

Runnymede Borough CouncilSTANDARDS COMMITTEE19 February 2002 at 7.30 p.m.

Members of the

Committee present: Councillors V. E. Barker (Chairman), A.P. Tollett (Vice Chairman), Mrs J.R. Barrett, Mrs E.E. Price, Mrs V.A. Smallman; and Dr. R.F. Miller (non-elected Member), and Mrs C. Spurling (non-elected member).

Members of the

Committee absent: None

Councillor T. Dicks also attended and spoke, with the permission of the Chairman, in accordance with Standing Order 29.2.

553. MINUTES

The Minutes of the meeting of the Committee held on 5 December 2001 were confirmed and signed as a correct record.

554. THE NEW ETHICAL FRAMEWORK FOR LOCAL AUTHORITIES

Members were advised that the Local Government Act 2000 had established a new ethical framework governing the ethical standards and behaviour of Local Authority Members.

This new Act substantially updated the provisions of the Local Government Act 1972, the most important change being that, for the first time, it established an external body (The Standards Board for England) which would take overall responsibility for the behaviour of elected Members. In parallel with this Board, the Secretary of State had issued a model Code of Conduct for Local Authorities (see next Minute). Each Local Authority would be obliged to promulgate a Code of Conduct, based on the national model, and all Members and co-opted Members would be legally obliged to give a written undertaking that they would observe the Code. Each Local Authority was also obliged to establish a Standards Committee, which would include independent Members, and which (depending on future regulations) was expected to have some powers in determining actions to be taken against Members found guilty of breaches against the Code. The Standards Committee would primarily have responsibility for monitoring the operation of the Code, and ensuring that Members and co-opted Members were properly trained and advised as to the requirements of the Code. It was noted that an appointments procedure was now required for non-elected Members of the Standards Committee, and this Council had until 27 August 2003 to comply with the requirements. Councils would be obliged to advertise for independent Standards Committee Members in the local newspapers, and criteria were set down to ensure that these independent Members had no a priori links with the Councils concerned. The functions of the Monitoring Officer had been expanded.

Members noted that the biggest change brought in by the new Act related to the powers of the new Standards Board. Any complaints that a Member had breached the Code of Conduct would not be dealt with by the Local Authority in the first instance (as it was under the 1972 Act), but would have to be referred in writing to the Standards Board. The Board could reject a complaint (giving its reasons in writing) or could refer the matter for investigation to an Ethical Standards Officer (ESO) for investigation. Following his investigation, the ESO (if he found the complaint justified) could either refer the matter to the Council's Monitoring Officer or, in more serious cases, refer the matter to the Adjudication Panel for England. In the latter case, the Adjudication Panel could constitute Case Tribunals which could have procedural powers similar to a Court, and Members appearing before them could engage legal representation. The Case Tribunals would have powers of suspension and disqualification.

Members recognised that these new procedures were stringent. The fact that breaches of the Code of Conduct would be investigated by an independent body with judicial powers, represented a significant change from the 1972 Act and the current National Code. Bearing this in mind, Members recognised that Councils would be obliged to give Members proper training and advice, and that it would also be sensible to investigate the possibility of obtaining proper legal insurance for Members in case they appeared before a Tribunal and required legal representation.

Having said this, the Committee recognised that Runnymede Borough Council had an excellent record in this area, and that it was hoped that with due training and publicity, the Members would be well aware of their responsibilities and adhere diligently to the new Code of Conduct.

#### 555. CODE OF CONDUCT FOR MEMBERS

The Committee was advised that the Local Authorities (Model Code of Conduct) (England) Order 2001 had come into force on 27 November 2001. Under this Order, Local Authorities had to adopt the provisions of the model Code (which were all mandatory) by 5 May 2002.

Members noted the following implications of the new Code;

- a) Article 1 generally restricted the application of the Code to cases where Members were acting on official business. It was possible, however, for a Member to breach the Code by bringing the authority into disrepute or improperly using his or her position (see (e) below).
- b) The Code applied to co-opted Members as well as elected Members.
- c) Article 2 contained new provisions aimed at preventing bullying and unlawful discrimination.
- d) Article 3 required Members both to respect confidential information and not to prevent access to information which should legally be available.
- e) Article 4 contained a new requirement not to bring a Member's office or authority into disrepute. This proviso was not clearly defined although it was felt that the view of the Standards Board and Case Tribunals would become clearer with time. It could include, however, many sorts of criminal conviction and a range of what might loosely be referred to as "dishonourable conduct".
- f) Article 5 was intended to prevent Members from abusing their positions for personal advantage, or from misusing the authority's resources.
- g) Article 6 was a new requirement for Members to have regard to any advice given by the authority's Chief Finance Officer and its Monitoring Officer when reaching decisions. This was intended to reinforce the statutory responsibilities of those Officers, although it might be difficult to prove breach of the provision except in the clearest cases.
- h) Article 7 was new, and again was one of those provisions specifically consulted upon before the Code was published. Members were now under a positive duty to report breaches of the Code by other Members to the Standards Board. Therefore, if a Member was aware of misconduct by a second Member and failed to report it, the first Member would himself be guilty of a breach of the Code. The intention was to prevent cover-ups or a conspiracy of silence. This could be one area where the Council could provide its own guidance to assist Members who were unsure whether they should make a report to the Standards Board.
- i) Articles 8 to 13 dealt with the restrictions on Members who have a personal interest in a matter. These replaced the statutory provisions in the Local Government Act 1972 as well as the requirements of the National Code. There were a number of components:
  - there was a more objective, but also more complicated, definition of what constitutes a personal interest than in the old Code.
  - in cases of personal interest, the Member must declare both its existence and its nature. In the past some Members had contented themselves merely by declaring "an interest".
  - the old Code reference to a "clear and substantial interest" had disappeared, to be replaced by the concept of a "prejudicial interest". There were a number of exceptions from the definition of prejudicial interest which were broadly intended to preserve the effect of the exemptions mentioned in the old Code, such as participation on other public bodies.

- under the Code applicable to executive authorities, Members were regarded as having a prejudicial interest in the business of an Overview and Scrutiny Committee (Review Board) if it was considering a decision made by another of the authority's Committees or Sub-Committees of which he or she is also a Member. This provision had been left out of the Code for non-executive authorities by accident, and the Standards Board requested that it be included in local Codes adopted by those authorities.
  - any Member with a prejudicial interest must withdraw from any meeting considering that matter, and not seek improperly to influence the decision. However, there was a new provision allowing the authority's Standards Committee to grant a dispensation from the requirement to withdraw. (Under the old statutory provisions, the Secretary of State could grant dispensation in respect of a pecuniary interest).
  - the provisions in the Local Government Act 1972 making it a criminal offence not to declare a pecuniary interest had been repealed. The new model Code of Conduct, and the scheme of enforcement and dispensation through the Standards Board and local Standards Committees, provided a unified system to replace both the 1972 Act provisions and the old National Code of Conduct provisions.
- j) The remainder of the Code dealt with Members' duties to lodge a written record of certain interests. These were similar categories to the existing requirements although there were some changes. Article 15 also contained a requirement for the first time to register other interests, such as membership of certain outside organisations. However, this did not extend to membership of private clubs as had once been suggested. Such interests would still need to be declared when the occasion arises.
- k) There was a new requirement to register gifts or hospitality received as a Member exceeding a value of £25. Again this was a provision supported in the consultation on the Code.

The Committee was required to advise Members or arrange training, so that they could fully understand the implications of the Code. It was accepted that training would be best provided in-house by the Council's own Officers rather than by external consultants.

Members were also concerned as to their legal position, given that a Member accused of a breach of the Code of Conduct could be obliged to appear before a Case Tribunal, and might therefore wish to have legal representation. It was agreed that the Officers would investigate the availability of legal insurance for elected Members. It was also agreed that it would be a good idea to give copies of the new Code to all prospective Council candidates, when they received their nomination papers.

**RESOLVED that -**

- i) Runnymede adopt a Code of Conduct in the form of the Code set out in Schedule 2 to the Local Authorities (Model Code of Conduct) (England) Order 2001, with the addition of Articles 11 and 12 (2) from Schedule 1 (see Appendix 'A' attached);**

**RECOMMEND that -**

- ii) Officers be instructed to arrange and deliver training for all Members of the authority on the new Code of Conduct, the provisions of Part 3 of the Local Government Act 2000, and the role of this Committee, to be delivered following the adoption of the new Code and also for new Members elected in May 2002, and this Committee review the effectiveness of such training at a meeting in the Municipal Year 2002/3.**

Chairman

(The meeting ended at 8.26 p.m.)