



Leicester
City Council

Minutes of the Meeting of the
STANDARDS COMMITTEE

Held: WEDNESDAY, 7 MARCH 2012 at 5.30pm

P R E S E N T :

Mrs Sheila Brucciani (Independent Member) (Chair)

Councillor Naylor
Councillor Porter
Councillor Willmott

41. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Thomas and from Sheila Brucciani (Independent Member and Chair) and Mary Ray (Independent Member).

Apologies for absence also were received from Councillor Westley, who was absent on other Council business.

42. DECLARATIONS OF INTEREST

Members were asked to declare any interests they had in the business on the agenda, and/or indicate that Section 106 of the Local Government Finance Act 1992 applied to them.

No such declarations were made, although Councillor Naylor advised the meeting that he recently had been approached by David Maclean, a reporter with the Leicester Mercury, regarding minute 39, "Complaint Against a Councillor: To Consider the Investigator's Findings", of the meeting of this Committee held on 18 January 2012. Councillor Naylor confirmed that he had made no comments on this matter.

43. MINUTES OF PREVIOUS MEETING

The Committee received the minutes of the meeting held on 18 January 2012.

Councillor Willmott advised that he had not attended that meeting as he was a witness in the case to which minute 39, "Complaint Against a Councillor: To Consider the Investigator's Findings", referred. This was the only substantive item on the agenda, and he would not have been able to remain in the meeting during its consideration.

Councillor Porter requested that the approaches he had received from the Leicester Mercury in relation to the same item that he had disclosed at that meeting be recorded in the minutes.

RESOLVED:

that the minutes of the meeting held on 18 January 2012 be approved as a correct record, subject to a new paragraph being added at the end of minute 33, "Declarations of Interest", as follows:-

"Councillor Porter advised the meeting that he had been approached by the Leicester Mercury for a comment on the report to be considered at agenda item 8, "Complaint Against a Councillor: To Consider the Investigator's Findings". Councillor Porter confirmed that he declined to comment or provide an interview after the meeting and had immediately advised the Acting City Solicitor and Monitoring Officer of the request."

44. STANDARDS FRAMEWORK - THE FUTURE

The Chair reminded the Committee that the draft report outlining the new standards arrangements that the Council was required to put in place following the coming in to force of the Localism Act 2011 had been circulated by the Monitoring Officer as a draft for discussion purposes.

The Monitoring Officer advised that he had already received comments on this report from Councillor Willmott. These are attached at the end of these minutes for information.

The Monitoring Officer then reminded Members that the new standards arrangements would now come in to effect on 1 July 2012, (not 1 April 2012 as originally proposed). This meant that the current Independent Members of this Committee could remain in post until the new regime started (ie, until 30 June 2012).

However, this would require the members concerned to be reappointed at the Council's Annual Meeting. It was explained that there were indications that the government was now considering introducing some transitional regulations that would enable existing Independent Members whose term of office had come to an end to be re-appointed as an Independent Person for a limited period of time. In the absence of any transitional regulations, the Council would need to appoint at least one Independent Person, whose appointment would need to be approved by Council

It was likely that the new code would be based on a document that was being prepared by the Association of Council Secretaries and Solicitors. However, it was known that many Councillors nationally were not comfortable with the proposals being made. For example, under the current system, a subject member could appeal against the findings of inquiries in to their conduct to a tribunal, but no provision for this was made under the new system.

It was recognised that the Council could keep parts of the previous system in place and would aim to balance the membership of whichever body was undertaking hearings and processes. Advice on processes would continue to be given to Members before hearings when needed.

The following points were then made in discussion:-

- A clear procedure, including timescales, would need to be put in place for the receipt and processing of complaints against Councillors. This could be based on the current procedure;
- The need for three independent persons was questioned, as the Standards Committee had not had a large workload in the past. It also was suggested that having a higher number of independent persons would pass responsibility to unelected officials, which it was felt was contrary to the government's aims. In reply, it was noted that three had been suggested as the City Council was a large authority and this was the current number of Independent Members, which seemed to work well. Other possibilities could be considered though, such as having one Independent Person with one other as a substitute or reserve member;
- Under the new system, the Independent Person would no longer be a member of any new Standards Committee, although they could attend meetings. They would not have any voting rights;
- It did not seem appropriate for an independent person to be a practising lawyer, but it could be useful if they had knowledge of local government;
- It did not seem fair that complaints against Councillors who were not in a political group should be considered by the whole Council, while other complaints were not. Everyone within the scope of the standards regime should be treated the same, to ensure consistency and transparency;
- If the Committee had to refer matters to the City Mayor the Committee could lose its neutrality and give the appearance of hiding issues. It therefore was important that a clear message was given that the Committee operated independently;
- It was suggested that the Council should “get it right first time” when considering complaints against Councillors, so an appeals process should not be needed. Alternatively, instead of continuing the current system of assessment, review and hearing sub-committees, the committee could hold meetings in the style of a “mini hearing”, so that a response to a complaint

was given and received straight away. However, other Members felt that appeals, (or a review of a decision as a minimum), should be possible for all parties;

- Reviewing the original decision of a complaint hearing would be preferable to allowing an appeal, or new hearing. This would make it clear that new information would not be considered and would be a quicker system than holding new assessments;
- A full investigation would not be needed for every case, but where it was needed it should be done independently. If it was not done independently, the Committee would be both investigating and judging cases;
- It should be possible to apply sanctions to the City Mayor, as well as to Councillors. It was noted that the power of suspension would no longer be available;
- Care needed to be taken to ensure that procedures did not become the focus of the new framework; the aim should be to ensure that someone realised what was inappropriate about their actions and so changed their behaviour at some level;
- Care also was needed to ensure that procedures did not become too complicated. For example, they needed to cover complaints arising from situations such as misunderstandings to serious breaches of codes of conduct and so should be suitable for use in each situation. This also could avoid the system becoming expensive to operate;
- Confidence in the new system needed to be developed. For example, as well as making sure the process was appropriate, people also needed to be confident that they did not have to put up with a situation; and
- Procedures available to resolve a matter before it was submitted as a formal complaint could be publicised more widely, (for example, political group discipline).

The Committee understood that the new arrangement needed to be in place by 30 June 2012, which meant that information on the required processes, (for example, the appointment of Independent Persons and the adoption of the new code of conduct), would need to be made available in the near future.

A draft complaints process should be considered before it was adopted and this also should be shown to appropriate partners for comment. An additional meeting of the Committee could be held to initiate this.

RESOLVED:

- 1) that the Council be requested to enable the current members and independent members of the Standards Committee to continue in office until the new arrangements are introduced, to ensure continuity in the Committee's work;

- 2) that the outstanding hearing to consider the investigator's findings in to a complaint against a Councillor be processed as quickly as possible;
- 3) that the Acting City Solicitor be asked to circulate the draft regulations relating to the new standards arrangements as soon as they are received;
- 4) that the Acting City Solicitor be asked to determine whether any provision exists in the draft regulations regarding the form that hearings in to complaints should take and whether this includes provision for appeals;
- 5) that an additional meeting of the Standards Committee be held in April 2012 to consider the first draft of a new Code of Conduct for members of the City Council, including a procedure for processing complaints made against Councillors; and
- 6) that the draft Code of Practice proposed by the Association of Council Secretaries and Solicitors be submitted to the meeting referred to under 5) above for consideration.

45. SOCIAL NETWORKING GUIDANCE

The Committee noted that Councillor Naylor had held discussions on developing guidance for elected members on social networking and protecting e-identity. However, it had not been possible to progress the work further, as information required from other sources had not been forthcoming. (Minute 18, "Social Networking", 7 September 2011 referred.)

Councillor Naylor advised the Committee that the City Council's Head of Information Security had provided guidance that appeared to be good way to progress the issue. In summary, the suggested guidance was that it was better not to use social networking sites in relation to Council matters. If they were used, Councillors needed to be proceed carefully, thinking how they could be portrayed through social networking and how anything they said could potentially be used.

It was stressed that all Councillors needed to be aware that when using social networking websites they were communicating with a wide audience that was aware of their position as a Councillor. Care therefore should be taken to ensure that they did not say or do anything they would not do elsewhere. Awareness training could be useful to reinforce this and a practical guide to how this would work in practice could be produced.

RESOLVED:

that the draft guidance on social networking and protecting e-identity be considered at the next meeting of this Committee.

46. PRIVATE SESSION

RESOLVED:

that the press and public be excluded during consideration of the following report in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because it involves the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and, taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information:

Paragraph 1

Information relating to any individual

Paragraph 2

Information which is likely to reveal the identity of an individual

Paragraph 7(c)

The deliberations of a Standards Committee or other Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act, 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

47. COMPLAINT AGAINST A COUNCILLOR: TO NOTE ACTION TAKEN BY THE MONITORING OFFICER

The Monitoring Officer submitted a report informing the Committee of Other Action taken following a decision of the Standards Assessment Sub-Committee relating to a complaint that had been made in respect of the alleged conduct of a Councillor.

RESOLVED:

- 1) that the position be noted; and
- 2) that the Standards Committee is satisfied with the action taken by the Monitoring Officer.

48. CLOSE OF MEETING

The meeting closed at 6.57 pm

COMMENTS RECEIVED FROM COUNCILLOR WILLMOTT ON PROPOSED NEW STANDARDS REGIME

- There should be a standards regime at the city Council and it should be flexible and proportionate.
- It should be based on the Nolan principles
- It should include all members and the Elected Mayor
- The major issue with the current scheme is that it treats all complaints in the same way regardless of the seriousness, or potential seriousness.
- We need a system that is more proportionate and resolves matters much more rapidly.
- it needs to encompass officers of the council as a means of triggering the council's disciplinary procedure

I suggest that complaints about members are subject to a filtering process at the initial stage. This could be that all complaints have to be in writing. They are considered by the Chair and one other member of the Standards Committee. They can then proceed through one of three routes:

1. Be dismissed as not conforming to the rules/criteria or be considered to be vexatious. In which case the Chair would write giving reasons
2. A hearing in front of 3 members of the committee where both parties are requested to present their case, rather as in an employment appeal. Judgement and findings can be agreed at the time or it can be referred to stage 3. This process should be conducted swiftly, as it seems that many cases are about what one person says about another, or alleges they have been wronged, they do are not always about issues of fact, more of interpretation of standards of behaviour.
3. An independent investigation is carried out because the matter is so serious, or the facts so in doubt that more information is required before a judgement can be arrived at.

Reports of cases can be made to the main committee, and if it was felt that there should be a right of appeal/review this could go to the main committee.

I am not wedded to this particular process, but I do think we should bring both parties together as early as possible to state and defend their positions. The current process is shrouded in secrecy, and complaints get investigated without those being investigated having the opportunity to challenge/refute what has been alleged. I consider this to be contrary to natural justice. Any new system needs to ensure we comply with natural justice.

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