

WYRE FOREST DISTRICT COUNCIL

ETHICS AND STANDARDS

THE EARL BALDWIN SUITE, DUKE HOUSE, CLENSMORE STREET,  
KIDDERMINSTER

6TH FEBRUARY 2008 (6 PM)

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**PRESENT:**

Councillors: P Dyke, Mrs L Edginton, M J Hart, Mrs S M Hayward, M B Kelly and J C Simmonds.

**INDEPENDENT MEMBERS:**

Rev J Cox (Vice-Chairman in the Chair) and Mrs C A Noons.

**PARISH/TOWN COUNCIL REPRESENTATIVES**

Councillor Miss A Mace (Town Council Representative)  
Councillor R Hobson (Parish Council Representative)

**OBSERVERS:**

There were no Members present as observers.

**ES.23 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Mr C J Brighton (Chairman) and Councillor G H Eeles.

**ES.24 APPOINTMENT OF SUBSTITUTES**

No Members were appointed as substitutes.

**ES.25 DECLARATION OF INTERESTS**

No declarations of interest were made.

**ES.26 MINUTES**

**DECISION:**

**The minutes of the meeting held on 29th November 2007 be confirmed as a correct record and signed by the Chairman.**

## **ES.27      CHAIRMAN'S ANNOUNCEMENTS**

### **1.      Member Activity Reports**

Further to minute number ES. 16 of the Committee's 29<sup>th</sup> November 2007 meeting, the Chairman announced that arrangements were in hand to receive the outstanding reports from Members.

### **2.      Bulletin 36, Standards Board for England**

Members were encouraged to access Bulletin 36 on the Standards Board for England's website. The Bulletin contained many interesting articles.

### **3.      Factsheets**

Members' attention was drawn to some fact sheets that the Standards Board for England had produced which were now available on their website. These included fact sheets on bullying, personal and prejudicial interests, disclosure of confidential information and gifts and hospitality.

## **ES.28      CONSULTATION PAPER : ORDERS AND REGULATIONS RELATING TO CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND**

A report was considered from the Monitoring Officer regarding a paper from the Department for Community and Local Government entitled 'Consultation Paper Orders and Regulations Relating to the Conduct of Local Authority Members in England' which sought the views of the Committee and asked for agreement of a formal response.

The Monitoring Officer stated that under the Local Government Act 2007 a new framework had been introduced under which cases of misconduct would be determined locally. This meant that cases would be heard by a sub-committee of Members of the Ethics and Standards Committee. The Department for Communities and Local Government had therefore produced a consultation paper seeking views from Ethics and Standards Committee members on the proposals for complaints to be dealt with locally.

Members considered the questions posed and the suggested answers that the Monitoring Officer had drafted and made the following comments:

1.      A member raised the fact that he considered it unfair for complaints regarding District Councillors to be considered by a panel that was comprised of some District Councillors. He did not feel that Members could be objective.

A discussion ensued on this point and it was perceived that it might in fact be fairer for complaints to be considered by a panel of purely independent members. The Monitoring Officer agreed to include this comment in her response to the consultation.

2.      With regard to the proposed deadline in which to introduce local

determination, Members of the Committee were emphatic that the deadline of 1<sup>st</sup> April 2008 was totally unrealistic.

3. The Monitoring Officer stated that some Members of the Council were not only District Councillors but County and Parish Councillors as well. The Committee discussed who would determine a complaint in these circumstances. The Monitoring Officer stated that it was generally quite easy to determine in which capacity the alleged offence had occurred and for the appropriate Committee either the County Council's or Wyre Forest District Council's committee to deal with the matter. She had liaised with the County Council's Monitoring Officer who had concurred with her views on this matter.
4. A Member of the Committee pointed out that in question 1, relating to Joint Working, no mention was made of there being a Town Council representative being present for a complaint if one pertained to a Town Councillor. The Monitoring Officer agreed to include this point in her response.
5. Members discussed whether it would be possible to withdraw allowances from a person who was disqualified from their duties for a few months. Members perceived this would have to be dealt with on a case by case basis.

**DECISION:**

**The Monitoring Officer be authorised to respond to the Consultation Paper from the Department for Community and Local Government incorporating the comments of members of the Ethics and Standards Committee. (See response attached as Appendix 1 to these minutes)**

**ES.29**

**EXCLUSION OF THE PRESS AND PUBLIC**

**DECISION:**

**That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of "exempt information" as defined in the relevant paragraph 1 of Part 1 Schedule 12A to the Act.**

**ES.31**      **EXEMPT MINUTES**

**DECISION:**

**The exempt minutes of the meeting held on 29<sup>th</sup> November 2007 be agreed and signed by the Chairman.**

The meeting ended at 6.39 pm.

**RESPONSE FROM WYRE FOREST DISTRICT COUNCIL TO QUESTIONS POSED IN CONSULTATION  
PAPER - ORDERS AND  
REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND**

**STANDARDS COMMITTEE MEMBERS AND INITIAL ASSESSMENT**

***Question 1***

Does our proposal to prohibit a member who has been involved in a decision on the initial assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not 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?

**Draft response**

**Yes to both questions. It may be necessary to increase the size of Standards Committees to meet these requirements.**

**MEMBERS OF MORE THAN ONE AUTHORITY - PARALLEL COMPLAINTS PROCEDURES**

***Question 2***

Where an allegation is made to more than one Standards Committee, is it appropriate for decisions on which standards committee should deal with it be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

**Draft response**

**(i) It would be an unusual situation for this to occur but yes, it should be a matter for agreement between standards committees.**

**(ii) We would agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board.**

**GUIDANCE ON TIMESCALE FOR MAKING INITIAL DECISIONS**

***Question 3***

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?

**Draft Response**

**Yes.**

**REQUIREMENT FOR A STANDARDS COMMITTEE TO PROVIDE A WRITTEN SUMMARY OF AN ALLEGATION TO THE SUBJECT OF THE ALLEGATION**

***Question 4***

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?

**Draft Response**

- (i) Yes
- (ii) No
- (iii) Yes

### **REFERENCES TO MONITORING OFFICERS - PROCEDURE FOR REFERRING ALLEGATIONS BACK TO A STANDARDS COMMITTEE**

#### ***Question 5***

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

#### **Draft Response**

**We agree that circumstances should be prescribed in which monitoring officers will refer a case back to the standards committee.**

### **INCREASE THE MAXIMUM SANCTION AVAILABLE TO STANDARDS COMMITTEES**

#### ***Question 6***

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?

#### **Draft Response**

- (i) **Yes as a result of more cases being handled locally we would favour an increase in the maximum sanction the standards committee can impose.**
- (ii) **Yes the maximum sanction should be increased.**

### **COMPOSITION OF STANDARDS COMMITTEES AND SUB-COMMITTEES OF STANDARDS COMMITTEES**

#### ***Question 7***

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 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?

#### **Draft Response**

**We consider that the Chairs of all Sub-Committees should be Independent members. However during deliberation of this question members felt it would be fairer if the sub-committees that determined complaints were composed totally of independent members who would report back to the Ethics and Standards Committee.**

### **PUBLIC ACCESS TO INFORMATION ON DECISIONS ON INITIAL ASSESSMENTS OF ALLEGATIONS UNDER SECTION 57A AND REVIEWS UNDER SECTION 57B**

#### ***Question 8***

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?

## **Draft Response**

**We agree that during the initial assessment and review, these matters should be considered without the press and public being in attendance.**

**We would welcome local investigation reports receiving the same status as other Council reports and being subject to access to information rules.**

## **SUSPENSION OF STANDARDS COMMITTEE'S FUNCTION OF UNDERTAKING INITIAL ASSESSMENT**

### ***Question 9***

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 relevant criteria which the Board out to take into account?

### ***Draft response***

**The criteria appears to be appropriate.**

## **POSSIBILITY OF PROVIDING FOR THE STANDARDS BOARD OR STANDARDS COMMITTEES TO CHARGE**

### ***Question 10***

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 not more than recover costs?

### ***Draft response***

**It would seem reasonable for the authority to endeavour to recoup its costs.**

## **JOINT WORKING**

### ***Question 11***

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 much should such a 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?

### ***Draft response***

- (i) Joint working arrangements seem a possible way forward.**
- (ii) This authority has experience of joint working but have no suggestions as to how it could be made to work effectively in practice as this is a new area of work of which we have no experience.**
- (iii) This seems sensible. However the committee pointed out that mention of Town Councillors was missed out. Therefore if a joint Committee was discussing a matter pertaining to a Town Councillor there should be a requirement for a town council representative to be present.**

## **EXTENDING THE RANGE OF SANCTION AVILABLE TO A CASE TRIBUNAL OF THE ADJUDICATION PANEL**

### **Question 12**

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?

#### **Draft response**

**Yes we support this suggestion. It seems sensible that case tribunals should have available to them the full range of sanctions available to Standards Committees.**

## **WITHDRAWING REFERENCES TO THE ADJUDICATION PANEL**

### **Question 13**

Do you agree with our proposals for an ethical standards officer to be able to withdraw reference 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?

#### **Draft response**

- (i) **Yes**
- (ii) **No comment made.**

## **ISSUING DISPENSATIONS TO PARTICIPATE IN MEETINGS TO PRESERVE POLITICAL BALANCE**

### **Question 14**

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 the dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a party political party either lost a majority which it had previously held or gained a majority it did not previously hold.

#### **Draft response**

- (i) **Wyre Forest District Council has operated the current dispensation arrangements without any particular difficulty.**
- (ii) **Further clarification is required**
- (iii) **Further clarification is required**

### **Question 15**

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?

#### **Draft Response**

**No comment**

## **EFFECTIVE DATE FOR THE IMPLEMENTATION OF THE REFORMED CONDUCT REGIME**

### ***Question 16***

Do you agree with our proposals to implement the reformed conduct regime on 1 April 2008 at the earliest?

### **Draft response**

**It would be better to implement the reformed conduct regime later as 1 April would give insufficient time.**

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