

STANDARDS COMMITTEE
10th November, 2011

Present:- Mr. M. Andrew (in the Chair); Councillors Buckley, Gilding and Middleton; Mrs. A. Bingham, Mr. I. Daines, Mr. P. Edler and Dr. G. Musson and Councillors Mr. D. Bates and Mr. D. Rowley (Parish Councils' Representatives)

Apologies for absence were received from Councillor Hughes, Messrs D. Foster and N. Sykes and Mr. P. Blanksby (Parish Councils' Representative).

B15 MINUTES

Resolved:- That the minutes of the meeting of the Committee held on 8th September, 2011 be approved as a correct record, subject to the following amendments being made:-

- The inclusion of Parish Councillor D. Bates in the list of apologies.
- The words "was being reconsidered" in Minute No. B9 (Parish Compact), third paragraph being removed and replaced with "would remain under consideration".
- The insertion of brackets and certain words in Minute No. B12 (Mr. Neil Fulcher), third paragraph and for the text to now read "... of written submissions (as Mr. Fulcher had informed the tribunal that he would not be attending the hearing) and as a result Mr. Fulcher was suspended"

B16 STANDARDS COMMITTEE TERMS OF REFERENCE

Further to Minute No. 10 of the meeting of the Standards Committee held on 8th September, 2011, consideration was given to a report presented by Richard Waller, Senior Manager - Legal and Electoral Services, which asked that any suggestions for changes to the Committee's current terms of reference be forwarded to the Monitoring Officer, who would then meet with the Chair and Vice-Chair of the Committee to discuss the suggestions.

Following that meeting and in light of the discussion, the Monitoring Officer revised the Committee's terms of reference, which were submitted for the Committee's consideration.

A number of suggestions were made covering the areas of:-

- Membership.
- Frequency of Meetings.
- Code of Conduct.
- Complaints.
- Sanctions.
- Alternative Arrangements.
- Town and Parish Councils
- Miscellaneous Issues such as failings in Council systems and applying the Right to Speak policy to meetings of the Standards Committee.

It was noted that until the Localism Bill became law, the direction and role of the standards regime would remain unclear.

Resolved:- That the proposed amendments to the Committee's Terms of Reference be approved, subject to any conflicting legislative requirements following the enactment of the Localism Bill.

B17 VOLUNTARY CODE OF CONDUCT

Further to Minute No. 10 of the meeting of the Standards Committee held on 8th September, 2011, consideration was given to a report presented by Richard Waller, Senior Manager – Legal and Electoral Services, which detailed how the Government opt for a statutory Code of Conduct rather than a voluntary one. The Bill was set for its Third Reading in the House of Lords on 31st October, 2011.

A press statement on the Bill, issued by the Association of Council Secretaries and Solicitors (ACSeS), was reproduced and the commentary on the standards clauses in the Bill together with the Association of Council Secretaries and Solicitors draft model code of conduct was reproduced, details of which were submitted to the Committee for consideration.

The Association of Council Secretaries and Solicitors anticipated:-

- Local authorities being obliged to adopt a code of conduct.
- The adopted code would contain provisions recommended by the Local Government Association and the National Association of Local Councils respectively plus provisions particular to each authority.
- The Local Government Association and the National Association of Local Councils would be required to review their respective codes as appropriate.

The Association of Council Secretaries and Solicitors code of conduct was a paler and vaguer version of the statutory code.

Discussion ensued on the draft model code of conduct and particular attention was drawn to No. 4 (Interests – Gifts and Hospitality) which referred to there being no requirement to declare or register any gifts and hospitality under £50.00.

Clarification was sought on the registers that existed currently for Elected Members and the advice provided by the Monitoring Officer to Members in respect of their declarations. It was suggested that the Committee have sight of the registers and they be submitted to the next meeting for inspection.

Resolved:- (1) That the apparent change in the Government's position and the Association of Council Secretaries and Solicitors draft voluntary code of conduct as the possible basis of a model voluntary code of conduct be noted.

(2) That the registers of gifts and hospitality be presented to the next meeting for inspection by the Committee.

B18 BRIBERY ACT 2010

Consideration was given to a report presented by Richard Waller, Senior Manager – Legal and Electoral Services, which set out how the Bribery Act, 2010 came into force on 1st July, 2011 and consolidated the law on bribery.

It replaced the offences at common law and under the Prevention of Corruption Acts 1889 – 1916 with two general offences: the first dealt with bribery and the second deal5 with being bribed. The basis of a bribe was an intention to induce improper conduct.

The Bribery Act was not concerned with fraud, theft, books and record offences, Companies Act offences, money laundering offences or competition law.

The report detailed how a bribe had three elements: (i) that the person making the payment made it to the agent of the other person with whom he was dealing; (ii) that he made it to that person knowing that that person was acting as the agent of the other person with whom he was dealing; and (iii) that he failed to disclose to the other person with whom he was dealing that he had made that payment to the person whom he knows to be the other person's agent.

The report set out detail relating to:-

- Offences.
- Active and Passive Bribes.
- Failure to Prevent a Bribe.
- Guidance.
- Rotherham Borough Council – Measures to Prevent Incidents.

The Committee took account of the report's detail and asked if, in order to monitor and control the interests of the Council, consideration had been given to a register of officers' interests and were informed that the Officers' Code of Conduct directed employees to record any gift, received or offered, in a Gifts and Hospitality Book, to be held and monitored by each directorate. However, as a general rule all gifts and other benefits must be refused, similarly for personal interests employees must declare to their Director any financial and non-financial interests that may bring about conflict with the Authority's interests. All such declarations should be recorded in Service's registers of interests.

The Committee considered whether it was appropriate for them to request sight of the registers as per their request in relation to Elected Members especially as some Elected Members relied heavily on officers for advice.

The Monitoring Officer advised the Committee that there were a number of policies and procedures currently in place that governed the conduct of employees and that the Committee's Terms of Reference, although broad, did not currently extend to misconduct by officers.

He also pointed out that there was an additional consideration in that employees of the Council had the usual employment rights and that there were a number of Council employment policies and procedures which would be triggered were an allegation of misconduct to be made.

The Committee were in favour of reserving their request in relation to the inspection of registers for officers, but suggested that this be revisited when the details of the Localism Bill were published. This would give the Committee the opportunity to revisit the Terms of Reference and the Code of Conduct at a later stage and give consideration at that point as to whether to include officers' interests.

Resolved:- (1) That the report be received and the contents noted.

(2) That the Monitoring Officer and Internal Audit Manager devise and implement a joint programme of work to refresh and update Council documents and procedures in light of the Bribery Act, 2010 and guidance on the Act published by the Secretary of State for Justice.

(3) That this report be referred to the Audit Committee for information.

(4) That the Monitoring Officer be asked to investigate the possibility of including officers' interests in the Terms of Reference once the details of the Localism Bill were published.