

STANDARDS COMMITTEE

19 JUNE 2012

Present: Mr Phillips (Chairman), Mr Hampson, Town Councillor Watts, Parish Councillors Swain and Whittaker, District Councillor Hocking

Apologies: Mrs Robinson (Vice Chairman) and District Councillor Purser

Also in attendance: District Councillor Connett and Kenn Parish Council Clerk Mr Madge

36a. CHAIRMAN

Mr Phillips was elected as the Chairman for the meeting.

36b. MINUTES

The minutes of the meeting held on 21 March 2012 were approved and signed as a correct record.

36c. DECLARATIONS OF INTEREST

There were no declarations of interest.

36d. FORWARD PLAN

As this was the final meeting of the Standards Committee in its current format, the Forward Plan was not considered.

36e. LOCAL ASSESSMENT PROCEDURE - COMPLAINTS RECEIVED AND DETERMINED SINCE THE LAST MEETING OF THE COMMITTEE

The Chairman referred to the report at agenda page 1 which summarised the complaints received under the Local Assessment Procedure for the period from March 2012. Since the last meeting of the Committee, case number 23 had been assessed on 1 May 2012. The Sub-Committee considered no further action was required.

At the Assessment Sub-Committee on 1 May 2012, Members noted new information in relation to complaint number 21 which was subject to Other Action and as a result of which the Sub-Committee were satisfied that the direction had been complied with as far as possible and a request for a review of case number 22 had been withdrawn by the complainant.

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The Committee noted that there was one outstanding investigation and that it was hoped that this would be brought a Consideration Hearing before 30 June 2012.

36f. LOCALISM ACT 2011 – REVISED ETHICAL FRAMEWORK

The Committee considered the report of the Monitoring Officer and noted that, following the making of the Regulations on 6 June, the provisions of the Localism Act relating to Standards would come into force on 1 July 2012.

The Committee noted that it was necessary to have arrangements in place on 1 July and there were a number of issues to consider so that recommendations could be made to the Special Council which would be meeting on 29 June:

1. Code of Conduct

The Committee noted that four possible approaches to a Code of Conduct had been provided with the Agenda. The Committee were advised that the Executive members and the Leader of the Liberal Democrat Group favoured a light touch approach to the Code of Conduct. The Committee felt that the Devon-wide Code was too complex and favoured the Code produced by the National Association of Local Councils (NALC). The Committee accepted that there may be a number of different codes in place but noted that feedback from the Parish Councils was that they were likely to adopt the NALC code and that not all Devon local authorities would be likely to adopt the Devon-based Code of Conduct. It was therefore inevitable that there would be different codes and that, should a Joint Committee option be progressed in the future, the codes for the relevant councils could be reviewed at that stage. The Committee felt that the NALC Code was more straightforward and would be easier for members of the public to understand as well as those who are bound by it.

Recommended

That Teignbridge District Council adopt the Code of Conduct suggested by the National Association of Local Councils, attached as Appendix 5 to the Standards Committee Agenda.

2. Committee for dealing with Standards matters

Members considered whether a separate Standards Committee should be established or the Standards work should be dealt with by an existing Council committee, for example the Council's Audit Scrutiny Committee. This is likely to be an interim arrangement whilst the possibility of a Joint Committee with other authorities is explored. Whilst the Committee accepted that, with careful management, it would be possible for the Audit

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Scrutiny Committee to deal with Standards matters, it was felt that some councillors have a particular interest in dealing with Standards matters and skills from which a separate Standards Committee would benefit. On balance, the Committee felt that it was more appropriate to establish a separate Standards Committee of a small group of elected members. It should only meet as specifically required

The Committee was very concerned at the loss of the opportunity for parish and town council representatives and independent members to fully take part in a committee but felt strongly that Parish Councillors and the Independent Person should be co-opted to the Standards Committee. The Committee recognised that these members would be non-voting members of the Committee. The Committee was also mindful of the need to engage parish and town councils in the Standards framework and noted that a high proportion of complaints relating to the Code of Conduct arose from local councils.

The Committee noted that the new Standards Committee would be an ordinary committee of the Council, governed by the provisions of the Local Government Act and would be politically balanced unless a unanimous decision was taken to disapply the political balance requirements. The committee favoured a non political approach being taken to Standards matters

Recommended

That a separate Standards Committee of four elected members with two co-opted parish/town council representatives nominated by TALC and the Independent Person. The terms of reference for the Standards Committee to include all matters to deal with the Code of Conduct and the other 'non-Standards' matters which currently fall to the Standards Committee relating to overview of the constitution, corporate complaints and Ombudsman complaints.

3. Joint Standards Committee

The Committee considered that it would be beneficial to explore the possibility of a Joint Standards Committee with other Devon authorities but was keen to ensure that the right arrangements were in place for Teignbridge District Council to deal with Standards matters.

Recommended

That the option of establishing a Joint Standards Committee with one or more Devon authorities should be explored.

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4. Complaints Procedure

The Committee noted the suggested flowchart for dealing with complaints at Appendix 1 and supported this and noted the opportunity for more information to be obtained at the early stages of the complaint without the need to refer the complaint to the Committee. The Committee welcomed the opportunity to try to resolve issues at an early stage but endorsed the need for the Monitoring Officer to consult with the Independent Person at these early stages.

Recommended

That the Council adopt a complaints process as outlined in the flowchart at Appendix 1 and that a procedure be drawn up by the Monitoring Officer if possible in conjunction with other Devon authorities.

5. Independent Person

The Standards Committee noted the requirement for at least one Independent Person and that the Independent Person could be consulted by the Monitoring Officer, the complainant and the subject member. The Standards Committee noted that some councils had advertised for Independent Persons and the Monitoring Officer suggested that it would be possible to work jointly with other authorities to use their Independent Persons as reserves. This would mean that there would be a concentration of expertise and a small saving in remuneration. The Committee noted that transitional provisions in the regulations permitted the current independent members of Standards Committees to be appointed as independent persons for a short period of up to one year whilst new Independent Persons are being appointed.

Recommended

- (a) That there should be one Independent Person (IP) for Teignbridge District Council and that the appointment of the Independent Persons for West Devon Borough Council and South Hams District Council as reserve IPs be considered.
- (b) That the Teignbridge District Council be remunerated in the sum of £500 but that this be kept under review and adjusted accordingly in the first year.
- (c) That while the new IPs are being recruited, the existing independent members will act as the IPs.

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6. Registers of Interest

The Committee noted that the regulations relating to Registrable Pecuniary Interests had been passed and specified interests which must be registered. These related to employment, office, trade, profession or vocation; sponsorship; contracts; land; licences; corporate tenancies; and securities. These interests must be notified to the Monitoring Officer and entered in the Council's Register of Interests. Interests of the Member's spouse or civil partner or a person with whom the Member is living as husband and wife or as if they were civil partners are also registrable. The Committee noted that if such an interest is entered into in the authority's Register of Interests, or has been notified to the Monitoring Officer, there is no need for that interest to be declared at the meeting. The Committee also noted that, whilst a Member may not take part in discussion or vote if a disclosable pecuniary interest arises there is no statutory requirement for the member to leave the meeting. The Committee considered at length whether or not such a requirement should be imposed and noted that the NALC Code requires this at paragraph 11. On balance, the Committee felt that it was appropriate that the requirement to withdraw from meetings if a Registrable Pecuniary Interest arises should be included. The Committee concluded that on balance favourable public perception would be best served by members leaving the meeting room if they had a registrable pecuniary interest. A view was also expressed that a councillor remaining in the meeting could, unintentionally influence voting through body language and other unintended non verbal communications

The Committee also noted the requirement to consider what other interests should be registered and requested the Monitoring Officer to clarify with NALC whether an updated draft Code had been issued and, if so, what additional interests NALC suggests should be registered. The Committee also noted the requirement for all registers of interest to be published on the District Council's website and on the parish council website if one existed.

Recommended

- (a) That the statutory requirement to register interests is noted.
- (b) That additional interests to be registered reflect those suggested by NALC
- (c) That the requirement to withdraw from meetings if a Registrable Pecuniary Interest arises is included within the Code of Conduct

7. Other changes

As a consequence of the above recommendations, the Committee also recommends as follows:

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That the Monitoring Officer be authorised:

- To act as the Proper Officer for receipt of complaints against Members for alleged failure to abide by the Council's Code of Conduct and those of its town and parish councils;
- To arrange the appropriate publicity for the new systems outlined above and which any regulations require;
- To make appropriate changes to the Constitution to reflect the decisions taken as required by regulations;
- To make arrangements for the appointment of an Independent Person, following open competition and two reserve members from neighbouring authorities or following open competition in line with the process used for appointment of existing independent members whereby interest is sought via a public advertisement;
- To exercise his/her discretion in consultation with the Independent Person in connection with collecting any information in advance of reference to the Committee or Independent Person that will assist in their consideration of a complaint;
- To determine requests from members of the District Council for dispensations following consultation with the Chairman of the Standards Committee
- To arrange suitable publicity of decisions following investigation, except for cases where a member, about whom it was decided unfounded allegations had been made, did not want further publicity. The Committee felt that public censure was the main sanction left under the new legislative framework.

36g. FINAL MEETING

The Chairman made reference to this being the last meeting of the Committee and thanked all Committee members who had supported him and contributed to the work of the Committee. He also thanked all officers who had provided support for the Standards Committee. In response, the Monitoring Officer thanked the Chairman and committee members for the professional way the business of the committee had been conducted and the support members had given.

DEREK PHILLIPS
Chairman