

Title of Report : STANDARDS LOCAL DETERMINATION – MATTER ARISING

Report of : Head of Legal and Democratic Services

To : Standards Committee

Date : 5th December 2008

Item No : 5

Purpose of report : To review procedural and other matters arising from the local determination hearing that took place on 19th September and 11th November.

Recommendation(s) : The Committee is being asked which of the matters arising from the local determination hearing it would like to take further.

Key decision : No

Portfolio Holder : Not applicable

Scrutiny Responsibility : Not applicable

Ward(s) affected : All

Report Approved by : Jeremy Thomas (Legal)

Policy Framework : Not applicable

1. The Standards Committee met on 19th September and 11th November to consider a report of a Standards Board for England Ethical Standards Officer concerning an investigation into an alleged failure by Councillor Pressel to comply with the Members' Code of Conduct. The press and public were excluded from the meeting on the grounds that information which is subject to an obligation of confidentiality would otherwise be revealed. The Committee found that Councillor Pressel had failed to comply with paragraph 2(b) of the Code of Conduct (requirement to treat others with respect). The Committee decided that a reasonable and proportionate sanction for the breach was a formal censure.
2. The failure to comply with the Code arose in connection with events before, during and after the felling of certain trees in East Street, Osney. This report addresses, briefly, some procedural and other matters arising from the Committee's meeting, and from events

connected with the tree felling and asks the Committee to decide whether it wishes to take any of them forward.

3. In terms of procedural matters, the Committee might wish to give the following some consideration:-

(a) Establish a cut-off point for circulation of papers?

The Committee may consider that there were too many papers circulated after the agenda had gone to print, including at various points during the meeting itself. The Committee may feel that this did not help the proceedings in that it was not possible fully to absorb the contents of the late papers in the same way that it had been with the papers sent out with the agenda.

(b) First name terms or greater formality?

The Committee may consider that first name exchanges helped the proceedings. On the other hand, the Committee may feel, upon reflection, that greater formality would be more appropriate when the Committee is meeting to consider allegations of failure to comply with the Members Code of Conduct.

(c) Control and containment of meetings of this sort.

A particular skill is needed in allowing advocates to have their say but not to let them dominate. Training in this respect might be felt to be helpful.

(d) Members commenting publicly upon local determinations before or during the meeting.

The Committee may feel that this should not happen because it may result in the member being unable to take part or to continue to take part in the proceedings. As an alternative the Committee may consider that if a member was concerned at press publicity (by way of letters from third parties and otherwise) they should refer their concerns to the Monitoring officer who may wish to respond to the publicity.

(e) Availability of members for the duration of meetings.

During the first day's hearing the meeting "ran out of time", in part because the verbosity of advocates, in part because of an underestimate of the amount of time the case would take and in part because some members had to be elsewhere. On the second day, a member had to be elsewhere for an extended period over lunch. It might be helpful if, at the outset, we said that we would not expect a case to last for longer than X hours

and if it did we would adjourn to another fixed date. This might help to focus minds on completing the business within the time available on the day.

- (f) Challenge of reports of investigation of alleged failures to comply with the Code of Conduct.

The Committee may want to set up a mechanism whereby, before hearings, members through the chair, indicate whether there is anyone in particular, interviewed or not during investigation, that they would want to have before them to question.

- 4. There are other matters on which the Committee might feel, in the interests of good governance, it would want to comment. Some of those matters were referred to in the officer report that summarised the case for the Committee. Those matters are as follows:-

- (a) The principal and acknowledged failing on the part of Council officers was not to communicate with Ward Councillors or local residents that the trees had been judged to be decayed and were to be felled.

Does the Committee want the general matter of officer/ member/ public communication pursued?

- (b) It might be argued that there was an officer/organisational shortcoming in that the Council in effect refused to await the inspection and report of the residents' arboricultural experts before felling the trees.

Does the Committee want to pursue the generality of this at all?

- (c) The Council at the time had no written guidance for dealing with the health and safety of trees. This has been recognised in correspondence as a serious failing. A Tree Management Plan was agreed by the Executive Board on 17th March 2008. Incidentally, the plan deals with communication issues.

- 5. Other matters that the Committee might wish to comment on or ask to be pursued are:-

- (a) The use and knowledge of the Whistleblowing Policy by members of staff.
- (b) Advice and support to officers who are publicly criticised by members of Council and/or members of the public.
- (c) The appropriateness of language used in the independent professional report (i.e. the Arboriculturalists report)

- (d) "Knowledge of area" by Council staff.
 - (e) Liaison and communication between officers of similar professional disciplines or responsible for similar services in different Departments.
6. In considering the matters raised in this report the Committee may wish to have regard to the report of the Environment Scrutiny Committee to the Executive Board in February 2007 and the Board's minuted decision. The report and decision are annexed to this report.
7. The Committee is recommended to indicate which if any of the matters referred to in this report it would like to take further.

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