

8 April 2004

Dear Councillor

## **COUNCIL MEETING**

A meeting of the Council will be held at the Council Offices, London Road, Saffron Walden, on Tuesday 20 April 2004 at 7.45 pm, or at the conclusion of the question and answer session, whichever is the earlier.

Yours faithfully

ALASDAIR BOVAIRD

Chief Executive

**Commencing at 7.30 pm, there will be an opportunity of up to 15 minutes for members of the public to ask questions and make statements subject to having given two working days prior notice.**

## **A G E N D A PART I**

- 1 Apologies for absence and declarations of interest.
- 2 To receive the Minutes of the meeting held on 10 February 2004.
- 3 Business arising.
- 4 Chairman's communications.
- 5 Leader's communications
- 6 Matters arising from Committees.
  - (i) Standards Committee – 22 March 2004 – Minute S.24 (attached).
- 7 Organisational Restructure.
- 8 Town and Parish Charters.
- 9 Best Value General Satisfaction Survey 2000 and 2003.

10 Notice of Motion.

To consider the following Notice of Motion proposed by Councillor A R Thawley and D Corke.

- 1 Following the success of the 'Sustainable Energy' Conference held on 23 March 2004, this Council commits itself to manage its impact on climate change by:
  - (i) Purchasing 15% of its electricity requirements from renewable sources by 2005
  - (ii) Offering to supply and fit free of charge 3 low energy light bulbs every time we visit one of our tenanted properties to carry out repairs and improvements.
  - (iii) Aiming to cut our energy consumption in Council owned operational property by 10% by 2005 through practical housekeeping measures
  - (iv) Doing all within its power as the planning authority to encourage developers to use highly energy efficient materials, designs and construction methods.
- 2 That details of the action proposed by this Council be forwarded to the appropriate Minister.

11 To consider questions (if any) under Council Procedure Rule 8.2.

12 Any other items which the Chairman considers to be urgent.

Part II  
(Para 1 of Part 1 of Schedule 12A of the 1972 Act)

13 Restructuring.

To: All Members of the Council.

Lead Officer: Alasdair Bovaird  
Committee Officer: Mick Purkiss

## STANDARDS COMMITTEE – 22 MARCH 2004

S24

### **DRAFT GUIDANCE TO MONITORING OFFICERS – LOCAL INVESTIGATIONS OF ALLEGATIONS OF MISCONDUCT – A STANDARDS BOARD CONSULTATION**

The Head of Legal Services advised the Committee that the Government now proposed amending the 2003 Regulations to permit ESO's to refer cases for local investigation as well as local determination. The draft regulations required MO's to have regard to guidance issued by the Standards Board (SB) when conducting investigations. Draft guidance had now been published for consultation.

It was reported that complaints would still be referred initially to the ESO for investigation. At any time before he completed his investigation, the ESO may refer the matter to the MO for investigation. If he does not do so, having concluded his investigation, he may refer the case to the MO for local determination by the Standards Committee or refer it to the Adjudication Panel (AP). Factors which the ESO would take into account in deciding whether to refer a case for local investigation were:-

- Whether the case does not appear to need the heavier penalties available only to the AP
- Where the matter appears to be an isolated incident unlikely to be repeated
- Where the Member has given a prompt, adequate and unreserved apology and whether remedial action has been taken
- Whether there is evidence that a local investigation is likely to be perceived as unfair or biased
- The allegation is of a purely local nature and does not raise matters of principle
- Whether there are any relevant local political issues that may have a bearing on a local investigation

In addition to the above list of factors suggested for consideration by an Ethical Standards Officer in determining whether to refer a case for Local Determination Members felt that the Ethical Standards Officer should consider whether the Monitoring Officer might have a conflict of interest.

Members took a view that the Monitoring Officer should have the power to refer cases back to the Ethical Standards Officer in the following cases:-

- (a) Where evidence comes to light that the complaint is more serious than was at first thought

(b) Where evidence comes to light of other potential breaches of the Code.

(c) Where the Monitoring Officer is the person who had made the complaint on his or her own behalf

Members also considered that the Standards Committee should be able to refer cases back to the Ethical Standards Officer in exceptional cases

Subject to paragraph (b) Members were satisfied that the distinction between cases where there should be a referral back to the Ethical Standards Officer and cases where a fresh complaint was justified was clear. For the reasons supporting (b) however (discussed in the consideration of the Government's consultation paper), the circumstances were not considered reasonable.

Members agreed that it was right to seek to maintain confidentiality during the course of an investigation and that the guidance given was clear.

Members were of the opinion that draft reports should be limited to cases where there were complex issues of fact or where the facts were disputed. In other cases draft reports would not be helpful but would unduly delay the process and be an inappropriate use of resources. Members also suggested that the guidance should indicate that the Monitoring Officer should give reasons for his or her findings of fact as well as reasons for whether there had or had not been a breach of the Code. Where the evidence of one party was preferred to that of another the Monitoring Officer should say why he or she came to that conclusion. These reasons should be repeated in the final report to the Standards Committee. Members felt that subject to this comment a report prepared in accordance with the guidance would enable them to adequately deal with the consideration of reports and hearings.

Members considered that the guidance given on conflicts of interests was clear although suggested an amendment in the terms set out above.

Members felt that Monitoring Officers might find non-statutory guidance on the conduct of investigations useful but without having an indication as to the likely content of that guidance could not comment further.

**The Committee considered that when confidential papers were circulated to committee Members, they should be returned for destruction when the matter had been completed. The Committee felt that as a general principle, it would be good practice for Councillors to return all confidential committee reports to officers for destruction and suggested that this be recommended to Council.**

Members were asked to consider whether they felt that the guidance should be clarified to require the MO to give reasons for findings of fact

as well as on the issue on the breach of the code. Members were also asked to consider if a report following these guidelines would enable them to adequately deal with the consideration of the report or hearings. The Committee agreed that it would be unnecessary for a MO to give reasons for findings in cases where the facts were not in dispute. However, where the MO gives a statement in the draft report that he prefers the evidence of one or other of the parties, there should be a requirement to give reasons. Also, these reasons should be included in the final report which goes to the Standards Committee. Subject to this the Committee considered that the draft guidance was sufficient.

The Standards Board also asked whether the draft guidance on conflicts of interest was clear and appropriate and whether its previous guidance that the MO's main function was to advise the Standards Committee rather than carry out the investigation was correct. The Committee agreed that this guidance was clear and correct.

RESOLVED that the above comments be submitted to the Standards Board on the consultation paper.

**RECOMMENDED that, as good practice, Councillors be asked to return confidential papers to the Council for destruction.**