The lack of effective sanctions was an issue which affected public perception;
- sanctions could be suggested as a topic for discussion at the benchmarking event.

The Head of Legal Services advised that the matter of sanctions could be investigated further and that the Monitoring Officer from Brent would be contacted regarding the benchmarking event.

RESOLVED: That the report be noted.

90. Complaints Procedure

The Head of Legal Services introduced the report which outlined the proposal to establish an Assessment Working Group and a Hearing Working Group and the proposed working arrangements. It was explained that the working arrangements would not be included in the Constitution as the two working groups were informal. Attention was drawn to an amendment which was required to the role of the Hearing Working Group as this group would make a recommendation to the Monitoring Officer. The matter would only be considered by the Hearing Sub-Committee if there was a disagreement between the Hearing Working Group and the Monitoring Officer.

The Members of the Committee made the following comments on the proposed working arrangements:

- there were concerns regarding the Hearing Working Group being held in private as there was a need to demonstrate a robust process. Under the previous arrangements the equivalent meeting had been held in public with the decision being made in private;
- if the Hearing Working Group, an informal body, was held in public there was the possibility that it would create confusion;
- it was accepted that there was a possibility that an informal meeting being held in public could result in confusion but the operation would

be similar to Cabinet Advisory Panels. There were concerns that the meeting being held in private would be perceived negatively;

- the terms of reference and working arrangements for the Assessment Working Group should be amended, as the Complainant and Member who was subject of the complaint may make written representations rather than being invited to make written representations;
- under the previous arrangements there was a presumption that the meeting would be held in public and there was a set of criteria to determine if the meeting should be in private. A similar principle could be adopted for the Hearing Working Group;
- the meetings of the Hearing Working Group should be held in public unless there was a justifiable and good reason why it should be in private. The Member who was the subject of the complaint would be able to attend the meeting and provide an explanation.

The Head of Legal Services responded to the issues raised by the Members and made the following comments:

- under the previous arrangements there had only been a limited number of hearings and all of these had been held in public. The meetings of the Hearing Working Group could commence in public and the first item to be considered would be whether the hearing should continue to be held in public;
- the terms of reference for the Assessment Sub-Committee and the Hearing Sub-Committee had been approved by Council and would be included in the Constitution.

At the conclusion of the debate, a Member suggested that the amended terms of reference and working arrangements should be submitted to the Chairman and Vice-Chairman for agreement prior to formal approval at the next meeting of the Committee.

RESOLVED: That

- (1) the report be noted;
- (2) the procedure rules of the terms of reference and working arrangements for the Assessment Working Group be amended to reflect that the Complainant and Member who is the subject of the complaint may make written representations for consideration;
- (3) the role of the Hearing Working Group be amended to reflect that the presumption is that the meeting will be held in public;
- (4) the role of the Hearing Working Group be amended to reflect that the group will make recommendations to the Monitoring Officer;

- (5) that the revised terms of reference and working arrangements be submitted to the Chairman and Vice-Chairman for their agreement;
- (6) a report on the revised terms of reference and working arrangements be submitted to the next meeting of the Committee for formal approval.

91. INFORMATION REPORT: Guidance on openness and transparency on personal interests

The Head of Legal Services introduced the report and appendices to the report including the Code of Conduct as approved by Council on 5 July 2012, the letter from Bob Neill MP and a guide on openness and transparency on personal interests from the Department for Communities and Local Government (DCLG). The Head of Legal Services reported the following points:

- the Code of Conduct had adopted the Nolan Principles. The guidance had given a more detailed definition regarding trust and honesty which could be included in the Code of Conduct if it were to be amended;
- the guidance from the DCLG had clarified that Members' signatures did not have to be published online and that there was no difference between a Member's interests and a spouse or partner's interests.

During the discussion on declarations of interests Members raised a number of issues which the Head of Legal Services responded to as follows:

- the guidance indicated that Members had to declare their own interests and those of their spouse or partner. The interests which should be declared included a Member's and their spouse or partner's employment, trade or vocation;
- it was accepted that there were some large organisations, such as the NHS and Transport for London, which would be employers of Members' partners or spouses. Declarations of a disclosable pecuniary interest would have to be made if the matter being considered, such as pensions, would affect the spouse in a pecuniary manner;
- the definition of disclosable pecuniary interests was narrower than the previous definition of a prejudicial interest because failure to disclose a disclosable pecuniary interest without reasonable excuse was a criminal offence.

Members of the Committee made the following comments:

- it would be useful to have clarity regarding what was a disclosable pecuniary interest and what was not;

- if Members having to leave the room after making a declaration of a disclosable pecuniary interest was affecting political proportionality then it was possible that a dispensation could be granted;
- there were concerns that Members were no longer able to speak as members of the public on an issue in which they had a disclosable pecuniary interest. Members should have the same rights to speak as a member of the public. Legal advice should be sought and then guidance should be drafted.

The Members of the Committee then discussed Section 6.2 of the Code of Conduct and under which circumstances Members were able to act on behalf of organisations they were members of, such as school governing bodies.

The Head of Legal Services advised that under the Code of Conduct, Members were able to act on behalf of their constituents. Section 6.2 of the Code of Conduct explained that Members could not seek to use their position to receive preferential treatment for themselves or for their friends and relatives. Members were able to act on behalf of organisations and bodies of which they were members provided they were not seeking preferential treatment.

RESOVLED: That

- (1) the report be noted;
- (2) a report on guidance for on granting dispensations be submitted to the next meeting.

(Note: The meeting, having commenced at 7.30 pm, closed at 8.32 pm).

(Signed) COUNCILLOR MANO DHARMARAJAH
Chairman