

BRECKLAND COUNCIL

At a Meeting of the

STANDARDS COMMITTEE

**Held on Tuesday, 22 November 2011 at 2.15 pm in
Norfolk Room, Conference Suite, Elizabeth House, Walpole Loke, Dereham**

PRESENT

Mr M.D. Eveling JP (Chairman)
Mrs S.M. Matthews
Mr G. Ridgway
Mr F.J. Sharpe

Mrs J R Smith JP
Mr A D Sommerville CPM
Mr D.R. Williams JP

In Attendance

Susan Allen - Standards Officer
John Chinnery - Solicitor & Standards Consultant
Helen McAleer - Senior Committee Officer

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67/11 MINUTES (AGENDA ITEM 1)

The Minutes of the meeting held on 11 October 2011 were confirmed as a correct record and signed by the Chairman.

68/11 APOLOGIES (AGENDA ITEM 2)

Apologies for absence were received from Mr B Rayner.

69/11 URGENT BUSINESS (AGENDA ITEM 3)

None.

70/11 DECLARATION OF INTEREST (AGENDA ITEM 4)

None.

71/11 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA ITEM 5)

None.

72/11 DISPENSATION GRANTED TO SCARNING PARISH COUNCIL (FOR INFORMATION) (AGENDA ITEM 6)

The dispensation for Mrs Patricia Page, of Scarning Parish Council, in respect of the Former Highway Surveyors Land at Daffy Green and the Scarning Fuel Allotment Charity was noted.

73/11 STANDARDS ISSUES (AGENDA ITEM 7)

The short letter of acknowledgement received from the Chief Executive on behalf of the Leader of the Council, was noted.

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74/11 THE FUTURE OF THE STANDARDS REGIME - AMENDMENTS TO THE LOCALISM BILL (AGENDA ITEM 8)

A briefing note had been circulated to Members by e-mail and an extract from the Localism Bill was tabled.

The Bill had received Royal Assent on 15 November and there was a lot of detail to be digested. Some commentators had made interesting comments about the new provisions and the Standards Consultant referred to some of those during his presentation.

The commencement date for the new Standards provisions was not yet known but when it came into effect the old Code would end and transitional provisions would come into effect.

Under the new provisions every Council (County, District and Parish) must adopt a Code which had to be consistent with the seven principles of Standards in Public Life. Having adopted and publicised the Code, arrangements had to be put in place to investigate allegations.

Arrangements for investigations included the appointment of at least one Independent Person whose views had to be sought after the complaint had been considered. The Independent Person could also be consulted by the Member subject of the complaint.

The Independent Person could not have had any connection with the Council for the past five years or have family or friends on the Authority.

There was no requirement to have a Standards Committee and if there was one it would be governed by the usual Committee rules and be politically balanced with only Members having voting rights. It might be possible to have the Independent Person as an advisor on the Committee.

All the current assessment, consideration, review and hearing procedures would cease. The Council would be able to set its own procedures for investigating complaints and could also delegate some powers if it chose.

The Independent Person would have no powers to make a determination, but their views must be taken into account when considering a complaint.

The arrangements for investigating allegations made about town and parish councils were more complicated as there was no provision for the District Council to have any powers over town and parish councils. In fact all sanction powers had been removed and the Council had no power to enforce its decision, other than censure.

The new Code would require the registering of interests. The Register must be held by the District Council and published on the website. Councillors would be required to disclose their pecuniary interests within 28 days of taking office. Those interests should also include those of their spouse/partner.

The Bill also referred to Members disclosing their interests at a meeting

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if they were not on the Register. It appeared that if they had registered their interests they would not be required to declare them at a meeting and could stay, although under Section 10 of the Act it referred to Standing Orders providing for Members having to leave.

Attention was drawn to Section 31(4) which said that Members with a pecuniary interest should not participate in a meeting. It was unclear what participation meant and it might not preclude Members from remaining in the room. It was acknowledged that their presence might influence the decision.

It appeared that dispensations would be dealt with in the same way as presently but with additional grounds added and the facility to delegate powers to the Monitoring Officer.

There was concern at the 'catch all' provision in Section 33(2)(3) to grant a dispensation when the authority "considers that it is otherwise appropriate to grant a dispensation" and the Solicitor agreed that it would be unfortunate if granted for inappropriate reasons. It was another area that might cause complications and a lot of guidance would be needed for its implementation.

The Chairman noted that there had been a universal set of rules which had not been perfect but had at least provided a framework for everyone to work to. Now, nothing was clear.

Moving on to offences, on page 45 of the handout, the Solicitor pointed out that if a Member failed to declare a pecuniary interest proceedings could only be instituted by or on behalf of the Director of Public Prosecutions. Sanctions could be a fine of up to £5,000 and/or disqualification for up to five years.

A Member asked whether the police would be expected to investigate such offences and was also concerned that during a Hansard debate there had been mention of an appropriate defence being a reasonable excuse for not disclosing an interest.

The Chairman felt that it was necessary to get the debate started at a political level to determine which direction the Council was going, whether it was considering a County wide or just Breckland system. He hoped that the Standards Committee could be involved in that debate.

A Member suggested that the Council should be looking even wider than the County in view of the exiting partnership with South Holland.

The Solicitor was keen to see what the Association of Council Secretaries and Solicitors would provide as a model Code. He suggested that a copy of the existing Code could be produced on the next agenda to provide a starting point.

Members felt that a political steer was required and it was suggested that an Executive Member should be invited to the next meeting.

The issues for consideration at the next meeting were:

- the wording of a new Code

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- the form of any new Standards Committee
- arrangements for dealing with breaches of the Code; and
- appointment of Independent Persons

It was agreed that if an Executive Member would be available and sufficient further details had been received, an additional meeting should be scheduled in December if possible.

75/11 VEXATIOUS AND HABITUAL CORRESPONDENTS POLICY (AGENDA ITEM 8)

The Chairman had been concerned about this matter for some time. He felt that it had given the current regime a bad name. At the previous Sub-Committee meeting he had suggested that it should be included on the Standards Committee Agenda.

The Standards Officer had drafted a Policy which was attached to the Agenda. She noted that following legal advice it would be changed from a Policy to a Guidance Note.

It had also been suggested that the definition of vexatious should be brought in line with that used in the Freedom of Information Act. The Solicitor explained that the current definition was very legal and not fitting for a Guidance Note.

The Standards Officer also asked for an amendment to include advice to the complainant about referring their complaint to the Local Government Ombudsman.

It was **AGREED** that the following amendments be made:

1. to change the title to a Vexatious and Habitual Correspondents Guidance Note;
2. to change the definition of vexatious to the definition in ICO Guidance Notes on FOI;
3. to include advice on taking the complaint to the Local Government Ombudsman in the Guidance Note and draft letters; and
4. to include severe cases being considered for reference to the Police.

A Member asked if a person classified as vexatious by the Council would be notified of that fact and it was confirmed that they would.

76/11 ITEMS FOR FUTURE AGENDAS (STANDING ITEM) (AGENDA ITEM 10)

No other items were suggested.

77/11 NEXT MEETING (AGENDA ITEM 11)

The arrangements for the next meeting on 3 January 2012 were noted.

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78/11 EXCLUSION OF PRESS AND PUBLIC (AGENDA ITEM 12)

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the Press and public be excluded from the meeting for the following item of business on the grounds that it involved the disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act.

79/11 LOCAL ASSESSMENT COMPLAINTS UPDATE (AGENDA ITEM 13)

The Standards Officer was thanked for producing the information.

It was noted that almost one third of the complaints originated from one person and a high proportion of the complaints concerned one Parish Council.

Members considered that they had been lenient and tolerant for too long. Under the new regulations the Council would be able to set its own procedures. It was suggested that the Vexatious Correspondent Guidance Note should be adopted and then used to advise that the Council would not respond to further complaints. It was however noted that no complaints would be rejected automatically without consideration.

It was felt that the Guidance should be circulated to all Parish Clerks and publicised on the website. It was not aimed at any specific individual but was to ensure future efficiency.

It was **AGREED** that future procedures should include the Vexatious Correspondent Guidance Note.

The meeting closed at 3.15 pm

CHAIRMAN