

WEST WILTSHIRE DISTRICT COUNCIL

MINUTES

Minutes of the: **STANDARDS COMMITTEE**

Held on: **WEDNESDAY 27 APRIL 2005**

Held in: **OCTAGON SUITE, BRADLEY ROAD
TROWBRIDGE**

Present:

District Council Representatives: Ernie Clark

External Representatives: Tony Frost (Chair), Margaret Ellwood and Keith West (Vice Chair)

Town/Parish Representatives: Mary Stacey and Horace Prickett

Also Present Marion Clegg, John Clegg, Sarah Content, Mike Hawkins, Francis Morland, Marilyn Timms, Bill Viles

Officers: Corporate Director (PW and IG), Legal & Democratic Services Manager and Member Support Officer (MS)

127. APOLOGIES AND CHANGES OF MEMBERSHIP

Apologies were received from Cllr Farkas, Hawker and Manasseh

128. MINUTES

The minutes from the meeting on 23 March were approved as a correct record and signed by the Chairman.

The Legal and Democratic Services Manager, whilst referring to minute 123, explained that Francis Morland had brought to his attention two cases which had been omitted. The Legal and Democratic Services Manager formally apologised and that details of these cases would be included in the minutes.

In relation to Mr Morlands request for a copy of the planning minutes from 2004, the Legal and Democratic Services Manager would locate them and forward a copy to Mr Morland.

129. DECLARATIONS OF INTEREST

Item 7- Dispensation

Ernie Clark and John Clegg both declared a personal interest in this item. Ernie Clark declared that he is a member of Hilperton Parish Council and has been affected by a dispensation decision granted by the Standards Committee. John Clegg declared he is a member of Westbury Town Council and has also been affected by dispensation issues.

130. CHAIRMAN'S ANNOUNCEMENTS

The Chairman did not make any announcements

131. MOCK HEARING - FEEDBACK

The Chairman invited the committee to offer feedback on the mock hearing which took place at the last Standards Committee meeting and identify any future training needs.

It was requested that the information relating to hearings that was displayed on the flipchart at the last meeting, be formatted and circulated to committee members. The Legal and Democratic Services Manager informed members that this was already being organised.

The committee also felt that a further mock hearing would be beneficial and that the role of the Chairman of the Standards Committee where the alleged misconduct took place should be incorporated into the role-play. The Legal and Democratic Services Manager agreed and would organise a role-play with a different scenario.

132. CHANGES TO THE CONSTITUTION

(a) Constitution Review Working Group

Peter Woodcock presented a report and asked for the Committees views on some proposed minor changes to Sections 2 and 9 of the Councils Constitution.

At the Standards Committee meeting on 23 March the general consensus was that it should not be the sole responsibility of the Monitoring Officer to

decide if changes are 'significant'. Therefore the committee was asked who should be consulted when deciding if a change is 'significant'.

Section 9 of the Constitution sets out the rules for the planning committee. The new wording proposed by the Constitutional Review Group, for Section 9.1.1, would allow a member of a local ward affected by a planning application to refer the application to the Planning Committee.

The proposed wording would allow a local member to refer an application in his or her ward to the Planning Committee, however to be able to fully represent a member/s of the electorate it was felt that a ward should not have to be affected. It was also felt that the word 'affected' is ambiguous and requires definition. It was established that the wording would be refined when the Constitution was being reviewed.

Some felt that should a member refer an application to the Planning Committee then that member should be present at the Planning Committee meeting to discuss the reasons for bringing the application before the Committee. If they were unable to attend the ward member should send a fully briefed substitute or a written explanation.

It was also hoped that Planners and the ward member would discuss and try to resolve issues before referring the application to the Planning Committee.

RESOLVED:

- (i) **Section 2.3.3** It be recommended to Council that when deciding if a change is 'significant' to the Constitution the Monitoring Officer should consult with:
- The Leader
 - Chair of Council
 - Chair of any member body affected by the proposed change
 - Chair of each Overview Committee (or Chair of the Scrutiny Committee if proposed changes are approved by Council at AGM)
 - Chair of Standards Committee
- (ii) **Section 2.3.3** Should there be a conflict of views between any of the above then the change should be referred to Council and considered as significant

- (iii) **Section 9 The concerns of the Standards Committee, as noted in paragraphs 4,5 and 6 be forwarded to the Constitutional Review Group**
- (iv) **That any member whose ward is affected by an application be able to refer an application to the Planning Committee**
- (v) **The ward member who referred the application to the Planning Committee should attend the meeting either in person, or by sending another ward member on his/her behalf or provide a written statement listing the reasons for referring the application.**
- (vi) **The notes of the Constitutional Review Group meeting from 22 April 2005 be noted**

(b) Scrutiny Committee

Ian Gallin presented reports previously considered at Council Seminar meetings on 15 February and 6 April 2005 and also presented the proposal to be considered by Annual Council on 11 May 2005. Ian Gallin advised and invited the views of the Committee on the proposal to merge the External and Internal Overview Committees to form one Scrutiny Committee.

If both the internal and external overview committees were merged there must be caution that the functions of one committee do not overshadow the functions of the other committee - the functions of both the internal and external committee must remain.

Although not a Committee Member Cllr John Clegg expressed concerns over the number of meetings the members would have to attend, as the merging of the two committees would increase the number of meetings. The membership of the amalgamated scrutiny committee would be 14 and there was also concern that it may be a problem to find councillors who were prepared to fill those places.

RESOLVED:

- (i) **The Committee approves the amalgamation of the functions of the two existing overview committees to one scrutiny committee and recommends that the Chairman of the Scrutiny Committee and Chairman of the Standards Committee meet once a year to agree forward workplans**

(ii) That the implementation of task and finish groups, setting the maximum number of groups in operation at any one time at two. Membership is to include the relevant portfolio holder, or his nominee or another member with a particular interest in the issue

(iii) Recommend the report to Council

133. DISPENSATIONS

The Chairman reminded those present that the discussion on dispensation should be on the operation of the current rules on dispensations for town and parish Councils, not to debate past decisions.

The recent problems relating to dispensation have been as a result of new road schemes in nearby communities. Situations have arisen where both Westbury Town Council and Hilperton Parish Council have so many councillors likely to declare prejudicial interests that it would have been impossible for the Council to be quorate. The Council would then not have been able to comment upon the road schemes.

To overcome this problem the Standards Board for England has provided for dispensations to be given to allow the Council to perform its function of representing public opinion. The rules allow the granting of dispensations to those least affected by the matter to be discussed but only to the extent that the meeting becomes quorate.

Marilyn Timms was invited to speak on behalf of Hilperton Parish Council and explained the impact dispensation decisions have had on Hilperton Parish Council. Those Councillors not granted dispensation felt disenfranchised and the decisions could have caused a rift between the parish council.

The Regulations, set by Government, are used to make decisions of dispensation. The potential impact on property values is one reason why prejudicial interests are required to be considered. The Committee is also required to consider the proximity of Councillors to the proposed route, the proximity of roads where traffic flows as well as the potential impact of traffic noise. The recommendations are made based upon criteria which are applied equally to all members and there is no obligation to consider how the balance of the subsequent debate might be affected.

Councillors expressed a feeling of frustration, as they felt unable to represent the public and perform the role they had been elected to do. This then resulted in the public losing belief in the Council and Councillors.

RESOLVED:

- (i) **The Legal and Democratic Services Manager be asked to send a letter to the Standards Board for England informing them that the Standards Committee:**
- **does not agree with the 50% threshold**
 - **does not agree with the disclaimer used by the Monitoring Officer in previous correspondence**
- (ii) **A copy of the letter and reply to be copied to all Parish and Town Councils.**

134. STANDARDS BOARD FOR ENGLAND – COMPLAINTS UPDATE

The Legal and Democratic Services Manager informed the Committee that there was nothing to report.

135. WORK PROGRAMME

The Legal and Democratic Services Manager informed the Committee that he had sought advice from Andrew Arden, QC regarding the Constitution. The Legal and Democratic Services Manager then proceeded to inform the Committee of advice given to date. The Committee welcomed involvement in the establishment of a new Constitution or improvements to the existing Constitution.

The Forward Work Plan was considered. From discussions relating to changes to the constitution and scrutiny it was suggested that at item be included in the workplan to review member attendance at committee meetings.

RESOLVED:

That revisions to the work plan be made and the work plan be noted.

DATE OF NEXT MEETING

The next scheduled meeting will be held on Wednesday 1 June 2005 at 7pm in the 8trium at the Council Offices, Bradley Road, Trowbridge

(7.00pm – 9.05pm)

These minutes were prepared by Melanie Stimpson; Member Support Officer
who can contacted on 01225 770322 or email
mstimpson@westwiltshire.gov.uk.

Chairman:

Date: