

Committee: STANDARDS COMMITTEE
Date: 20 JANUARY 2004
Agenda Item No: 6
Title: REQUESTS FOR DISPENSATIONS
Author: Michael Perry (01799) 510416

Summary

- 1 Members will recall that a report was submitted to this Committee in April 2003 setting out the circumstances where the Committee could grant dispensations permitting Members of the Council or its Committees to take part in meetings notwithstanding the fact that they would be otherwise prevented from doing so by virtue of the Code of Conduct
- 2 This report is to advise Members of requests received and likely to be received for dispensations from Members of the Council

Background

- 3 The Council has fought a long and hard campaign against proposals for additional runways at Stansted Airport. The Council has not been the only organisation which has been active in this area. Equally vigorous were the efforts of the Stop Stansted Expansion Campaign ("SSE"). It appears likely that more than one half of all Councillors and certainly more than one half of Members of the Development Control Committee are members of SSE.
- 4 SSE is clearly a body with the principal purpose of influencing public opinion. As such membership of that body constitutes a registerable (and therefore a personal) interest. Given the aims of SSE whenever the possibility of a second runway is being discussed the interest must be prejudicial requiring members of SSE to withdraw from any meetings of the Council or its Committees when the item is under consideration.
- 5 The criteria for eligibility for dispensations is probably met in the case of all Council Members and certainly met in the case of Members of the Development Control Committee. The issues surrounding the airport are sensitive and of great public interest. Constituents may feel disenfranchised if their representatives are unable to be present and speak when the airport is under discussion. Members themselves feel strongly that they ought to have a voice on such an important issue which whilst part of government policy has immense local impact.
- 6 At the date of the preparation of this report one application for a dispensation has been received but it is anticipated that many more will follow. This Committee will need to consider each application and determine whether to

grant a dispensation, if so how long the dispensation should last and whether it should extend to speaking and voting or merely speaking.

RECOMMENDED that Members:-

- a) determine whether to grant dispensations in respect of any applications received by the date of the Committee meeting and if so on what terms
- b) if dispensations are granted whether the Committee wishes to offer any guidance to Members as to the conduct of any meetings when the dispensations are used.

Background Papers: None.

Committee: Standards Committee
Date: 20 January 2004
Agenda Item No: 7
Title: Future Meetings
Author: Mick Purkiss (01799) 510430

Summary

- 1 This report asks the committee to agree dates of future meetings.

Background

- 2 Whilst the committee has met fairly infrequently over the past few years it is likely that the workload will increase as it now has responsibility for town and parish council issues.
- 3 In order to avoid problems with arranging meetings at short notice it may be helpful to have meetings scheduled for a year ahead and a suggested list is set out below. Meetings can of course be cancelled if there is no business outstanding.
- 4 The following dates are suggested:

Monday 22 March 2004
Monday 24 May 2004
Monday 19 July 2004
Monday 20 September 2004
Monday 22 November 2004
- 5 Members are also asked to consider the most convenient start time for these meetings. It appears that with the current membership a start time of 4 or 4.30pm is the most suitable.

RECOMMENDED that the above calendar of meetings be approved and Members confirm the most convenient start time for these.

Background Papers : Nil

Committee: STANDARDS COMMITTEE
Date: 20 January 2004
Agenda Item No: 8
Title: PARISH REPRESENTATION ON THE STANDARDS COMMITTEE
Author: Michael Perry (01799) 510416

Summary

- 1 This report is to advise Members of difficulties experienced filling a vacancy on the Standards Committee and to seek Members' views on the steps to be taken to appoint Parish Councillors to the Standards Committee in the future.

Background

- 2 The Local Government Act 2000 requires local authorities (other than Parish Councils) to establish Standards Committees. The composition of the Standards Committee is within the discretion of the authority concerned but where the Committee consists of more than 3 Members at least 25% of the Members must be independent and where the Council has responsibility for Parishes at least one Member must be a Parish Councillor who is not also a Member of the Council.
- 3 The Council's current procedure rules provide for the Standards Committee to comprise of two independent Members, four Members of the Council and two Parish Councillors. After consideration of a number of options it was decided that the Parish Councillors on the Committee were to be nominated by the Uttlesford Association of Local Councils ("UALC").
- 4 Two Parish Councillors were so nominated and appointed by the Council. However one of these Councillors did not stand for re-election in May and therefore ceased to be a Member of the Committee. The UALC was been asked on three occasions to nominate a replacement but failed to nominate a replacement for six months.
- 5 The lack of a second Parish Councillor could cause difficulty. When exercising functions relating to Parish Councils at least one Parish Councillor who is a Member of the Standards Committee must be present for the meeting to be quorate. If there is only one such Member and he cannot attend for any reason then the Committee cannot function with regard to Parishes.
- 6 The Standards Committee has responsibility for the parishes within the District. Now that cases can be referred for local determination there is a possibility that complaints regarding alleged breaches of the Code of Conduct by Parish Councillors may be referred for determination by the Committee. It

is therefore considered important that vacancies on the Committee should be filled as soon as possible.

- 7 In the light of recent experience Members may consider that an alternative method of selection should be considered. Options include advertising for applicants who are Parish Councillors within the District or asking the Parishes to nominate Members for consideration for appointment. Should either of these options be considered a method of selection would need to be determined. Should the person proposed to be appointed by Full Council be selected after an interview process (if so who should conduct the interview and what criteria should apply?) or drawn by lot?
- 8 The power of appointment to the Committee is that of Full Council but it is probable that the Council will be guided by the views of this Committee

RECOMMENDED that Members advise Full Council on a suitable method for the Council to appoint Parish Members in the future.

Committee: STANDARDS COMMITTEE
Date: 20 January 2004
Agenda Item No: 9
Title: UPDATE ON THE STANDARDS BOARD AND
ADJUDICATION PANEL
Author: Michael Perry (01799) 510416

Summary

- 1 This report updates Members on the workings of the Standards Board and the Adjudication Panel

Background

- 2 The Standards Board has received in excess of 4500 complaints to date. The rate of complaints varies from 180 – 420 per month. There are seasonal variations emerging with June/July being the busiest periods and August/September the quietest. 49% of complaints have come from the public, 42% from Councillors, 6% from officers and 3% from unspecified “other” sources. Officer complaints include referrals by the monitoring officer on behalf of the authority.
- 3 41% of complaints have been referred for investigation. Of those not referred 55.9% was because of absence of evidence of a breach of the code, 15% were outside the jurisdiction of the Board, 14.3% were insufficiently serious to warrant an investigation, 8.7% contained insufficient information (and letters requesting clarification were not replied to), and 6.1% were deemed trivial, vexatious or repetitive.
- 4 50% of complaints were against Parish Councillors, 27% against District Councillors, 9% against Councillors from unitary authorities, 5% against Metropolitan Borough Councillors, 4% against London Borough Councillors and 3% against County Councillors.
- 5 The three most significant areas of complaint were failing to register interests (34%), bringing the office of Councillor or the Authority into disrepute (16%) and failing to treat others with respect (13%). It is anticipated that the number of complaints regarding failing to register interests will fall sharply as this figure includes numerous Parish Councillors who refused to register their interests when the Code of Conduct was introduced. Those elected at the last election will have stood for office knowing what was expected of them.
- 6 Over 400 investigations have been closed. The target figure is to complete 95% of investigations within 5 months of reference. The current average is 2.4 months.

- 7 In 23% of investigations no evidence of a breach was found. 17% were referred to the adjudication panel. Section 66 regulations permitting a reference to the monitoring officer for a local determination have only recently been in force but 2% of all cases investigated to date have been so referred. In 58% of cases no action was deemed to be required. However many of these cases would have been referred to the monitoring officer. It is anticipated that this figure will drop substantially as the number of local referrals grows.
- 8 In the region of 135 cases have now been dealt with by the Adjudication Panel. "Sentencing" trends are starting to emerge. Failure to register interests has attracted a 1 year disqualification in most cases. Misuse of Council resources (use of Council IT for community organisations) warranted a 3 month suspension. There have been 2 cases of disclosing confidential information. One of these (disclosing an officer's salary) was met with a 1 month suspension, the other (disclosing exempt information from a report to Council) a 3 month suspension. Failing to treat others with respect (which to be found to be a breach of the Code must be severe as there is a wide margin given for acceptable "political banter") has attracted disqualifications of between 1 and 3 years. Seeking an improper advantage (a Member lobbying in support of her daughter's licensing application) was dealt with by an 18 month disqualification. A Councillor who refused to return a Council laptop when requested to do so was disqualified for 1 year. A Member who formed a residents group to campaign against a footbridge adjacent to his home and failed to register or declare the interest was disqualified for 2 years (although in a similar case a 3 month disqualification was imposed). A Member who breached his Authority's Code of Probity in Planning and who was held to have brought his authority into disrepute by virtue of such breach was disqualified for 1 year. Finally a conviction for serious sexual offences led to the maximum disqualification of 5 years.
- 9 Although there is a right of appeal to the High Court from decisions of the Adjudication Panel there is no reported case of any such appeal being brought. Where there has been a reference for local determination there is a right of appeal to the Adjudication Panel with the permission of the President of the Panel. No applications for permission have yet been received although as previously mentioned local determinations only became possible fairly recently.

FOR INFORMATION

Background Papers: Course notes from ACSeS conference 2/12/03
Adjudication Panel Website

Committee: STANDARDS COMMITTEE
Date: 10
Agenda Item No: 20 January 2004
Title: TRAINING FOR STANDARDS COMMITTEE MEMBERS
Author: Michael Perry (01799) 510410

Summary

- 1 At the meeting on 23 July 2003 this Committee resolved to adopt the Standards Board's guidance for the conduct of hearings into allegations of misconduct by Councillors. This report is to assist Members decide what training (if any) they wish to have in advance of dealing with a local determination.

Background

- 2 Regulations under s.66 Local Government Act 2000 now lay down a framework for allegations of breaches of the Councillors Code of Conduct (both at Parish and District levels) to be referred to the District Council for determination. A number of references by Ethical Standards Officers (ESO) have already been made and given the large number of complaints in respect of which the ESO determined that in the absence of s.66 regulations no action was required it is anticipated that the number will grow rapidly. The Standards Committee is the Committee which must deal with such determinations.
- 3 Proceedings before the Standards Committee are quasi judicial in nature. Members may not have had experience of such proceedings and may feel that they would benefit from some training or other similar experience before being called upon to make a local determination.
- 4 One option is to buy-in training from outside. A firm of solicitors has a role play exercise which it has used on a number of occasions. The advantage of this type of training is that Members would have a "dummy" set of case papers and would experience dealing with a mock case. The disadvantage is that the exercise will inevitably have a degree of artificiality about it and will depend to a large degree upon the ability of the "actors" for its success. There will be budgetary implications from this type of training. This Committee does not have a budget for training and an application for funds would need to be made to the Resources Committee. There are not the resources to devise such an exercise in house.
- 5 An alternative would be for Members to attend a hearing by the Adjudication Panel for England. Guidance from the Standards Board for the conduct of hearings follows closely the procedure adopted by the panel. Hearings are

generally held in public. The nearest venue that a hearing is taking place in the foreseeable future is Ipswich on 5/6 February 2004 when the Panel has three cases to consider. The advantage of this is that Members will see a real case at first hand. The disadvantage is that Members would not take part in the decision-making process nor would they have prior sight of the papers. There would be minimal budgetary implications however. Attending a hearing should ideally be followed up fairly quickly by a workshop to discuss issues arising from the hearing that Members find of interest.

- 6 Alternatively Members may prefer a workshop dealing with considerations to be applied in the conduct of quasi-judicial hearings.

RECOMMENDED that Members determine what form (if any) Member training should take in preparation for local determination hearings.

Background Papers: Course notes from ACSeS conference 2/12/03