

**MINUTES OF THE STANDARDS COMMITTEE**  
**Wednesday, 21<sup>st</sup> January 2009 at 7.00 pm**

PRESENT: John Mann (Chair, Independent Member), Sheila Darr (alternate Independent Member) and Councillors Bessong, Colwill and Powney.

Apologies for absence were submitted on behalf of Rochelle Gelman (Vice-Chair, Independent Member).

Also present: Councillors Butt, Dunwell, J Moher, John and Jones.

**1. Declarations of Personal and Prejudicial Interests**

Councillor Colwill declared a personal and prejudicial interest in the item relating to the Standards Board Investigation concerning Councillor Malik.

**2. Deputations**

There were none.

**3. Minutes of the Previous Meeting**

RESOLVED:-

that the minutes of the previous meeting held on 5<sup>th</sup> November 2008 be approved as an accurate record.

**4. Matters Arising**

Nothing raised.

**5. Planning Code of Practice Review**

The Committee received the annual report from the Borough Solicitor which had been produced following the Planning Code of Practice Independent Annual Review for the period June 2007 – May 2008. Dan Bonifant (Lawyer, Borough Solicitor's Office) advised that the regular training provided to members was well attended. Appropriate advice was also commonly sought by members. The Head of the Planning Service had confirmed that the website would be regularly updated with supplementary information presented at meetings.

RESOLVED:

- (i) that the findings of the Planning code of Practice: Independent Annual Review and the Borough Solicitor's comments, as set out in the covering report, be noted;
- (ii) that the Borough Solicitor's amendment to paragraph 4 of the Planning Code of Practice (set out in paragraph 3.5 of the report) be noted.

6. **Standards Board Investigation – Councillor Malik**

The report before the Committee provided members with a copy of the Ethical Standard Officer's (ESO) report into an allegation that Councillor Malik breached the Code of Conduct. The ESO found that there was no evidence of a breach of the Code of Conduct but recommended that the report be referred to the Standards Committee for consideration. The report contained information in the form of two appendices containing confidential information. The Borough Solicitor advised that any discussion of this matter which would disclose the detail of the confidential information should be taken in private and that the press and public should be excluded from the meeting.

Councillor Colwill declared an interest in the above item

See also minutes 9 and 10 below.

7. **Date of next meeting**

It was noted that the next meeting would take place on 25<sup>th</sup> March 2009.

8. **Any other business**

There was none.

9. **Exclusion of the Press and Public**

A member of the press asked that Item 11 on the agenda concerning an alleged breach of the Code of Conduct be taken in public.

Councillor John also asked that Item 11 be taken in public on the basis that the public needed to have confidence in the system for dealing with allegations of misconduct against councillors. Other Members also present supported this view.

RESOLVED:

that the press and public be now excluded from the meeting for the following reasons:

*Item 10 - Standards Board Investigation – Councillor Malik*

Appendices 1 & 2 contain confidential information as defined by section 100A(3) of the Local Government Act 1972, because the disclosure of the Ethical Standard Officer's report and the information contained within it is prohibited by law. Section 63 of the Local Government Act 2000 prohibits the disclosure of any information obtained during the course of an investigation by and ESO (except where disclosed with permission).

*Item 11 - Allegation of a breach of the Code of Conduct*

Discussion on the item would disclose exempt information and that on this occasion the public interest in maintaining the exemption outweighs the public

interest in disclosing the information, but subject to further consideration by the committee following advice to be given by the Borough Solicitor.

Councillors Butt, Dunwell, J Moher, John and Jones remained to hear further advice from the Borough Solicitor.

The Borough Solicitor advised the committee that it was for the committee to decide whether to exclude the press and public and other members of the Council from discussion on Item 11 concerning an alleged breach of the code of conduct because such discussion would of necessity disclose exempt information. The Committee had to apply the public interest test of whether the public interest in disclosing the information outweighed the public interest in maintaining the exemption. In the Borough Solicitor's view the public interest in maintaining the exemption outweighed the public interest in disclosing it because any such disclosure would prematurely disclose information which had not yet been fully investigated and this could prejudice the further enquiries that would need to be undertaken.

Councillor John queried the advice given to Councillor Powney by the Borough Solicitor that he had a prejudicial interest in Item 11. She disputed that he had a prejudicial interest and pointed out that if he were required to leave the room the Labour Group would not be represented on the committee, bearing in mind that she too had a prejudicial interest in the item and the second alternate had been unable to attend because of a prior commitment. Councillor Powney expressed similar concern. The Borough Solicitor explained why she had given the advice she had.

**RESOLVED:-**

that the press and public be excluded from the discussion on Item 11 meeting because exempt information would be disclosed and on this occasion the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

Councillors Butt, Dunwell, John, Jones and J Moher left the room.

#### **10. Standards Board Investigation – Cllr Malik**

Councillor Colwill, having previously declared an interest in relation to the above item, left the room and took no part in the discussion.

The Borough Solicitor outlined the initial complaint made to the Standards Board and reiterated the findings of the Standards Board investigation, namely that there was no evidence that Councillor Malik had breached of the Code of Conduct.

**RESOLVED:-**

that the Ethical Standard Officer's report, which concluded that there was no evidence that Councillor Malik breached the Code of Conduct, be noted.

## 11. Allegation of a breach of the Code of Conduct

Councillor Powney, having previously received advice concerning his conflict of interest in relation to the above item, left the room and took no part in the discussion. Councillor Colwill returned to the room.

The report before the Committee summarised the result of an investigation into an allegation that a member of the Council had breached the Code of Conduct, and attached the investigator's report for the Committee to consider. Members discussed the information contained in the reports from the Borough Solicitor and the investigator, and noted that the allegation of a possible further breach of the Code of Conduct, raised by the investigator, would be considered by the Standards (Initial Assessment) Sub-Committee at a separate meeting.

Members also noted the Borough Solicitor's advice that this report, but not its appendices, would be made accessible to the public after the meeting had taken place.

RESOLVED:-

- (i) that in relation to the allegations made by Mr Fernandes, it be agreed that there was no evidence of a breach of the Code of Conduct;
- (ii) that in relation to the allegations made by Mr Fernandes, it be agreed that the Borough Solicitor would write to the member concerned to remind the member of the importance of declaring gifts and hospitality.

The meeting ended at 9.10pm.

J MANN  
Chair