

**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 4.30 pm on 23 JULY 2003**

Present:- Councillors C A Cant, C D Down, V J T Lelliott and R M Lemon
(Uttlesford Members)
S Brady and M Hall (Independent Persons).

Officers in attendance:- C Hughes, M J Perry and M T Purkiss.

S1 APPOINTMENT OF CHAIRMAN

RESOLVED that Mr S Brady be appointed Chairman for the meeting.

S2 APOLOGIES

An apology for absence was received from Councillor D James (representing town and parish councils).

S3 MINUTES

The Minutes of the meeting held on 2 April 2003 were received, confirmed and signed by the Chairman as a correct record.

S4 THE ADJUDICATION PANEL AND THE STANDARDS BOARD

Members noted a report detailing the activities of the Adjudication Panel for England and the Standards Board for England since the last meeting.

The Adjudication Panel had published 96 cases on its website up to the end of June and 93 of these cases involved parish councillors who had failed to register their interests as required by the code of conduct. It was noted that where the panel had found as a fact that failure to register interests was deliberate and there had been no mitigating factors it had routinely imposed a disqualification from being a member of a relevant authority for a period of one year. Details of other cases dealt with by the Adjudication Panel were also reported.

The Head of Legal Services said that there had been a lack of information from the Standards Board. The statistics section of the website had not been updated and the case review publication was not set out in a way which made it easy to find comparable cases. However, guidance for monitoring officers and Standards Committee members was available on the website.

The Head of Legal Services emphasised the importance of Members keeping their Register of Interests up to date and it was suggested that regular reminders should be included in the Members' Bulletin.

S5 **LOCAL DETERMINATION OF ALLEGATIONS OF BREACH OF THE CODE OF CONDUCT**

It was noted that the Local Authorities (Code of Conduct) (Local Determination) Regulations came into force on 30 June 2003. They set out the procedure to be followed when a case is referred to a Monitoring Officer and the powers of Standards Committees in dealing with such cases. It was noted that, at present, allegations of breaches of the code of conduct would be investigated by an Ethical Standards Officer (ESO). Where the ESO considered that there was evidence that there might have been a breach of the code, he may now refer the matter to the Monitoring Officer. It was the duty of the Monitoring Officer to send a copy of any report received from an ESO to any Member who was the subject of the report and to arrange for the Standards Committee to meet and consider that report. Details of the arrangements and procedures for these meetings were reported.

The Head of Legal Services said that the Standards Board had published guidance on the conduct of hearings before Standards Committees. The Committee is bound to have regard to that guidance in the conduct of hearings, but having given the guidance due regard were not bound to follow it.

Having conducted a hearing, the Committee was required to make one of three findings:

- 1 that the Member concerned had not failed to comply with the code
- 2 that the Member concerned had failed to comply and that no action needed to be taken in respect of that breach
- 3 that the Member concerned had failed to comply with the code and that a sanction should be imposed.

The regulations set out the range of sanctions which the Committee could impose in the event that it determined that a sanction was required. If the Member concerned was no longer a member of the authority the committee can only censure him. If the Member remained a member of the authority the Committee may:-

- 1 Censure him
- 2 Restrict the Member's access to the authority's premises and the Member's use of the authority's resources for a period not exceeding three months, providing that such restrictions are reasonable and proportionate to the nature of the breach and do not unduly restrict the Member's ability to perform his functions and duties as a Member.
- 3 Partial suspension for a maximum period of three months or until such time as the Member makes a written apology or undertakes any training or conciliation specified by the Standards Committee
- 4 Suspension for a maximum period of three months
- 5 Suspension for a maximum period of three months or until such time as the Member makes a written apology or undertakes any training or conciliation specified by the Standards Committee.

It was noted that any sanction imposed would commence immediately after its imposition by the Standards Committee, but save in the case of censure, the

Committee might direct that the sanction could commence at any time within a period of six months after its imposition.

Arrangements for the notification and publication of the Standards Committee decision were noted. It was also noted that an appeal against the decision could be made against the Adjudication Panel for England, but only with the permission of the panel.

The Head of Legal Services reported that shortly before the meeting, the Standards Board had published a document entitled 'Standards Committee Determinations Guidance for Monitoring Officers and Standards Committees'. The guidance indicated that allegations which were likely to be referred were those of a purely local nature which did not affect broader national issues and where the matter did not appear to need the heavier penalties available to the Adjudication Panel for England. However, cases would not be referred if the ESO considered that it would be difficult or inappropriate to try to resolve the matter locally. In particular, Members noted the guidance relating to pre-hearing matters. The guidance suggested that these could be dealt with at an early stage in writing and a form of questionnaire was proposed for that purpose. The guidance provided a model procedure for the conduct of hearings. It also suggested that any legal advice given to the Committee at any stage in the process should be shared with the Member concerned and the ESO if present. The Committee therefore considered whether the legal advisory should withdraw with the other parties when considering their decision. Details of the procedures were reported and it was noted that as well as announcing its decision on the day of the hearing, the Standards Committee should give a short written decision on the day and a full written decision as soon as possible after the end of the hearing.

When considering whether to impose a penalty and, if so, what that penalty should be, the Committee must ensure that any penalty is reasonable and proportionate to the Member's behaviour. It was felt that the following questions might be appropriate for consideration:-

- What was the Member's intention? Did he know he was failing to follow the code?
- Did he get advice from officers before the incident and if so did he act upon it in good faith?
- Has there been a breach of trust?
- Has there been any financial impropriety?
- What was the result of the breach?
- How serious was the incident?
- Does the Member accept that he was at fault?
- Did the Member apologise to the relevant people?
- Has the Member previously been warned or reprimanded for similar misconduct?
- Has the Member failed to follow the code before?
- Is the Member likely to do the same thing again?

RESOLVED that

1 the guidance of the Standards Board be adopted.

- 2 The written procedure process for pre-meeting hearings be adopted.
- 3 Mr S Brady be nominated to deal with pre-case hearings.
- 4 After giving evidence the legal advisory and other parties to leave the meeting during deliberations.
- 5 The provisions for appeals be adopted to allow greater flexibility.

S6

GUIDANCE ON PROBITY IN PLANNING

Councillor Cant declared a non-prejudicial interest in this matter as a Member of the Development Control and Licensing Committee.

The Committee noted that the Code of Practice – Probity in Planning had been adopted on 9 January 2001. Since that time the Development Control and Licensing Committees had become committees in their own right. The voluntary National Code of Conduct had been replaced by the mandatory Councillors' Code of Conduct adopted by the Council in May 2002. Therefore, the current Code of Practice – Probity in Planning was out of date.

The Local Government Association had issued revised guidance on Probity in Planning and Members were asked to approve an amended Code of Practice – Probity in Planning which took into account the revised committee structure of the Council, the effect of the Council's Code of Conduct and the LGA guidance. The Head of Legal Services said that the main alterations concerned Development Control site visits and the attendance of parish and town council representatives. It was emphasised that the site visits were a fact finding exercise only and not an opportunity for lobbying. A further provision required that Members must be present throughout committee meetings if they intended to vote.

RESOLVED that the draft Code of Practice – Probity in Planning be approved and recommended for adoption by the Development Control and Licensing Committee.

S7

BIRMINGHAM ASSEMBLY

Mr S Brady reported that he had attended the Birmingham Assembly on behalf of the Committee. A copy of the report would be circulated to other Members of the Committee. He said that many of the independent persons felt that there should be an annual workshop for lay-representatives to enable them to exchange views.

The Head of Legal Services said that he would assess the implications and contact Mr Brady direct.

The meeting ended at 5.40 pm.