

**STANDARDS COMMITTEE held at COUNCIL OFFICES LONDON ROAD
SAFFRON WALDEN at 4.00 pm on 15 NOVEMBER 2004**

Present:- S Brady – Chairman.
Councillors C A Cant, C D Down and R M Lemon (Uttlesford
Members) and R A Merrion (Town and Parish Councils).

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

S17 APOLOGIES

Apologies for absence were received from Councillor V J T Lelliott and Mr M Hall.

S18 MINUTES

The Minutes of the meeting held on 4 October 2004 were received, confirmed and signed by the Chairman as a correct record.

S19 BUSINESS ARISING

(i) Visit to Adjudication Panel for England

The Democratic Services Manager said that he would contact Members within the next few days to confirm the arrangements for the visit to the hearing of the Adjudication Panel for England at Newmarket on 23 November 2004.

(ii) Consultation on Draft Model Code of Conduct for Local Government Employees

It was noted that the Committee's comments had been submitted to the Office of the Deputy Prime Minister. In response to a question from Mr Merrion, the Executive Manager (Corporate Governance) confirmed that town and parish clerks were employees of their relevant councils and advice and training could be provided to them by the Essex Association of Local Councils. He said that he had previously written to all parish clerks concerning this issue, but there had been no demand for training to be provided by the Council.

(iii) Consultation on Review of Regulatory Framework Governing Political Activities of Local Government Employees

It was noted that the Committee's comments had been submitted to the Office of the Deputy Prime Minister.

(iv) Complaint to the Standards Board for England

The Executive Manager (Corporate Governance) reported that a complaint concerning a district councillor had been concluded and details of this would be published shortly. A complaint concerning two parish councillors was still under investigation.

(v) **Update on Training**

Members of the Committee thanked the officers who had participated in the training exercise on 18 October 2004. It was generally accepted that the Members of the Committee still needed to learn more and the training had highlighted the need to focus on the issues, listen to the evidence and make valid judgements.

(vi) **Membership of Standards Committee**

It was noted that the Uttlesford Association of Local Councils had received three nominations for a replacement Town and Parish Council representative and would be making a recommendation to this Committee following its meeting on 13 January 2005.

S20

LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) (AMENDMENTS) REGULATIONS 2004

At the meeting of this Committee on 22 March 2004, a number of representations were referred to the Government on its consultation paper dealing with draft regulations to permit local investigation. It was noted that the regulations had now been passed, as a result of which the Ethical Standards Officer (ESO) would be able to refer allegations of breaches of the Code to the Monitoring Officer for local investigation and determination.

The regulations provided that where a matter was referred for local investigation, the Monitoring Officer must inform the Member who was the subject of the allegation, the person who made the allegation and the town or parish council concerned.

In carrying out the investigation, the Monitoring Officer could require any authority concerned to provide such advice and assistance as may reasonably be needed to assist the investigation. It was noted that the regulations as published stated that the costs of investigations into allegations relating to parish councillors would be borne by the District Council.

It was noted that the consultation paper had limited provisions for the Monitoring Officer to refer investigations back to an ESO. These limitations had now been removed and the Monitoring Officer could make a written request to the ESO at any stage before the conclusion of the investigation for the ESO to take the case back for investigation. The regulations also provided that the Standards Committee could adjourn a hearing at anytime prior to its conclusion and make a written request to the ESO that he take the matter back and undertake an investigation. The request must state the Committee's reasons for this and the ESO must respond within 21 days and either direct the matter be referred back to him for investigation or direct that the Standards Committee should continue to deal with the case.

Upon conclusion of an investigation the Monitoring Officer must either make a finding that there has been a failure to comply with the Code or that there has not been a breach of the Code. The Monitoring Officer must prepare a written

report regarding the investigation and findings, a copy of which must be sent to the Member which was subject to the investigation. Where the finding of the Monitoring Officer was a breach of the Code, then he would arrange for there to be a hearing before the Standards Committee. Where the finding is that there has been no breach of the Code, the report must be considered by the Committee, which must either accept the Monitoring Officer's finding or determine that there should be a hearing of the Committee to determine the allegation.

If the Standards Committee accepted the finding of no breach of the Code, then written notice must be given to the Member concerned, the ESO, any parish council concerned and the person who made the allegation. Notice of the finding must be published in at least one local newspaper unless the Member concerned requested otherwise.

It was noted that, although not subject of the initial consultation, the regulations made reference to any ESO directing a Monitoring Officer to deal with the matter other than by way of investigation. Details of this were noted. As anticipated, the regulations provided for those carrying out investigations to have regard to guidance issued by the Standards Board.

The Standards Committee was given a new power to adjourn a hearing, but not more than once, to require the Monitoring Officer to seek further information or undertake further investigation on any point specified by the Committee. The regulations also amended the range of sanctions which could be imposed by a Standards Committee. In addition, to those already in force, the Committee could now require a written apology in a form specified by the Committee or require that the Member concerned undertakes specified training or that the Member concerned undertakes specified conciliation. These were in addition to, and not in substitution for, similar requirements which may be linked to a partial or a full suspension. As worded, the failure to comply would not carry any sanction. Failure to comply with a requirement of the Standards Committee in this respect could in itself be seen to be a breach of the Code of Conduct in that the Member concerned would not be treating Members of the Committee with respect and may be seen to be bringing the authority and the office of councillor into disrepute. However, as this would involve a separate complaint to the Standards Board, it could be considered that if Members were to require an apology, training or conciliation that it would be more proportionate to link the same with a partial or full suspension, particularly bearing in mind that the Committee had the power to defer the effect of such with the result that by undertaking the appropriate conduct before the commencement date for suspension, the Member could avoid sanction.

Members were reminded that in their representations, it had been suggested that the Monitoring Officer should have the same powers of compulsion with regard to information gathering as were held by ESO's. The Committee also expressed its concern that where Members did not accept a finding by the Monitoring Officer that there had not been a breach of the Code and required a hearing, they could be seen to have prejudged the case. Further, where there had been a finding of the Code, whether by an ESO or the Monitoring Officer, this again could be seen as prejudgement of the case by the

investigator rather than the Committee. However, there was nothing in the regulations to address these concerns.

RESOLVED that the content of the new regulations be noted.

S21

REVIEW OF TRAINING NEEDS

Members reviewed the training which had so far taken place and discussed their needs for further training. It was agreed that the role-playing exercise had been very useful, particularly with feedback being given on the appropriateness of some of the questions being asked by Members. It was felt that when looking at an appropriate sanction, some of the Members had been influenced by the previous speakers and it was suggested that at a future event, the hearing scenario could be adjourned to enable a more informal round table discussion to take place before agreeing on a sanction. It was also suggested that future training should look at the judicial approach and how sanctions could be applied.

RESOLVED that a further training session be arranged in the New Year, taking into account the above comments.

The meeting ended at 5.45 pm.