

## **STANDARDS COMMITTEE**

Monday, 4th April, 2005, at 6.00 pm  
in Committee Room 4 at the Council House, Dudley

### **PRESENT:-**

The Bishop of Dudley (Independent Chairman)  
Councillors Fraser-Macnamara, Harley, Hart-Bowman, Male,  
Ms Partridge and Tyler; Mrs Jabeen.

### **OFFICERS**

Director of Law and Property (as Monitoring Officer) and Mr Sanders  
(Directorate of Law and Property).

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### **MINUTES**

#### **RESOLVED**

That the minutes of the meeting of the Committee held on 14<sup>th</sup>  
December, 2004, be approved as a correct record and signed.

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### **MATTER ARISING FROM THE MINUTES**

Further to Resolution (2) to Minute 3 (Confidential Reporting Policy) of the meeting of the Standards Committee held on 14<sup>th</sup> December, 2004, the Director of Law and Property reported that, following an investigation carried out by him, he was satisfied that no change in the procedural aspects referred to in the Minute were necessary. This advice was accepted by the Committee.

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### **DECLARATIONS OF INTEREST**

No Member made a declaration of interest in accordance with the Members' Code of Conduct.

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### **APOLOGY FOR ABSENCE**

An apology for absence from the meeting was received on behalf of Councillor Burt.

SUBSTITUTE MEMBER

It was reported that Councillor Tyler was serving in place of Councillor Burt for this meeting of the Committee only.

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ANNUAL REPORT: MEMBERS' CODE OF CONDUCT

The annual report of the Monitoring Officer on the operation of the Members' Code of Conduct was submitted.

The report summarised complaints referred to the Standards Board for England since the first annual report in December 2003; described the implications of new regulations for local determination and investigation of complaints; reported on representations made to the Monitoring Officer on behalf of the Standards Committee and the Select Committee Chairmen on the Code of Conduct; gave details of training and guidance given to members; referred to new arrangements for recording declarations of interest; indicated how the Code had been published internally and externally; summarised the work of the Committee on the draft protocol for Member and Officer relationships and proposed some action points for 2005/06.

In relation to the two cases referred to the Standards Board, the report recorded that there had been no substance to either complaint but emphasised that the receipt of the complaints had reinforced the need for members to register an interest if they owned or leased the property in which they resided and to check the Register of Interests regularly to ensure that it was accurate and up to date.

The report indicated the overall assessment of the Monitoring Officer that members of the Council were continuing to comply with the Code of Conduct, this being reflected in the low number of referrals made to the Standards Board. That this was the case was further underlined by the fact that, since the introduction of the Code in May, 2002, only one member had been found to be in breach of it; that the breach had been regarded as relatively minor, and that no further action had been required. The Monitoring Officer emphasised, however, that, against that background, it would continue to be necessary to be pro-active in ensuring that high ethical standards were maintained by members and officers and that the perception of the public and the Council's partners was that the Council as a whole was committed to those standards.

## RESOLVED

- (1) That it be noted that maintaining awareness of the Code of Conduct will continue to be a priority for the next twelve months and that the proposal of the Monitoring Officer that, accordingly, internal means of communication will be utilised for updating Council employees on issues such as the arrangements for local investigation and determination of complaints, and that the Monitoring Officer will produce a brief note for the Council's Strategic Partners, be approved;
- (2) That the viewpoint of the Monitoring Officer that Area Committees are a valuable way of engaging the public be endorsed and that, with the support of the Area Committee Chairmen, the Monitoring Officer circulate a report on the Code to each Area Committee.
- (3) That the Monitoring Officer organise a training event for all members on the Code of Conduct and that the Chairman of the Standards Committee, the three Group Leaders and the Chief Executive be invited to contribute to the training seminar to reinforce the principle of leadership in promoting high standards of behaviour.
- (4) That, in recognition that it is good practice for the Leader of the Council and the Chief Executive to have clearly defined roles in promoting the importance of the ethical framework and to be seen to lead by example, the Council be recommended that the Constitution be amended as follows:

(a) Article 7 – The Cabinet

That the following new Article 7.08 there be included at page B16:-

7.08 Ethical Behaviour

As the Council's senior elected member, the Leader will set an example to all members and employees of the Council in their conduct and the performance of their function. The Leader will take particular care in promoting the Codes of Conduct and the Protocol for Member and Officer Relationships, and will encourage attendance at training seminars organised by the Standards Committee.

Similarly the leaders of the opposition groups should set an example to the members of their respective group by encouraging compliance with the Codes of Conduct and the Protocol for Member and Officer Relationships, and attendance of training seminars organised by the Standards Committee.

(b) Article 12 – Officers

That the following be inserted in Article 12.01(b) on page B28 under the functions and areas of responsibility of the Chief Executive:-

Together with the Leader, promoting high ethical standards for members and officers, particularly through training, and setting an example in their conduct and performance of their functions.

- (5) That the aim of the Monitoring Officer that the Register of Members Interests be accessible by the public on the internet, as well as in hard copy, by 1<sup>st</sup> October, 2005, be endorsed.

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PROTOCOL FOR RELATIONSHIPS BETWEEN MEMBERS AND OFFICERS OF DUDLEY MBC

A report of the Monitoring Officer was submitted seeking consideration of a draft Protocol for relationships between members and officers of Dudley MBC.

The draft Protocol had been considered at each of the Council's Select Committees and the comments of the three Select Committees from which observations had been received were contained in the report now submitted.

RESOLVED

That the Cabinet and Council be recommended that the Protocol for Relationships between Members and Officers of Dudley MBC, as appended to the report now submitted, be approved.

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DECLARATION OF INTERESTS

At this juncture, Councillor Ms Hart-Bowman declared a prejudicial interest, in accordance with the Members' Code of Conduct in Item Number 8 on the Agenda (Members' Allowances for Liquor Licensing Responsibilities) in view of her membership of the Licensing & Safety Committee.

## REVIEW OF THE MEMBERS' CODE OF CONDUCT

A report of the Monitoring Officer was submitted seeking the observations of the Committee for inclusion in a response to the Standards Board of England on their consultation questionnaire reviewing the Members' Code of Conduct.

### RESOLVED

That the following comments be made to the Standards Board in response to the respective numerical questions below:

1. The ten general principles should be incorporated as a preamble to the Code of Conduct.
2. The Standards Committee is not aware of any other principles which should be included in the Code of Conduct.
3. A more defined statement of "disrespect" would be desirable, particularly if it indicates particular examples of what would amount to disrespect.
4. The Code of Conduct should include a specific provision on bullying and that the ACAS definition of bullying would be an appropriate starting point for a definition.
- 5 - 6. That a member who wishes to disclose confidential or exempt information "in the public interest" or who believes that such information has been unlawfully categorised should refer the matter to the Information Commissioner for determination rather than make a unilateral decision on disclosure.
- 7 - 8. The provision regarding disrepute should continue to apply to certain activities in a member's private life provided that such activities have an impact upon a member's ability to undertake their functions as a member and strictly on condition that it is restricted solely to criminal convictions or situations where criminal conduct has been acknowledged.

- 9, 10 and 11. The Standards Committee accepts that the Code should prohibit breaches of the publicity code. However, the inclusion of breaches of local protocols would lead to inconsistencies because by definition such protocols do not apply to members generally. Breaches of these local protocols could be dealt with locally by standards committees, albeit that they would have limited powers to impose sanctions.

With regard to the misuse of resources the Standards Committee believes that the existing paragraph 5(b)(ii) of the Code is appropriate but does believe that there should be a distinction between physical and electronic resources.

- 12 and 13. The provision in paragraph 7 of the Code should be narrowed. No member should make a referral until they have taken the matter up directly with the member who is the subject of the proposed complaint. If the member is satisfied with the explanation given there will be no need to report to the Standards Board but, if otherwise, there will be a report and the member would be obliged to say why they are not satisfied with the explanation provided. This process would ensure that the member has reasonable grounds for the complaint and should help to weed out trivial issues and complaints which are based on a misunderstanding of the facts.
14. There should be a further provision about making false, malicious or politically motivated allegations.
15. The Code does need to provide effective protection for complainants against intimidation.
16. The word “friend” does require further definition. Members are often in doubt about the dividing line between a “friend” and an “acquaintance” and, as a result, will sometimes declare a prejudicial interest when they have no need to do so.
17. The personal interest test should be narrowed so that members do not have to declare interest shared by a substantial number of other inhabitants in an authority’s area.
18. A new category of “public service interest” should be created.

19. Public service Interests which are not prejudicial and which appear in the public register of interests should continue to be declared at meetings in order to avoid any possible confusion about what should or should not be declared.
20. Paragraph 10(2)(1c) should not be removed from the Code but the membership of these bodies should be re-categorised as “public service interests” and should not be prejudicial.
21. Less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups. In such situations members are not acting out of self-interest and they should not be disbarred from making decisions which affect external organisations to which they have been appointed by the Council or which fulfil a public or community function.
- 22 and 23. The Standards Committee believes strongly that a member with a prejudicial interest should be allowed to contribute to the debate before withdrawing from the vote. Despite their interest members may be able to make a significant contribution to the debate and their views should be taken into account.
24. Members who are employed in areas of sensitive employment, such as the security services, should not be compelled to declare their occupation in the public register of interests.
25. There is no convincing public interest argument for requiring members to register their membership of private clubs and organisations. This will not remove their obligation to declare a personal or prejudicial interest at a meeting on a matter which affects a club or organisation of which they are a member.
26. The register of gifts and hospitality should be made publicly available.
27. Members should declare offers of gifts and hospitality that have been declined.
28. Members should declare a series of gifts from the same source even if these gifts do not individually meet the threshold for declaration.
29. £25 is still an appropriate threshold for the declaration of gifts and hospitality.

## MEMBERS' ALLOWANCES FOR LIQUOR LICENSING RESPONSIBILITIES

(Having declared a prejudicial interest in this item, Councillor Ms Hart-Bowman was permitted to speak on the issue since her withdrawal from the meeting would have caused the political balance of the Committee to have changed).

A joint report of the Director of Finance and the Director of Law and Property was submitted seeking consideration of proposals by the Members' Allowances Independent Panel of the Black Country Boroughs regarding allowances to be paid to members for liquor licensing responsibilities. The report also sought consideration of an increase in the members' allowances scheme, in the light of the provision in the current scheme allowing allowances to be varied with effect from 1<sup>st</sup> April in each year and the benchmarking mechanism used previously in this regard having been superseded.

In the discussion on liquor licensing responsibilities reference was made to the way in which attendance of members at meetings of the Licensing and Safety Committee would be monitored through the disciplinary machinery of the respective political groups.

### RESOLVED

That the Cabinet and the Council be recommended:

- (1) That the recommendations of the Members' Allowances Independent Panel of the Black Country Bylaws regarding members allowances for liquor licensing responsibilities, as set out in the Appendix to the report now submitted, be approved.
2. That the proposal to increase Members' Allowances by 1.3% with effect from 1<sup>st</sup> April, 2005, in accordance with the Annual Survey of Hours and Earnings, be approved.

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## PLANNING CODE OF PRACTICE

A report of the Monitoring Officer was submitted on a breach of paragraph 2.8 of the Code of Practice for Members and Officers dealing with planning matters.

The report confirmed that, although the matter at issue had contravened paragraph 2.8 of the Code, it had not breached the Members' Code of Conduct and was not therefore reportable to the Standards Board for England.



The action taken by the Monitoring Officer in respect of the member concerned and in consequence of the incident, was indicated in paragraphs 2.5 and 2.6 of the report now submitted.

**RESOLVED**

That the report be noted and that no further action be taken.

The meeting ended at 8.15 pm.

**CHAIRMAN**