

Standards Committee

11 June 2002

Present: Councillors Mrs F E F Anderson W J Davies
I O Coates L C Jones
P J Corcoran W W Smith

Deputy: Councillor J E Green (for Cllr D M Elderton)

Co-opted

Members: Mr J P Haywood
Mrs V G Robertson

1. APPOINTMENT OF CHAIR

The Assistant Borough Solicitor requested the Committee to consider the appointment of Chair, and in this connection he referred to minute 16 (5) (Council - 22/5/02), which recommended that the Liberal democrat member be appointed as Chair of the Committee.

Resolved - That Councillor Mrs F E F Anderson be appointed as Chair.

(Councillor Mrs Anderson then took the Chair)

2. MINUTES

The Assistant Borough Solicitor invited the Committee to receive the minutes of the meeting held on 19 February 2002, which had been approved without amendment by the Council on 19 March.

Mrs Robertson pointed out that there was no reference in the minutes to a letter of complaint which she had handed to the Borough Solicitor and Secretary and requested that this be noted and that, in the absence of a reply, she had raised the matter with the Chief Executive.

Resolved - That, subject to the comment made by Mrs Robertson and to both Mr Heywood and Mrs Robertson being described in the attendance list as Co-opted Members rather than Councillors, the minutes of the meeting held on 19 February 2002 (having been approved by the Council on 19 March) be received.

3. DTLR CONSULTATION PAPER: LOCAL INVESTIGATION AND DETERMINATION OF MISCONDUCT ALLEGATIONS

The Borough Solicitor and Secretary submitted for consideration and comment a consultation paper issued by the Department of Transport, Local Government and the Regions on a proposed framework for the local investigation and determination of allegations of misconduct, and invited members to express their

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views for inclusion in any response which the Council might wish to make before the end of the consultation period on 1 July 2002.

Normally, complaints alleging breaches of the Code of Conduct would be submitted to the Standards Board for England for investigation by Ethical Standards Officers. However, in certain circumstances, the Ethical Standards Officers could choose to refer matters that had been (or were) the subject of investigation to the Monitoring Officer of the relevant local authority. The Government recognised that handling allegations of misconduct locally could present difficulties, and was anxious that local procedures should be compatible with those adopted by the Standards Board and Ethical Standards Officers.

The Assistant Borough Solicitor outlined the proposals contained in the consultation paper and asked members of the Committee to consider framing possible answers to a number of general and specific questions posed at the end of the document. In this connection, he drew attention particularly to, and commented upon, the proposals contained in paragraphs 17, 21 and 33.

The first included a suggestion that the Standards Committee should have the duty to refer to the Standards Board complaints that had been submitted to the local authority in the first instance, but his view was that the Monitoring Officer should have that responsibility, subject to the Committee being notified of all complaints received.

Paragraph 21 included a suggestion that, when investigations had been completed by an Ethical Standards Officer before the matter was referred to the Monitoring Officer, the Standards Committee should have regard to the ESO's report when determining the outcome. The view of the Assistant Borough Solicitor was that the Standards Committee's investigation of the matter should not be constrained by the Ethical Standards Officer's report, notwithstanding this could be useful in ascertaining the facts of the case.

With regard to paragraph 33, which provided for an appeals procedure, the Assistant Borough Solicitor advised that further clarification should be sought as to the statutory authority for such a proposal.

The consultation paper also included a proposal (paragraph 29) that, when considering reports on allegations of misconduct, the Standards Committee should comprise no more than five members chosen by an independent member whom, it was suggested, should be nominated as Chair, but the Assistant Borough Solicitor indicated that he did not favour this proposal, believing that the Council's Standards Committee was properly constituted and any doubts as to its members' integrity and objectivity was misplaced.

In response to comments or queries by members, the Assistant Borough Solicitor advised that, (a) in the case of serious allegations of a criminal nature, it would be a matter for either the complainant or the Standards Board to decide if, and at what stage, the police should be involved; (b) that the Standards Committee's own procedures could include provision for secret voting on the determination of complaints, and (c) that, drawing an analogy with industrial tribunals, legal aid would

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not be available to assist with the cost of representation in appeals to an appeals tribunal of the Adjudication Panel.

A co-opted member (Mr Haywood) expressed the view that it was unacceptable that members should be placed in the position of having to incur expense in defending unfounded or malicious allegations.

RECOMMENDED -

- (1) That the Borough Solicitor and Secretary prepare a draft response to the DTLR consultation paper based upon the comments now made, and this be submitted to the Party Leaders for their endorsement (with the option of its being referred to the Local Democracy Working Party).**
- (2) That the Council's responses to the questions posed in the consultation paper be as follows:-**
 - (a) the five principles be accepted and the framework proposed in support of those principles be accepted in principle, subject to the comments now made;**
 - (b) the overall balance between the proposed roles of the Standards Board for England and local Standards committees is insufficiently clear at this stage;**
 - (c) all allegations should be referred to the Standards Board for England apart from the exception identified in paragraph 14 of the consultation document; and the Standards Board should have responsibility for determining which allegations should be handled locally;**
 - (d) the powers proposed for Monitoring Officers and Standards Committees are necessary and sufficient to enable them to fulfil their statutory functions;**
 - (e) the proposals concerning the composition of Standards Committees when dealing with complaints are not acceptable;**
 - (f) the Council has serious concerns about the proposals relating to representation and costs in connection with appeals.**