

SEMINAR: ALTERNATIVE ACTION

MINUTES

Date: 16 June 2008
Time: 1.30pm – 4 pm
Location: The Boardroom, Standards Board for England,
Manchester

Present:

Mrs Wendy Ashenden-Bax	Arun District Council
Ms Liz Ashness	Broadland District Council
Mr Quentin Baker	City of York Council
Mr Chris Brown	Broxtowe Borough Council
Mr Mathew Buckley	East Riding of Yorkshire Council
Mr Tom Clark	Mid Sussex District Council
Mr Glen Egan	Surrey Heath Borough Council
Mr Charles Kerry	Chester City Council
Mr Kevin Lawson	Wigan Metropolitan Borough Council
Ms Bernadette Livesey	Calderdale Metropolitan Borough Council
Mr Alan McLaughlin	Herefordshire Council
Ms Elaine Minnighan	Erewash Borough Council
Mr Alan Muir	West Dorset District Council
Mr Ian Rickard	Mid Suffolk District Council
Mrs Neeraj Sharma	Sandwell Metropolitan Borough Council

Standards Board for England:

James Cessford	Policy Adviser
Mark Jones	Principal Legal Adviser
Anissa Kheraktar	Policy Adviser
Jennifer Rogers	Ethical Standards Officer
Emma Webb	Policy Adviser
Jonathan Wigmore	Ethical Standards Officer
John Williams	Senior Policy Adviser

Apologies:

Mr Tim Collard	North Shropshire District Council
Mr Jeremy Cook	Adur District Council
Mr Alan Eastwood	Bolton Metropolitan Borough Council
Ms Suzan Hemingway	City of Bradford Metropolitan District Council
Ms Fiona McMillan	South Cambridgeshire District Council
Ms Bhavna Patel	Cotswold District Council
Ms Susan Tovey	Test Valley Borough Council
Mr Alan Weavers	Colchester Borough Council

Item No.	Subject
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1) Welcome and introductions

Jennifer Rogers opened the seminar with an overview of standards committees' powers to decide on a form of action other than investigation in order to resolve difficulties in a council, which are apparent from allegations being made about members' conduct.

Jennifer noted that the relatively modest number of 25 authorities had been involved in directions. This underlined the Standards Board's view that this was *alternative* action, i.e. not the norm, and that it should be used judiciously and not in circumstances where an investigation was clearly merited. This approach conforms to advice received from counsel.

2) Sharing experiences - successes and problems

There was a round table discussion, in which all monitoring officers took part, of:

- experience of implementing ethical standards officers' directions
- use of mediation, conciliation, conflict resolution, mentoring and training
- successes, failures and lessons for the future

The main points were:

- Mediation at parish level could be assisted by the county association if there was one, and a co-operative clerk
 - A good and open relationship with the local press was helpful
 - Mediation was a fragile process, and it was better not to try too hard if it clearly was not working
 - Sometimes it was better to be satisfied with a partial or qualified success rather than to seek or press for a total solution
 - Therefore it should be clear to all when alternative action has run its course and been signed off.
 - Employment issues were best left to the employment law machinery rather than mediation
 - Sometimes a direction only scratches the surface, and it is a matter of judgement how far to go into deep seated historical problems
 - The standards committee or a certain member of it are often useful as vehicles to get the ethical message across
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- Alternative arrangements might not just mean mediation and training, and can be used for other things, for example a review of the council's IT protocol
 - Alternative arrangements might allow scope for using group discipline, the chief executive or the party whips to resolve problems, as under the old National Code of Conduct before the Standards Board existed
 - Officers need to be alert that some members, particularly at parish level, might manipulate the process to cause further mischief; or see and treat the opportunity for alternative action as the means of avoiding a necessary investigation
 - Sometimes member complaints and mediation can become entwined with other complaints to the Audit Commission, Local Government Ombudsman and the Information Commissioner
 - In some instances, there had to be closure on a matter and complainants informed or made to accept that the end of the line had been reached.

3) Involvement of Standards Committees in directions

John Williams introduced the Support and Assessment team and its members, James Cessford and Emma Webb. He explained how the Standards Board intends to support standards committees in operating the new regime.

John also told the group about the parish solutions project, which had analysed and broken down the basic characteristics of a dysfunctional parish. This was the springboard for tailor-made solutions which could form the basis of alternative action. The group welcomed his suggestion that the Standards Board collate directions in order to build up a bank of real-life scenarios which could be shared with authorities in similar difficulties.

There was an exchange of ideas on:

- criteria for determining when alternative action is merited
- how to determine what kind of alternative action
- who can you ask to help
- follow up and how to deal with failure
- sharing information and having a support network

The main points were:

- If there is to be mediation, there must be buy-in from the parties. They may be persuaded to take part, but ultimately mediation cannot be forced on them. Monitoring Officers asked whether in these cases, the standards committee could adjourn to determine whether mediation or training would be acceptable and feasible before making a decision about

how to deal with the case under s.57A(2) LGA 2000. This was noted with the proviso that the assessment sub-committee has 20 days to turn round a complaint, and there is a fine line between whether preliminary inquiries turn into a *de facto* investigation in advance of a referral decision, which would cause confusion and must not happen.

- The complainant's expectations, particular with the public, also had to be managed in situations where they unrealistically expected sanction and disqualification by the APE, and mediation was seen as a weak option or a cop-out.
- Having a national Code of Conduct was seen as a powerful, non-negotiable and consistent tool in relation to the local regime
- There were instances where a matter could be referred to the Standards Board for direction, and this might be useful if it would help for the Board to draw the flak in difficult local situations
- The Standards Board had clout, and its involvement and visibility could assist monitoring officers and those people locally who were seeking solutions
- The idea of a Standards Board DVD demonstrating the bad effects of a dysfunctional parish council and how it could be turned into a good one was supported. It was important that it recognised the intimacy of parish life, and that personal relationships and enmities had to be laid aside for the good of the community and the authority's standing as a statutory body.
- Further to this, awareness of the parish council as a legal entity with statutory responsibilities was poor in certain places, and this could be a stumbling block to buy-in for mediation

4) Annual Assembly

Jennifer Rogers said that there would be a practical session at the Standards Board's Annual Assembly at Birmingham in October looking at the benefits of alternative action. The group explored what would be of interest and help to monitoring officers and standards committee members who have not yet been involved in directions

The following suggestions were made:

- Alternative action can often be a lot more positive than an investigation
- Alternative action can be more cost-effective
- It was important to get standards committee members genuinely to support the action throughout its course

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- Early intervention was important and could help to nip tit-for-tat situation in the bud, although this could be harder to achieve at parish level where situations could fester unnoticed by the standards committee
 - There had to be clarity as to what mediation involves
 - When trying to resolve conflict, there were often benefits of not getting into the specifics of an investigation, which could inflame the situation
 - With parishes, it was important not to get drawn into the role or conduct of the clerk, as there was no jurisdiction for this
 - Although much could be learnt from parish experience, there was a danger of assembly sessions getting too bogged down in specific examples
 - Parishes ought to be made to pay for investigations: too often complaints were made without any thought to the expense, and the effect on the wider district community of spending resources on this, including valuable officer time, to the detriment of improving services. There was discussion as to how to influence Government on this.
 - It was important to remember that the Standards Board was there to assist, advise and if necessary visit

5) Closing Remarks

Jennifer Rogers and John Williams thanked everyone for attending and contributing to a lively discussion. The group agreed that there was merit in building a network of monitoring officers and the Standards Board to provide mutual and moral support to assist the process locally. The group would convene again in the New Year* to exchange experiences of working under the new system, and the seminar would be reported in the Standards Board's bulletin.

*12 January 2009, Standards Board for England, Manchester
1.00 p.m. for 1.30, Lunch available
