

**BRECKLAND COUNCIL**

**At a Meeting of the**

**STANDARDS COMMITTEE**

**Held on Tuesday, 5 July 2011 at 2.15 pm in  
St George's Room, Elizabeth House, Walpole Loke, Dereham**

**PRESENT**

Mrs S.M. Matthews  
Mr B.D Rayner  
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  
John Chinnery  
Helen McAleer

- Standards Officer  
- Solicitor & Standards Consultant  
- Senior Committee Officer

**Action By**

**46/11 CHAIRMAN (AGENDA ITEM 1)**

As the only eligible candidate, Mr Ridgway assumed the Chair.

**Mr G Ridgway in the Chair**

He welcomed the new Parish Council Representatives to the Committee.

**47/11 MINUTES (AGENDA ITEM 2)**

The Minutes of the meeting held on 17 May 2011 were confirmed as a correct record and signed by the Chairman.

**48/11 APOLOGIES (AGENDA ITEM 3)**

Apologies for absence were received from Mr M Eving.

**49/11 URGENT BUSINESS (AGENDA ITEM 4)**

None.

**50/11 DECLARATION OF INTEREST (AGENDA ITEM 5)**

No declarations were made.

**51/11 NON-MEMBERS WISHING TO ADDRESS THE MEETING (AGENDA ITEM 6)**

None.

**52/11 APPLICATION FOR DISPENSATIONS (AGENDA ITEM 7)**

The Consultant Solicitor advised that there were four applications for dispensations. The regulations regarding the granting of dispensations were set out in the report. If granted the dispensations would stand until the next elections or until the proposed changes to the legislation come

into force.

(1) Horningtoft Parish Council

**RESOLVED** to grant a dispensation to Andrew Hill, Graham Drew, Pauline Chapman, Tracey Hawke and Ivan Baker to speak and vote in connection with the Former Highway Surveyors Land Charity.

(2) Dereham Town Council

**RESOLVED** to grant a dispensation to Timothy Birt, Ann Bowyer, Phillip Duigan, Michael Fanthorpe, Linda Goreham, Robin Goreham, Stuart Green, Robert Hambidge, Kate Millbank, Linda Monument, Thomas Monument and Haydn Rogers to speak and vote in connection with the Bishop Bonner's Cottage Charity, the Recreation Ground Charity and the Headborough Estate Charity.

(3) Weasenham Saint Peter Parish Council

**RESOLVED** to grant a dispensation to Mr P Davies, Mr B Blower, Mr R Bowyer, Mrs J Grimwood, Mr K Grimwood, Mrs L Parke and Mrs I Sincock to speak and vote in connection with the Former Highway Surveyors Land Charity.

(4) Weasenham Saint Peter Parish Council

It was noted that the Parish Council could be quorate if the dispensation was not granted. Members considered that as the individuals had been elected by the public to represent both bodies the dispensation should be granted. However, it was felt necessary to point out that there might be a need on occasion for individuals to declare a personal and prejudicial interest and leave the room.

The Chairman suggested that a letter should be sent, highlighting advice about personal involvement for clarity.

**RESOLVED** to:

- (a) grant a dispensation to Mrs J Grimwood, Mr K Grimwood, Mrs L Parke and Mrs I Sincock to speak and vote in connection with the Weasenham Recreation Ground Charity; and
- (b) delegate authority to the Standards Consultant and the Standards Officer to compose a letter to the Parish Council highlighting the importance of declarations and conflicts of interest.

**53/11 FOR INFORMATION: DRAFT REPORT FROM NORFOLK COUNTY COUNCIL ON STANDARDS (AGENDA ITEM 8)**

The Standards Consultant asked for comments on the draft report from the Norfolk Monitoring Officers.

**Action By**

The Chairman thought it was useful to see but that things had already moved on to the next stage. It was suggested that the report should be added to the letter to the Leader to provide background information. It could also be added to the Minutes so that all Members would see it.

A Member was concerned about the statutory sanctions which seemed to be aimed at District Councillors leading to unequal censure for District and Parish Councillors.

The Solicitor explained that the idea of removing the mandatory code was to make each authority responsible for its own councillors.

The Chairman felt that this was a key point. He said that consideration needed to be given to what powers District Councils and Standards Committees would have over Parish Councils who might choose not to adopt a voluntary code. Public perception would be that Councillors could not be held to account.

Mrs Matthews (as a Vice-President of the Association) was asked to find out what the Norfolk Association of Local Councils thought about the voluntary code.

The Chairman said that it was important for the Committee to emphasise the importance of standards training for Councillors.

The Solicitor suggested that the Committee could write to the DCLG drawing attention to their concerns about the gap in the current proposals which could lead to a potential downturn in behaviour.

A Member commented that he had noticed an improvement in behaviour at Committees since the code was adopted. He agreed that a letter should be written.

**RESOLVED** that the Standards Consultant should send a letter of concern to the DCLG on behalf of the Committee setting out their fears with regard to disparity of censure and potential future behaviour problems, in the context of what had been achieved since the introduction of the Code of Conduct.

**54/11 LETTER TO THE LEADER ON STANDARDS ISSUES (AGENDA ITEM 9)**

A draft letter to the Leader was tabled for Members' comments.

In line with paragraph 8 of the Monitoring Officers' report, Members supported the introduction of a Countywide Code and the Chairman asked that that was made clear to the Leader in the letter.

The Standards Consultant said that one suggestion had been to keep the current code without Interests, but still covering respect, bullying, disrepute, etc. Alternatively a new code could be developed, as the current code was difficult to understand, although some parts would be good to copy word for word.

Discussion turned to the introduction of the criminal offence for failure to declare an interest and questions were raised about which matters the

**Action By**

Councillor  
Shirley  
Matthews

John  
Chinnery

police were likely to act on. This was another matter that needed to be clarified.

Turning to the letter, the following amendments were suggested:

Page 2 (a) amend to read: A voluntary Code of Conduct is seen as important for Breckland *and should be ready to take effect on the abolition of the current Code...*

The Committee wished to emphasise the importance of maintaining the current number of members as it would be difficult to cope with a lower number.

The Committee supported the adoption of a County-wide Code.

The report of the Monitoring Officers should be attached to the letter for information.

The Chairman hoped that the letter would be seen as a clear and constructive document in the best interests of all elected members.

**RESOLVED** that subject to the amendments above, the letter be sent to the Leader of the Council on behalf of the Committee.

#### **55/11 ITEMS FOR FUTURE AGENDAS (AGENDA ITEM 10)**

A Member suggested that training should be considered on a future agenda and the Consultant Solicitor advised that he had received clearance from the Monitoring Officer to offer limited training to Breckland Members and others from town and parish councils which he hoped to arrange for September.

He had already given all new Councillors a brief session on the Code.

The Chairman agreed that training should be included on the next agenda.

#### **56/11 NEXT MEETING (AGENDA ITEM 11)**

The arrangements for the next meeting on 30 August 2011 were noted.

**Action By**

The meeting closed at 3.15 pm

CHAIRMAN

**REPORT TO** **COUNCIL**

**REPORT OF MONITORING OFFICER**

**SUMMARY**

1. This Report informs Members of the pending abolition of the current Standards regime and asks Members to consider whether they would wish in principle to adopt a new Code of Conduct for Members to be put in place when the current Standards regime is abolished.

**Recommendation**

2. Members are asked to consider whether they might wish to resolve in principle to adopt a voluntary Code of Conduct when the Localism Act 2011 comes into force and to ask the Monitoring Officer to consider and advise in due course as to the contents of a new voluntary Code.

**Background**

3. The Standards regime currently in place for Local Authorities was introduced by the Local Government Act 2000 implementing recommendations of the Nolan Committee on Standards in Public Life. The key features of the current regime are:-
  - A mandatory Code of Conduct to be adopted by each Local Authority.
  - A regulatory body "Standards For England".
  - A mandatory Standards Committee for each Authority with independent representation.
  - An elaborate procedural framework for enforcement of the regime.
  - A range of statutory sanctions for breach of the Code.
4. It should be recalled that prior to the 2000 Act provisions there was a pre-existing "National Code of Local Government Conduct" which was enforced by the Local Government Ombudsman (albeit that the Ombudsman only had power to impose sanctions against the Authority, not against individual Members) and by Local Authorities themselves. The High Court case of *Lashley v Broadland District Council* established that all Local Authorities had the power to establish Standards Committees in order to promote and maintain Standards and Conduct of elected Members.

**Localism Bill 2011**

5. This Bill contains provisions which will sweep away all the features of the current Standards regime as summarised above. The implications of this are:-

- There will be no central or national apparatus for Standards - Standards For England will be abolished and all Standards issues will be dealt with at local level.
- Although Local Authorities will be under a duty to promote and maintain high standards of conduct by their Members they will not be obliged to have a Standards Committee. If they choose to do so, nevertheless, in accordance with the Lashley decision noted above, there is scope for Local Authorities to constitute such Committees. If Members were not minded to appoint a Standards Committee, the task of overseeing Standards issues could conceivably be allocated to another existing Committee.
- Local Authorities may, if they wish, adopt a Code of Conduct. Although any new Code may be based upon their current Code, the current Code will not itself continue in existence. Local Authorities must positively address the issue of whether and what Code they would like to see in place.
- The statutory sanctions for breach of the Code will be abolished. Suspension or disqualification will thus no longer be an option for Local Authorities to impose by way of sanction on those Members who have been found to be in breach of the Code. Sanctions under the new regime will likely include censure, and removal of defaulting Councillors from membership of Committees. [Local Authorities may also have the power to cease payment of Members' allowances to defaulting Members.]
- The Bill proposes to give powers to the Secretary of State to make provision for the disclosure and registration of Members' interests and for Members to disclose those interests in relevant circumstances. Regulations may include sanctions on Members for failing to comply with this duty but such sanctions may not include suspension or disqualification. The Bill will create a criminal offence of failing to register or to disclose a financial interest and upon conviction a Court may disqualify the convicted person from being or becoming a Member of the Authority for a period of up to five years.
- Regulations will make provision for transitional arrangements to allow for Standards cases going through the "old" system.

### **A Voluntary Code of Conduct**

6. Members are asked to consider whether they would like, in principle, to have a Code of Conduct for Members under the Localism Act. As noted above, there is a duty on Local Authorities to promote and maintain high standards of conduct and the adoption of a Code might be the most straight forward means of fulfilling that duty. There might now be a public expectation that Local Authorities will have a Code. It may be seen as a commitment to the strengthening of confidence in local democracy.

7. A decision in principle to have a Code of Conduct would not imply any commitment to a Standards Committee. As noted earlier, the Bill makes no mention of Standards Committees and the Authority would have to consider whether it wished to have a Standards Committee and what powers such a Committee might have conferred upon it.
8. The Monitoring Officers for the various Authorities in Norfolk have given thought to the possibility of a "Norfolk Code". If the Norfolk Authorities were open to the idea of Voluntary Codes then a form of Code acceptable to all Authorities for use within the County might have advantages. Members who were elected to more than one Authority would only have to consider one Code whilst they conducted the business of each Authority.