

Please reply to:

Contact: Liz Phillis
Department: Chief Executive Directorate
Service: Committee Services
Direct line: 01784 446276
Fax: 01784 446333
E-mail: l.phillis@spelthorne.gov.uk
Our ref:
Your ref: Lp/scttee
Date: 15 2008

NOTICE OF MEETING:

STANDARDS COMMITTEE

DATE: TUESDAY 23 SEPTEMBER 2008

TIME: 7.30PM

PLACE: GODDARD ROOM, COUNCIL OFFICES, KNOWLE GREEN, STAINES

TO: ALL MEMBERS OF THE STANDARDS COMMITTEE

Councillors:

T.W. Crabb
D.L. McShane
E. O'Hara
Mrs J.M. Pinkerton
G.F. Trussler

Independent Members:

Mr. M. Litvak (Chairman)
Miss Sue Faulkner (Vice-Chairman)

EMERGENCY PROCEDURE

In the event of an emergency the building must be evacuated. All Members and Officers should assemble on the Green adjacent to Broome Lodge. Members of the Public present should accompany the Officers to this point and remain there until the Senior Officer present has accounted for all persons known to be on the premises.

THE LIFT MUST NOT BE USED.

If you would like a copy of this agenda or the attached reports in a larger print please contact Liz Phillis (01784) 446276 or e-mail l.phillis@spelthorne.gov.uk

A G E N D A

1. APOLOGIES

To receive any apologies for non attendance.

2. MINUTES

To confirm the minutes of the meeting held on 30 July 2008 (Copy **attached**)

3. DISCLOSURE OF INTERESTS

To receive any disclosure of interests from members.

4. REVIEW OF THE PLANNING CODE

To consider the **attached** report of the Monitoring Officer.

5. PROCEDURES FOR INITIAL ASSESSMENT AND REVIEW OF COMPLAINTS

To consider the **attached** report of the Monitoring Officer

The Standards Board for England has also set up a web page providing information on the local assessment and changes to the standards framework. This information can be viewed on the Standards Boards website at

<http://www.standardsboard.gov.uk/Localassessment/Aboutlocalassessment/>

IMPORTANT PUBLIC NOTICE

MOBILE TECHNOLOGY – ACCEPTABLE USE

Use of mobile technology (e.g. mobile telephones, Blackberries, XDA's etc.) in Council, Executive, Committee, Sub-Committee, Members' Seminars, Steering Groups, Task Groups, Panels, Area Forum and other meetings can:

- Interfere with the Public Address [PA] and Induction Loop systems;
- Distract other people at the meeting;
- Interrupt presentations and debates;
- Mean that you miss a key part of a decision taken.

PLEASE:

Either switch off your mobile telephone, Blackberry, XDA etc. **OR** switch off its wireless/transmitter connection and sound for the duration of the meeting.

THANK YOU FOR YOUR CO-OPERATION IN THIS MATTER.

MINUTES OF THE STANDARDS COMMITTEE

30 JULY 2008

Present:

Councillors:

T.W. Crabb

E. O'Hara

G.F. Trussler

Independent members:

Mr M. Litvak (Chairman)

Miss Sue Faulkner (Vice-Chairman)

Also in attendance Councillor J.D. Packman, Leader of the Council, and at the invitation of the Committee took part in the discussion of minute nos 257/08 and 258/08

Apologies: Councillor Mrs J.M. Pinkerton

255/08 MINUTES

The Minutes of the meeting held on 7 February 2008 were approved as a correct record.

256/08 DISCLOSURE OF INTERESTS

No disclosures were made.

257/08 ANNUAL LETTER – LOCAL GOVERNMENT OMBUDSMAN

The Committee discussed the annual letter from the Local Government Ombudsman. The letter summarised the complaints received by the Ombudsman in relation to this Council together with the outcomes of each complaint and statistical data covering a three-year period. In considering the letter the Committee noted that due to a continuous low level of complaints for this authority it was not possible from the information provided by the Ombudsman to draw any conclusions for possible service improvements.

RESOLVED to note the continuous success of the Council to receive a low level of complaints and that the report from the Local Government Ombudsman together with a covering letter from the Chairman be sent to all Members and Management Team.

258/08 NEW LOCAL ASSESSMENT FRAMEWORK

The Committee discussed with the Monitoring Officer a report on proposed revised arrangements and procedures to comply with the new ethical standards framework introduced by the Local Government and Public Involvement in Health Act 2007 and associated regulations. This included changes need to the Constitution to meet the requirements of the new ethical framework.

The committee discussed the need to establish three sub committees with the possible terms of reference as set out below:

Standards (Assessment) Sub Committee – To make initial assessments of allegations of misconduct by Borough Councillors.

Standards (Review) Sub Committee – At the request of a complainant, to review any decision of the Standards (Assessment) Sub Committee to take no action in relation to an allegation of misconduct by Borough Councillors.

Standards (Determination) Sub Committee – To determine complaints about the conduct of Borough Councillors and, where appropriate, to impose sanctions.

It was noted that a member who served on the initial Assessment Sub Committee could not serve on the Review Sub Committee but could serve on the Determination Sub Committee. Members who had served on the Initial Assessment Sub Committee and members who had served on the Review Sub Committee could serve on the Determination Sub Committee.

Consideration was given to the requirements of the new regulations that for any sub committee to be valid at least three members of the Standards Committee must be present throughout. These three members must include an Independent member who would act as Chairman. Discussion continued on how the appointments to the sub committees could be made and it was felt that the Monitoring Officer in consultation with the Chairman be authorised to appoint members from the main committee as and when required.

In addition discussion took place on the requirement of the new regulations to have a member of the Executive appointed onto the Standards Committee and whether this should be a replacement member or to increase the membership of the current committee by one.

The committee discussed with the Monitoring Officer the need to prepare detailed procedures for hearings and investigations which it was felt could follow the guidance being published by the Standards Board for England and submitted to the next meeting of the committee for consideration. Whilst the procedures were being drawn up for consideration by the Committee an interim procedure was needed in the event that an allegation was received. The Committee indicated support for authority to be given to the Monitoring Officer in consultation with the Chairman to determine all necessary arrangements and procedures in accordance with statutory requirements.

In support of the new arrangements the Monitoring Officer discussed with the committee the previous training arranged for members on the Code of Conduct for Members which was revised on 1 October 2007. The Chairman expressed concern that some members had not attended this training.

With the future appointment of an Executive member onto the Standards Committee consideration was given to whether the member should be invited to attend the Standards Board for England annual assembly taking place in October 2008 and the committee indicated their support to this.

The Leader of the Council in taking part in the discussion indicated that he would advise the Monitoring Officer of which Executive member would be put forward for the appointment onto the Standards Committee.

RESOLVED:

(A) To recommend to Council that

1. Article 9 and other consequential changes to the Constitution be made:

- (i) To increase the size of the committee from 7 to 8 to enable a member of the Executive to be appointed on to the Standards Committee, with the current members continuing to serve on the committee;
- (ii) To establish the following three sub committees to assess, review and determine complaints against councillors under the Code of Conduct

Standards (Assessment) Sub Committee – To make initial assessments of allegations of misconduct by Borough Councillors.

*Standards (**Review**) Sub Committee* – At the request of a complainant, to review any decision of the Standards (Assessment) Sub Committee to take no action in relation to an allegation of misconduct by Borough Councillors.

*Standards (**Determination**) Sub Committee* – To determine complaints about the conduct of Borough Councillors and, where appropriate, to impose sanctions.

- (iii) All members of the Standards Committee be eligible to serve on a sub committee and delegated authority be given to the Monitoring Officer, in consultation with the Chairman of the Standards Committee, to select members in accordance with the regulations to serve on the three sub committees on a case by case basis; and
- (iv) Any sub committee must be chaired by an Independent member and at least three members must be present at any meeting, including at least one borough councillor but preferably two.

(B) RESOLVED that pending the adoption of revised procedures for dealing with complaints and hearings, the Monitoring Officer in consultation with the Chairman of the Standards Committee be delegated the authority to determine all arrangements and procedures for dealing with the assessment, investigation and determination of complaints of misconduct allegations in accordance with statutory requirements on a case by case basis.

REVIEW OF THE PLANNING CODE
Standards Committee - 23 September 2008
For resolution
Report of the Monitoring Officer
EXECUTIVE SUMMARY

How does the content of this report improve the quality of life of Borough Residents

Ensures that the procedures for fairness and impartiality at the Planning Committee are up to date and relevant.

Purpose of Report

To consider the current planning code and decide if a further review is warranted. And if so, to decide the process for such a review.

Key Issues

- ⇒ Planning Code
- ⇒ Council's Constitution

Financial Implications

There are no direct financial implications arising from this report.

Corporate Priority

Not appropriate.

Officer Recommendations

To note the contents of the report and, if necessary to instruct the Monitoring Officer on the further steps that should be taken.

Contact: Michael Graham, Head of Corporate Governance, 01784 446227

MAIN REPORT

1. BACKGROUND

- 1.1 The Planning Code is part of the constitution of the Council. It was last reviewed at the Standards Committee in September 2006 (for a copy of the report at that time please follow this link: http://www.spelthorne.gov.uk/26sep06_report5.doc)

2. KEY ISSUES

- 2.1 Despite the relative recentness of the last review it has been suggested by the Chairman of Planning Committee that there might be areas in which the Code could be supplemented or improved. The current code is attached as an Appendix to this document.

3. OPTIONS ANALYSIS

- 3.1 The purpose of this short report is to allow members to consider the present Code and the changes which we made on the last review. The Committee can then consider whether or not to undertake a further review of this guidance document this year.

4. PROPOSALS

- 4.1 To discuss the Code at Committee. The Code is attached as Appendix 1.

5. FINANCIAL IMPLICATIONS

- 5.1 None any review could be completed within existing resources.

6. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

- 6.1 None identified at present.

7. RISKS AND HOW THEY WILL BE MITIGATED

- 7.1 None identified.

8. TIMETABLE FOR IMPLEMENTATION

- 8.1 If Councillors wish to proceed with a review then we should set a timetable for process at the meeting.

Report Author: Michael Graham, Head of Corporate Governance, 01784 446227

Background Papers:

Report to Standards Committee 26 September 2006.

PROCEDURES FOR INITIAL ASSESSMENT AND REVIEW OF COMPLAINTS

Standards Committee 23 September 2008

For resolution

Report of the Monitoring Officer

EXECUTIVE SUMMARY

How does the content of this report improve the quality of life of Borough Residents

Introduces procedures for assessment of complaints under the Member Code of Conduct to be made locally by the Standards Committee.

Purpose of Report

To introduce procedures for the assessment of complaints by the new Sub-Committees of the Standards Committee (pending acceptance of the same at Council on 30 October 2008).

Key Issues

- ⇒ Member Code of Conduct
- ⇒ New Sub-Committees
- ⇒ Local Government and Public Involvement in Health Act

Financial Implications

No direct financial implications arising from this report.

Corporate Priority

Not appropriate.

Officer Recommendations

To adopt the procedures for the initial assessment and review of complaints as described in Appendix 1.

Contact: Michael Graham, Head of Corporate Governance, 01784 446227

MAIN REPORT

1. BACKGROUND

- 1.1 On 30 July 2008, the Standards Committee recommended to Council to establish three new Sub-Committees for the initial assessment, review and determination of complaints about councillors under the Member Code of Conduct. That recommendation is pending and will be considered on 30 October 2008. In the meantime, if new Sub-Committees are to be established then they will need to have up-to-date procedures to work within.

2. KEY ISSUES

- 2.1 Appendix 1 to this report provides a framework within which complaints under the member code of conduct can be assessed. This framework takes into account the guidance issued by the Standards Board for England. The framework deals with the initial assessment and reviews. (The Council's procedures for investigation and local determination still need to be reviewed in order to provide a framework for the Determination Sub-Committee).

3. OPTIONS ANALYSIS

- 3.1 To adopt or to alter the procedures in Appendix 1.

4. FINANCIAL IMPLICATIONS

- 4.1 There are none.

5. LEGAL IMPLICATIONS / OTHER CONSIDERATIONS

- 5.1 The Council should have sound procedures for its quasi-judicial hearings in order that it can promote fair and equitable treatment for all concerned.

6. RISKS AND HOW THEY WILL BE MITIGATED

- 6.1 None identified.

7. TIMETABLE FOR IMPLEMENTATION

- 7.1 The Committee can agree its own procedures. If the Committee agrees procedures then they can be applied immediately after 30 October 2008.

Report Author: Michael Graham, Head of Corporate Governance, 01784 446227

Background Papers:

There are none

PROCEDURES FOR THE ASSESSMENT AND REVIEW OF COMPLAINTS UNDER THE CODE OF CONDUCT APPLYING TO MEMBERS OF SPELTHORNE BOROUGH COUNCIL

PART 1

PROCEDURE FOR THE CONDUCT OF ASSESSMENT AND REVIEW PROCEEDINGS

1 Receipt of allegations

- 1.1 The Monitoring Officer shall set up arrangements within the Council to secure that, any allegation made in writing that a member of the Council has or may have failed to comply with the Council's Code of Conduct, is referred to him immediately upon receipt by the Council.
- 1.2 The Monitoring Officer shall ensure that a register of such allegations is maintained and that the Council can comply with its obligations under the relevant legislation.
- 1.3 Complaints shall only be entertained, where they have been signed by the Complainant. For the avoidance of doubt:
 - 1.3.1 Where a complaint is made anonymously it will not be considered as a valid complaint and no further action will be taken in relation to it, other than, where possible, to notify the Complainant of that decision;
 - 1.3.2 The Monitoring Officer is authorised to maintain the confidentiality of the identity of the Complainant where and for so long as in his opinion that would be in the public interest, and in those cases the complaint will not be treated as though made anonymously.

2 Notification of receipt of allegations

- 2.1 All allegations must be assessed by an Assessment Sub-Committee.
- 2.2 The Monitoring Officer has no authority to deal with an allegation, which appears to be an allegation of failure by a relevant member to observe the Code of Conduct, other than by reporting it to an Assessment Sub-Committee.
- 2.3 The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of misconduct by a relevant member. For the avoidance of doubt, the Monitoring Officer shall ensure that the matter is dealt with under a more appropriate procedure where it appears not to be an such an allegation, for example where it is really a:
 - Request for service from the Council,
 - Statement of policy disagreement,
 - Legal claim against the Council or

- Complaint against an officer of the Council.

2.4 Following receipt of the allegation, and where the allegation does appear to be a complaint of misconduct by a relevant member, the Monitoring Officer will promptly, and in any case in advance of the relevant meeting:

2.4.1 Acknowledge to the Complainant receipt of the allegation and confirm that the allegation will be assessed by an Assessment Sub-Committee at its next convenient meeting;

2.4.2 Notify the member against whom the allegation is made (“the subject member”) of receipt of the complaint, together with a written summary of the allegation, and confirm that the allegation will be assessed by an Assessment Sub-Committee.

2.4.3 Where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person’s ability to investigate the allegation, he may decide that no such advance notification shall be given but only after consulting the :

- Chairman of the Assessment Sub-Committee convened to deal with the allegation; or in his/her absence,
- Chairman of the Standards Committee.

2.4.4 Collect such information as is readily available and would assist the Assessment Sub-Committee in its function of assessing the allegation;

2.4.5 Seek local resolution of the matter where practicable, in accordance with section 3 below;

2.4.6 Place a report, including a copy of the allegation, such readily available information and his recommendation as to whether the allegation discloses an apparent failure to observe the Code of Conduct, on the agenda of the Assessment Sub-Committee that has been convened to deal with the allegation.

3 Local resolution

3.1 Local resolution is not an alternative to reporting the allegation to the Assessment Sub-Committee, but can avoid the necessity of a formal local investigation.

3.2 Where the Monitoring Officer is of the opinion that there is the potential for local resolution-

3.2.1 He shall approach the member against whom the allegation has been made and ask whether he/she is prepared to acknowledge that his/her conduct was inappropriate, and whether he/she would be prepared to offer an apology or undertake other appropriate remedial action.

3.2.2 With the consent of the member concerned, the Monitoring Officer may then approach the Complainant and ask whether they are satisfied with such apology or other remedial action.

3.2.3 The Monitoring Officer shall then report to an Assessment Sub-Committee as required, and at the same time report the response of the member concerned and of the Complainant.

3.3 This procedure will only be considered appropriate where the subject member has acknowledged that his/her conduct was inappropriate, and where the Complainant is satisfied that the proffered apology or remedial action is sufficient.

3.4 In such cases the Assessment Sub-Committee shall take the local resolution into account when considering whether the matter merits investigation.

4 Review of decisions not to investigate

4.1 Where an Assessment Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall promptly advise the Complainant of the decision.

4.2 The complainant may then, within 30 days of receipt of such notification, request that a Review Sub-Committee review that decision.

4.3 Whilst the review shall normally be a review of the reasonableness of the original decision rather than a reconsideration, the Monitoring Officer shall report to the Review Sub-Committee -

- the information which was provided to the Assessment Sub-Committee in respect of the matter;
- the reasons for the decision of the Assessment Sub-Committee; and
- any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

5 Local investigation

5.1 It is recognised that the Monitoring Officer will not personally conduct a formal local investigation.

5.2 It will be for the Monitoring Officer, where appropriate after consultation with the Chairman of the Assessment Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another senior officer of the Council, a senior officer of another council or an appropriately experienced consultant.

PART 2

ASSESSMENT SUB-COMMITTEE - PROCEDURE FOR DEALING WITH COMPLAINTS

1. Upon receipt of an allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
 - (a) Refer the allegation to the Monitoring Officer, with an instruction that he arrange a formal investigation of the allegation, or directing that he arrange training, conciliation or such appropriate alternative steps as permitted by Regulations; or
 - (b) Refer the allegation to the Standards Board for England; or
 - (c) Decide that no action should be taken in respect of the allegation; or
 - (d) Where the allegation is in respect of a person who is no longer a member of the Council, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;
2. Further to 1 above, the Sub-Committee shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision and the procedure for seeking a review of that decision.
3. Upon completion of an investigation by or on behalf of the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
 - (a) it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct; or
 - (b) the matter should be referred for consideration at a hearing by members of a Determination Sub-Committee; or
 - (c) the matter should be referred to the Adjudication Panel for determination.
4. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1 or 3 above, the Sub-Committee shall state its reasons for that decision.
5. The Sub-Committee shall apply the criteria as set out in Part 4 of this appendix and any guidance from the Standards Board when determining how to deal with a complaint.

PART 3

PROCEDURE FOR DEALING WITH REVIEWS OF DECISIONS TAKEN BY THE ASSESSMENT SUB-COMMITTEE

1. Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Assessment Sub-Committee and shall then do one of the following:
 - (a) Refer the allegation to the Monitoring Officer, with an instruction that he arrange a formal investigation of the allegation, or specifying that he take an alternative action as permitted by Regulations;
 - (b) Refer the allegation to the Standards Board for England;
 - (c) Decide that no action should be taken in respect of the allegation; or
 - (d) Where the allegation is in respect of a person who is no longer a member of the Council, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;
2. Further to 1 above, the Sub-Committee shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.
3. Upon completion of an investigation by or on behalf of the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
 - (d) it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct; or
 - (e) the matter should be referred for consideration at a hearing by members at a Determination Sub-Committee; or
 - (f) the matter should be referred to the Adjudication Panel for determination.
4. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1 or 3 above, the Sub-Committee shall state its reasons for that decision.
5. The Sub-Committee shall apply the criteria as set out in Part 4 of this appendix and any guidance from the Standards Board when determining how to deal with a complaint

PART 4

CRITERIA TO BE APPLIED BY THE ASSESSMENT SUB COMMITTEE OR THE REVIEW SUB COMMITTEE IN DETERMINING WHETHER COMPLAINTS SHOULD BE:

- referred to the **Monitoring Officer for investigation, or alternative action such as mediation or training; or**
- referred to the **Standards Board for England; or**
- the subject of no further action.

(i) No further action should be taken if:

- the complaint is malicious, relatively minor or 'tit for tat';
- the same, or substantially similar, complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained by seeking the sanctions available to the Standards Committee;
- the complaint concerns acts carried out in the member's private life, when he/she was not carrying out the work of the council or has not misused his/her position as a member;
- it appears that the complaint is really about dissatisfaction with a council decision;
- there is not enough information currently available to justify a decision to refer the matter for investigation; and
- a significant amount of time has passed since the alleged misconduct occurred.

(ii) Further action should be taken if:

- there is a prima facie evidence of a breach of the Code
- the complaint is it serious enough to warrant a sanction
- the complaint is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Council and there no other avenues left to deal with it except investigation
- training, mediation, or other constructive alternatives to formal sanctions would be appropriate

(iii) A complaint should be referred to the Standards Board for England if:

- a large number of key people are “conflicted out” or there is a risk of maladministration; or
- there has been national attention, or where the Standards Committee feels that the matter turns on an important point of interpretation of the Code (a test case).