

**MINUTES OF THE STANDARDS COMMITTEE  
THURSDAY, 7 FEBRUARY 2008**

MEMBERS:	Councillors Dobbie, GMMH Rahman Khan, Lister, Mallett, Whyte and Winskill
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INDEPENDENT MEMBERS:	Mr N Weber (Deputy Chair), Mr R. Lovegrove and Ms C. Sykes.
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Apologies Irene Francis (Chair), Councillors Mughal and Williams

**MINUTE  
NO.**

**SUBJECT/DECISION**

<b>STCO25.</b>	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>Apologies for absence were received from Councillors Mughal and Williams, as well as from the Chair, Irene Francis. Roger Lovegrove, the Vice-Chair of the Committee, took the Chair for the meeting.</p>
<b>STCO26.</b>	<p><b>URGENT BUSINESS</b></p> <p>There was no such business.</p>
<b>STCO27.</b>	<p><b>DECLARATIONS OF INTEREST</b></p> <p>There were no such declarations.</p>
<b>STCO28.</b>	<p><b>MINUTES AND MATTERS ARISING</b></p> <p>Under matters arising, Members noted that they were awaiting a written note from the Monitoring Officer concerning the new arrangements for the Members' Code of Conduct. The Monitoring Officer agreed to supply Members with the requested note.</p> <p><b>RESOLVED:</b></p> <ol style="list-style-type: none"> <li>1. That the Monitoring Officer write to Members concerning the new arrangements for the Members' Code of Conduct.</li> <li>2. That the minutes of the meeting of the Standards Committee held on 7<sup>th</sup> February 2008 be confirmed and signed.</li> </ol>
<b>STCO29.</b>	<p><b>CHAIR'S ANNOUNCEMENTS</b></p> <p>The Committee was informed of the resignation of Nicolas Weber (independent Member) with immediate effect.</p> <p>The Committee expressed its congratulations to John Suddaby for being confirmed to the post of Monitoring Officer.</p> <p><b>RESOLVED:</b></p>

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	<p>That the Committee write to Nicolas Weber thanking him for his work for the committee.</p>
<b>STCO30.</b>	<p><b>MONITORING OFFICER'S REPORT ON REFERRALS RECEIVED FROM THE STANDARDS BOARD FOR ENGLAND</b></p> <p>The Monitoring Officer stated that he had not received any referrals to the Standards Board for England in the period since the previous meeting.</p> <p>Two letters had been received from the Standards Board informing him of complaints about two separate Members; the Board had elected not to refer these complaints onwards. The committee noted that Members who were the subject of a complaint were made aware of the complaint after it had been considered by the Standards Board.</p>
<b>STCO31.</b>	<p><b>DETERMINATION HEARINGS</b></p> <p>There had been no determination hearings.</p>
<b>STCO32.</b>	<p><b>GOVERNMENT CONSULTATION PAPER ON NEW ETHICAL GOVERNANCE SCHEME FOR LOCAL AUTHORITIES</b></p> <p>The committee discussed the Monitoring Officer's draft response to the Government Consultation Paper on a new Ethical Governance Scheme for local authorities. Following discussion amongst the committee, the following response from Haringey was agreed:</p> <p><b>Q1. Does our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?</b></p> <p>A 1. We are of the view that a member of the Standards Committee should not be involved in more than one stage of the process, whether that be the initial assessment, the review or the hearing. The argument for this is based on the importance of proceedings being seen to be fair. A member against whom an allegation has been made is likely to feel unfairly prejudiced if members were to conduct a hearing on a matter where those same members had previously seen the original allegation, with no counter-evidence, and taken a decision that it appeared to show a breach of the Code of Conduct and merited investigation. Our proposal would require the Standards Committee to arrange for each separate stage of the local determination procedure – initial sieve, review and determination hearing – to be conducted by a separate sub-committee.</p> <p><b>Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do</b></p>

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**you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?**

A2. We consider that it must be for the separate authorities to decide whether an individual matter would be appropriate for joint treatment in any respect. However, it would be helpful if the Standards Board for England could be asked to facilitate joint treatment where authorities are unable to reach agreement between themselves.

**Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?**

A3. We would favour a statutory timescale being in place

**Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?**

A4. We do not agree that there should be a discretion not to provide a summary of the allegation at the time the initial assessment is made.

**Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?**

A5. We agree with the principle that the Monitoring Officer should be able to refer a matter back to the Standards Committee where the circumstances have significantly altered since the Standards Committee took the decision that the matter merited investigation.

We also consider that a Standards Committee should have the ability to refer an allegation to the Monitoring Officer for action short of a formal investigation, for example for training or mediation.

We are concerned that the 2007 Act makes no express provision for local resolution of allegations, and we would encourage the Standards Board for England to issue guidance on how this may be achieved in appropriate cases. Not all cases are susceptible to local resolution, but given the cost of formal investigations and hearings, it clearly makes sense to seek amicable local resolution where possible and it would be very helpful if the Standards Board for England were to endorse such a role for Monitoring Officers.

**Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?**

A6. We agree that an increase in the maximum local sanction is required if more cases are to be handled locally. We consider that the proposal for a maximum 6 months suspension at local level is an appropriate level to set in

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the first instance but that a further review should take place around increasing this to 9 months based on the light of experience of the operation of the local sieve arrangements.

**Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?**

A7. We agree that the Chairs of all Sub-Committees should be Independent Co-opted Members.

**Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?**

A8. We agree that the initial assessment and review functions should be conducted without press and public access.

An outstanding issue relating to the new arrangements is that there is no statutory confidentiality for Monitoring Officer reports, and particularly draft reports, unlike the position for Ethical Standards Officers' report. We request that the opportunity be taken to remedy this omission and bring local investigation reports into line with national reports.

**Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?**

A9. We agree with the criteria as listed. We do not think that in all cases intervention would need to be total. We suggest that it would be helpful if it were made clear that intervention might be only in respect of parts of the process, such as failure to undertake prompt initial assessments, rather than in respect of the whole functions.

**Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?**

A10. We agree that a system of recharging for a Standards Committee performing another Standards Committee's function, would appear to be sensible and a scale of charges for the initial assessment, review and hearing would also seem to be appropriate. However, there are very substantial variations in the costs of investigations, from £5,000 to £50,000, and we consider that actual cost recharge for investigations would be appropriate.

**Q11. Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a**

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**limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?**

A11.

We consider that the facility to form joint committees, and for those joint committees to form joint sub-committees to undertake particular functions, would be a useful optional arrangement to have.

**Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?**

A12. We support this change.

We would also support an amendment to the remit of Appeals Tribunals under Regulation 13 of the Local Determination Regulations, to make it clear that an Appeals Tribunal should not re-conduct the hearing and substitute its discretion for that of the Standards Committee, but should only overturn the decision or part of the decision of a Standards Committee where it is of the opinion that that decision was either outside the powers of the Standards Committee or was unreasonable. If we are going to trust Standards Committees with more cases and more powers, they cannot operate if their decisions are to be overturned too frequently because the Appeals Tribunal comes to a different value judgement.

**Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?**

A13. We agree with this proposal to enable an Ethical Standards Officer to withdraw a case from the Adjudication Panel where there has been a material change in circumstance since the original decision was taken to refer the matter. Where appropriate we think the allegation should be referred back to the Standards Committee.

We also agree that the decision of a case tribunal to suspend a member should be effective upon the decision of the case tribunal, rather than having to be referred to and actioned by the authority's Standards Committee.

**Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?**

A14. We agree that Regulation 3(1)(a)(i) of the Dispensations Regulations

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should be clarified to ensure that it relates to the position where half of the members of a decision-making body who would, apart from the prejudicial interest, have been entitled to vote on the particular matter, are required by such prejudicial interest to withdraw.

On Regulation 3(1)(a)(ii), providing for a dispensation where the authority is unable to comply with its duty to secure proportionality, we would ask the Department to address the issue that, as presently drafted, this only applies when the Council is appointing a Committee, or a Committee is appointing a Sub-Committee, as proportionality relates to the composition of the members of the Committee as appointed, rather than those who attend and vote on any particular occasion.

We would ask that the same power of dispensation be applied to Sub-Committees as to Committees.

**Q15. Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?**

A15. We would not object if arrangements are put in place to enable such authorities to undertake functions with regard to the exemption of certain posts from political restrictions.

**Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?**

A16. Experience of past changes to the system, and particularly changes to the Code of Conduct, underline how important it is to get these changes right first time, with the benefit of full consultation, rather than to rush half-considered changes into effect.

The Department's intention to implement the changes from 1<sup>st</sup> April 2008 will leave little time for consideration of the results of this consultation before a statutory instrument has to be laid before Parliament and guidance issued. It will also leave little time for any necessary training/ briefing of Standards Committee members in the new arrangements.

**RESOLVED:**

That the above response to the government consultation be agreed.

**STCO33. RECRUITMENT OF INDEPENDENT MEMBER FOR STANDARDS COMMITTEE**

The committee received a report outlining progress made to date in the recruitment of a new independent Member of the committee. It was noted that initial response to the advert was positive.

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	<p>It was agreed that the panel for the shortlisting and interview should be comprised of two independent Members and two Councillors (one from each political group). It was decided that the Chair of the committee would have the casting vote.</p> <p><b>RESOLVED:</b></p> <ol style="list-style-type: none"><li>1. The committee noted the progress thus far on the recruitment of an independent Member.</li><li>2. That the panel be comprised of two independent Members and two Councillors, with the Chair having the casting vote.</li></ol>
<b>STCO34.</b>	<p><b>NEW ITEMS OF URGENT BUSINESS</b></p> <p>There were no such items.</p>
<b>STCO35.</b>	<p><b>ANY OTHER BUSINESS</b></p> <p>The Monitoring Officer agreed to investigate training options for the new municipal year, including the use of external providers.</p> <p><b>RESOLVED:</b></p> <p>That the Monitoring Officer investigate training options for 2008-09 and report back to the committee.</p>
<b>STCO36.</b>	<p><b>DATES OF NEXT MEETINGS</b></p> <p>The next meeting to be held on Thursday 10<sup>th</sup> April 2008 at 7:30pm.</p>

ROGER LOVEGROVE

Vice-Chair, in the Chair