

Minutes

19 April 2004
Committee Room 1
Bourne Hill, Salisbury
Commencing at 2.00 pm

54. Present:

Mr G A Thompson (Chairman and Independent Person), Mrs M F Lewis (Vice-Chairman and Independent Person), Councillors C G Mills and B M E Rycroft and Mr M Chandler (Parish Representative).

In attendance: Mr R Job (Independent Person – Designate), Councillor J B Hooper (Deputy Member), Mr R G Crook (Deputy Parish Representative), Mrs G Newell (Principal Solicitor/Deputy Monitoring Officer) and Mr P J Bellas (Senior Democratic Services Officer).

Councillor I C West was also in attendance and with the consent of the Chairman addressed the meeting in respect of those matters recorded under minutes 59 and 60 below.

55. Public Question/Statement Time:

There were none.

56. Minutes:

Agreed: that the minutes of the last meeting held on 15th March 2004 be approved as a correct record and signed by the Chairman.

57. Member Indemnities:

Although this matter did not appear on the agenda the Chairman decided that it should be considered at the meeting.

Further to minute 49 (15/3/04) the Parish Representative asked for clarification on the provision of indemnities for Parish Councillors, including the status of Co-opted Members.

Agreed – that the officers report to the next meeting on the application of the provisions on Member indemnities within the Local Government Act 2000 to Parish Councils.

58. Declarations of Interest:

There were no declarations of interest.

59. Appeals Panel – Statement of Findings:

The Secretary read out the statement made by the Chairman of the Council at the meeting of the Full Council held on 29th March 2004 as follows:-

“I am pleased to report that on Friday 19 March, an Independent Appeals Panel sat to review Councillor Ian West’s Appeal.

The Panel was made up of four District Councillors drawn from outside the District, one from each political party with one Independent.

The Panel found that Salisbury District Council did have a case to answer and recommended that :-

1. *Councillor West be given “an unreserved full and public apology in relation to the matters”*
2. *Councillor West’s legal fees and out of pocket expenses be reimbursed together with a recognition of the “pain and grief experienced by Councillor West.”*
3. *recommendations relating to procedures and training be implemented.*

George Robins, who represented Councillor West at the Appeal, commended the Standards Committee and Salisbury District Council for reacting swiftly to the mistakes made on the 9 September 2002 by amending our Constitution in a manner to avoid such situations from ever occurring again.

As the Chairman of the Council I am very happy to give Councillor West that unreserved full apology publicly from the Chair this evening and I am pleased that this now draws a line under the matter”.

In addition, a summary of the findings and recommendations of the Appeals Panel was circulated at the meeting.

Councillor West informed the Committee that he considered that the Appeals Panel had given him a fair hearing and he was delighted with the findings. He thanked the Chairman of the Committee for his assistance in establishing the Panel and the officers for its organisation. Cllr West also stated that he felt that the approach taken was helpful and a useful way of seeking to resolve difficulties.

The Chairman handed Councillor West a letter of apology from the Chairman of the Council enclosing payment of the settlement as recommended by the Appeals Panel.

Agreed –

- (1) that the summary of the findings and recommendations (attached as Annex A to these minutes) be noted;
- (2) that the officers report to the Committee in three months time on progress made towards the implementation of the Panel’s recommendations relating to procedures and training.

60. The Committee on Standards in Public Life - Questionnaire:

Consideration was given to a questionnaire produced by the Institute of Public Finance on behalf of the Committee on Standards in Public Life (previously circulated under separate cover) regarding local authority codes of conduct.

Agreed – that the Committee’s views (as set out in Annex B attached to these minutes) be forwarded to the Institute of Public Finance in response to the questionnaire.

61. Date of Next Meeting:

Consideration was given to date of the next meeting of the Committee as it was scheduled to be held on 17th May 2004, the same day as the Annual Meeting of Full Council. The Committee noted that there were no pressing matters to be considered at the meeting. It was therefore:-

Agreed –

- (1) that the meeting due to be held on 17th May 2004 be cancelled; and
- (2) that a special meeting of the Committee be arranged if any urgent matters require a decision prior to the next scheduled meeting to be held on 21st June 2004.

62. Chairman's Announcements:

This being Mr Thompson's last meeting, he thanked the Members and Officers for the support he had received and informed them that he had enjoyed being part of the Committee.

Members of the Committee paid tribute to Mr Thompson for his commitment, common sense and approachability and stated that he had provided support to the Council beyond that which could be expected.

The meeting concluded at 3.20 pm

APPEALS PANEL

MEETING HELD ON 19TH MARCH 2004

SUMMARY OF FINDINGS AND RECOMMENDATIONS

FINDINGS

1. Salisbury District Council's constitution as at 9th September 2002 had no clear rules of procedure to cover public question/statement time at Committees. The procedures were clear for Full Council but not for Committees.

(NOTE: The Panel recognises that there have been improvements in procedure since these events.)
2. Councillor West was inappropriately named in the minutes of the Standards Committee on 9th September and he was not officially informed of this matter. It was not until Councillor West received a copy of the minutes of the meeting that he became aware of this fact.
3. Salisbury District Council's inter-departmental and intra-departmental communication was inadequate.
4. With regard to the meeting held in June 2000, the Panel finds it unsatisfactory that
 - (a) no minutes were available
 - (b) there is no evidence of who attended the meeting in totality
 - (c) there is no formal record of the outcomes of the meeting, and
 - (d) The role of Councillor West at this meeting was unclear
5. The Panel therefore finds that Councillor West had no option but to seek legal advice from an outside body because of the involvement of Council legal staff in the matter.

RECOMMENDATIONS

1. An unreserved, full and public apology be made to Councillor West in relation to these matters.
2. Subject to the statutory authority being available to Salisbury District Council, the Panel recommends that the Council reimburse sums of money:
 - (a) in recompense of Councillor West's legal fees
 - (b) for Councillor West's out of pocket expenses
 - (c) for the pain and grief experienced by Councillor West
3. Council procedures should be periodically reviewed with particular reference to public question/statement time and all Council procedures should be reviewed to reflect best practice.
4. Advice and training should be given to all members concerning their role and responsibilities when attending meetings between officers and members of the public.

Committee on Standards in Public Life Local Authority Codes of Conduct

Q1 In what ways (if any) has the new ethical framework improved public confidence and trust in Local Authority elected representatives?

Not enough time has elapsed since its introduction for the new ethical framework to impact on public consciousness, but it may do in time.

Although there has been some publicity it is considered that the vast majority of the public have little interest except where matters directly affect them.

If the framework has improved confidence at all it is the fact that there is an independent body to whom complaints can be addressed. However the Standards Board's performance has not been particularly good due to the slowness with which complaints are investigated and perceptions of independence may be watered down with complaints being returned to local authorities for investigation and determination.

Generally it was felt that the question should be posed to the public directly rather than practitioners.

Q2 In what ways (if any) has the new ethical Framework acted as a disincentive to being a member of a public body governed by it?

The new ethical framework has acted as a disincentive in a number of ways:-

- Protests and resignations have resulted from the imposition of the registration of interests on parish councils.
- The framework is heavy-handed with the Standards Board having to be involved in minor or trivial breaches of the Code of Conduct.
- There is some discomfort resulting from a Member's obligation to report possible breaches of the Code of Conduct.
- There is resentment arising from the publicity arrangements operated by the Standards Board in that its findings are made public when a member has not breached the Code.
- The Code is seen as another level of bureaucracy for parish councils.

However, it is recognised that some disincentives may be positive as the framework shows that the work of parish councils is important and focuses attention on objective decision-making.

Q3 Would the code be improved by incorporating within it the principles contained in the General Principles Order as in the Scottish code?

Probably, as it would remind members of them.

Q4 What clarification should be made regarding members conflicts of interest on planning applications and similar such matters?

Personal and prejudicial interests are the same for planning and similar such matters as general matters. Confusion arises with regard to regulatory matters due to the issues of bias and prejudgement, which are not Code of Conduct issues. It would be helpful if the Code of Conduct reminded Members that they should not indicate their views on such matters before the final stage of the decision-making process.

- Q5 Does the Code unreasonably restrict members with personal interests from representing constituents' views at Committee?**
No, as a member with a personal interest is able to take full part.
- Q6 Should Parish and Town Councils be part of the Ethical Standards legislation?**
It would have been preferable if the Ethical Standards legislation had been introduced for principal councils in the first instance so that its impact could have been gauged before it was applied to parish councils. However, as the legislation is now in force it is recognised that it cannot be rolled back.
- Q7 In what ways (if any) could the mandatory code be simplified in respect of Parish and Town Councils?**
It is not considered that the mandatory code requires much simplification with regard to parish and town councils.
- There are problems for small parishes where there are a finite number of people willing to take on community functions and it is inevitable that the same people will be on the parish council and the management committees of village halls and recreation grounds, etc.
They will not always be parish council appointees. Problems arise in these circumstances where, e.g. the other body is seeking a grant from the parish and those member on the management body in their own right have to declare personal and prejudicial interests. This can leave very few members to discuss the matter. The other bodies are not public bodies but are there to maintain a community facility and those managing them should have the public good in mind. Is it therefore appropriate to exclude them from the meeting? Dispensations can be granted and this is a useful function of Standards Committees and may protect members. However, perhaps there should be a general exemption to parish councillors who are on bodies running community facilities.
- Q8 What (if anything) is achieved by applying some parts of the national code to members when acting other than in their official capacity e.g. 4 (bringing office into disrepute) and 5 (a) (improperly securing advantage or disadvantage).**
The principle that applying parts of the Code to members when acting outside their official capacity is appropriate as there must be a trust in a member's integrity. Whilst it is impossible for the Code to cover all eventualities there should be clarification of the type and seriousness of behaviour which is likely to result in a breach of the Code.
- Q9 What (if anything) is achieved by the obligation to inform the Standards Board if a reasonable belief is formed that a particular member has breached the code? (para 7)**
The obligation is uncomfortable for members, but it does provide some protection for those Members notifying breaches of the Code and is likely to reduce Member to Member conflicts.
- Q10 How could para 7 be improved (if at all)**
The Committee prefers retaining the obligation to inform the Standards Board under paragraph 7.
- Q11 How could the distinction between personal, and personal and prejudicial, interests be improved?**
Personal and prejudicial interests should just be referred to as "prejudicial" as all such interests are personal by definition.
- Q12 Should the requirement to register some of the interests detailed in the register be replaced by a requirement merely to disclose them at a meeting where discussion might affect them, and if so which ones?**

By a majority it is considered that the registration of shareholdings should not be required as it is intrusive and acts as a disincentive to people considering standing for office. However shareholdings should be disclosed at meetings where the discussion may affect the companies in which the shares are held.

Q13 Should the nominal share values referred to in 8 (1) (c) and 13 (d) - currently £5,000 and £25,000 - be made consistent and if so which should prevail?

Further to the answer to question 12, it is felt that there should be consistency and that all shareholdings should be declared where necessary at meetings regardless of their value.

Q14 Could the definition of "a position of general control or management" in 8 (1) (d) and 14 be improved and if so how?

No, the definition is considered to be appropriate.

Q15 Should the definition of "relative" be improved and if so how?

The definition of relative could be improved by the inclusion of step-parents (as step-children are referred to) and half-brothers and half-sisters.

Q16 Should the Code make clear that the nature and extent of an interest should be declared for personal and prejudicial interests as well as merely personal ones as appears to be implied from 9 in the Code?

The declaration of the nature and extent of personal and prejudicial interests should not be required as a member is required to leave the meeting and would not be participating in the decision.

Q17 Does the definition of "meeting" in 12 need to be expanded to include all types of discussion including informal meetings with officers and/or members as is the case under the Scottish Code?

Such an amendment would be consistent with the aims of the new ethical Framework as a member could be as influential in an informal meeting as in a formal one without others present being aware of any interest he or she may have.

Q18 Should the register of interests include

(a) membership of all private clubs or societies, such as the Freemasons, a recreational club, working men's club, or private investment club as in the Welsh Code

(b) trade organisations in addition to the current professional associations and trade unions

(a) Generally, membership of such bodies is of little consequence and any requirement for registration would be intrusive. However membership should be disclosed if matters directly relating to the club or society are raised.

(b) There are no objections to the inclusion of trade organizations

Q19 Do the requirements on registration of gifts and hospitality require amendment and if so how?

Yes, the £25 threshold for declaration is considered to be too low; clarification is needed on the registration of cumulative gifts; and it is often difficult for members to know whether gifts and hospitality are being offered to them as councillors or in the course of their normal business.

Q20 Provide detail of any other ways you think the code or the ethical framework generally could be improved

A general relaxation in relation to parish councils. Some form of code is necessary but the current one seems somewhat onerous for a parish with a small annual precept. Bringing parishes within the ethical framework has been beneficial as the public now have somewhere to complain about parish councillors who they consider have not declared interests where they should. However, issues such as that referred to in answer to Q7 above need resolving.

Q21 Has your local authority

- (a) granted its standards committee additional functions...**
- (b) indicated it is considering to do so...**

If it has, what are they?

If it has not, is there a reason?

- (a) Yes, ensuring that the Independent Remuneration Panel has carried out its task correctly
- (b) No further additional functions envisaged at present

Q22 Please detail any examples of how the standards committee has performed its statutory duty re:

- (a) Training**
 - (b) Monitoring compliance with the code**
 - (c) Promoting and maintaining high standards of member conduct.**
- (a) Training for all members of the Council and Parish Councils was made available when the code was first introduced and again after the elections in May 2003.
 - (b) Reports of all complaints made to the Standards Board are made to the Standards Committee whether or not the complaint is investigated. If an investigation has taken place the committee is asked to consider whether additional training is needed for members.
 - (c) Publicity at the time the code was introduced. In addition, a report will be made in a forthcoming edition of the Council's newspaper which is delivered throughout the District that will report on what the Committee has done to date in relation to its functions.