

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Thursday, 2 June 2016

Present: Councillor D Roberts (Chair)

Councillors M McLaughlin P Gilchrist
RL Abbey J Stapleton (In
P Stuart place of B Kenny)
C Blakeley E Boulton (In place of
D Elderton G Ellis)
Jones
Cummings

In attendance: Prof RS Jones
Mr B Cummings

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors G Ellis and B Kenny and from Mr C Jones.

2 MEMBERS CODE OF CONDUCT

No declarations of interest were received.

3 MINUTES

Resolved: That

- (1) the Minutes of the meeting of the Standards and Constitutional Oversight Committee held on 23 November 2016 be confirmed as a correct record; and**
- (2) the Minutes of the meeting of the Standards and Constitutional Oversight Working Group held on 24 February 2016 be confirmed as a correct record**

4 APPOINTMENT OF PANELS

A report by the Head of Legal and Member Services proposed that the Committee establish the Standards Panel and Standards Appeal Panel in accordance with the paragraph 9.5 of Article 9 of the Council's Constitution and the Protocol for Dealing with Complaints against Members.

Appended to the report were the following appendices:

1. Article 9 of the Council's Constitution;
2. Members' Code of Conduct;
3. Protocol for Dealing with Complaints against Members; and
4. Procedure for dealing with matters before the Standards Panel and Standards Appeal Panel.

The Head of Legal and Member Services referred to an email Members had received from a member of the public raising three procedural points in relation to this item of business. He informed that he intended to respond to the points raised at this meeting.

Firstly, the member of the public had referred to the report that had been outstanding and, therefore, not included with the agenda for the meeting when it had been published. The Head of Legal and Member Services reported that Officers had been canvassing Members for an appropriate date on which to hold a meeting of Standards Panel. A date had not been identified and this had held up the publication of the report. The date had still not been identified when the report had been published in a supplementary agenda. He informed that since the publication of the agenda the evening of 28 June 2016 had in fact been confirmed with the Members nominated to sit on the Panel as the date for the meeting and they were also holding 29 June 2016 in case it was needed in case of any adjournment on 28 June 2016.

Secondly, the member of the public had queried the status of the Standards Panel and the Head of Legal and Member Services reported that the Panel was in fact a Panel and not a Sub-Committee of this Committee. Therefore, its documentation and proceedings were not open to the press and public. The matter/parties could be prejudiced if confidential information was allowed to get into the public domain before due process had been completed – that in itself could bring the Council into disrepute and undermine the ethical framework.

The member of the public also asserted that paragraph 12.5 of the Protocol conflicted with s.6 of the Human Rights Act 1998 in that a public authority cannot make a decision which causes it to act in a way incompatible with a Convention right. This would seem to also conflict with both Article 10 (freedom of expression) Convention right and the whistleblowing provisions in the Public Interest Disclosure Act 1998. The Head of Legal and Member Services advised that paragraph 12.5 merely advised the parties to a complaint to maintain confidentiality and therefore there was no contravention of any of the provisions referenced.

Thirdly, the Head of Legal and Member Services referred to Article 9 of the Council's Constitution and thanked the member of the public for pointing out his oversight in respect of the local assessment and determination process as

set out within the Standards Committee (England) Regulations 2008 which had been repealed under Schedule 4 of the Localism Act 2011. He informed that this issue was known and he would put appropriate arrangements in place to revise Article 9 as necessary.

The Committee was then afforded the opportunity to make comments, observations and suggestions on the recommended approach to dealing with complaints about Members detailed in the report and its appendices. Members considered all of the documentation provided and raised the following issues which the Head of Legal and Member Services responded to as appropriate:

- The Chair of the Standards Panel and Standards Appeal Panel could not be a member of the same political group as the subject Member.
- At the meeting there is no reason why the Independent Member cannot remain in the meeting after he has presenting his views. The Panel is obliged and must have regard to these views.
- Consideration must be given to how to manage the arrangements for a Panel meeting where Members from all three political parties are the subject of a complaint(s). This will be reported back to either this Committee or its Working Group.
- The Lib/Dem Group is able to nominate one of its Committee deputies to sit on the Panel and the Appeals Panel when this is necessary.
- The Council's Constitution will be revised to rectify the omission that it does not state that Members of the Panel cannot sit on the Appeals Panel etc. This will be considered by either this Committee or its Working Group. It was noted that the Constitution did state in Article 9, B4:

‘No Member shall sit on (or otherwise attend, engage or interfere with) the Standards Appeal Panel where he/she has a conflict of interest.’

Consequently, a Member would be conflicted if he/she had already sat on the Panel whose decision was now being appealed.

RESOLVED: That

- (1) the Committee agrees to a Standards Panel and Standards Appeal Panel being formally established for the 2016/17 Municipal Year pursuant to paragraph 9.5 of Article 9 of the Council's Constitution;**
- (2) it be noted that arrangements are now in hand to hold a meeting, names have been received from the political groups and the proposed Panel Members have put the first meeting of the Standards Panel to be held at 6pm on 28 June 2016 at Wallasey Town Hall in their diaries and are also**

holding 29 June 2016 in their diaries as a fall-back position in case of any adjournment;

- (3) where a representative Member is unavailable to attend a proposed meeting of the Standards Panel or Standards Appeal Panel when that meeting can be attended by all other persons required, the relevant political group, through their Group Leader/Deputy Group Leader or Party Spokesperson, shall promptly confirm the name of another representative Member who is able to attend that meeting; and**
- (4) the proposed procedure for dealing with a matter before either the Standards Panel or Standards Appeal Panel set out at Appendix 4 be agreed subject to any amendments to be made as a result of the issues raised and highlighted above.**

5 WELCOME TO COUNCILLOR PAUL STUART

Councillor Chris Blakeley welcomed Councillor Paul Stuart to his first meeting of the Committee.