

STANDARDS COMMITTEE - 23 APRIL 2009

STANDARDS BULLETIN

Report of the: Monitoring Officer

Status: For information purposes

Executive Summary: The report sets out recent developments surrounding the local standards regime and the ethical agenda. Topics that are covered include the local standards complaints regime, new codes and consultation, Standards Board case review, Standards Board Annual Assembly, The Case Tribunals (England) Regulations 2008, Members' Register of Interests, Decided Cases and Contribution of standards committees' research project.

This report supports the Key Aim of effective management of Council resources.

Portfolio Holder Cllr. Loney

Head of Service Head of Legal and Democratic Services – Christine Nuttall

Recommendation: Members are requested to note this report.

Background

- 1 The local standards regime continues to develop and this Bulletin updates Members as to how matters are progressing.

Introduction

- 2 The local standards complaints regime is now in place and provides for the local receipt, assessment, investigation and determination of complaints that a Member may have breached the Members' Code of Conduct , by standards committees.
- 3 The Standards Board has produced a range of guidance documents on the local complaints process:
 - Local Assessment of Complaints
 - The Role and Make Up of Standards Committees
 - Local Investigation and Other Action
 - How to Conduct an Investigation
 - Standards Committee Determinations

along with a Toolkit of proforma documentation for each stage of the local assessment process.

- 4 All guidance documentation, along with further information about the ethical framework generally, is available to download from the Standards Board for England's (the Board) website at www.standardsboard.gov.uk
- 5 Authorities must have regard to the new Standards Board Guidance in exercising their functions under the new standards regime.
- 6 The required legislation to bring in the remaining parts of the local regime (application of the Code to some private conduct by Members, joint standards committees and to revise the existing Standards Committee dispensation regulations) is not yet in force.

New Codes – Consultation

- 7 On 1st October 2008 the Government issued a consultation paper entitled "Communities in Control: Real People, Real Power, Codes of Conduct for Local Authority Members and Employees".
- 8 The consultation paper sets out, and seeks views on, proposals for revising the model Members' Code of Conduct including the extension of the scope of the Code to some private, criminal conduct by Members which brings disrepute to the Authority, providing clarification of the General Principles Order and introducing a new Code for employees.
- 9 Dr Robert Chilton, Chair of the Standards Board stated, in respect of the prospective officers' code:

"...we want to take a measured view around what's likely to be best for public confidence in local democracy, and indeed to consider whether there's any role the Standards Board itself could play in supporting local authorities with the practical application of an officers' code..."
- 10 It is proposed that any new Members' Code of Conduct would take into account any existing registrations of interests. This would avoid existing Members having to re-register their interests under any new Code.
- 11 The deadline for responses to the consultation was 24th December 2008.
- 12 Our Standards Committee considered the consultation paper on the 13th November 2008 and a response was submitted on the Standards Committee's behalf on the 23rd December 2008 as set as an Appendix to this report. The consultation paper was appended to the Standards Committee report, item 4, dated 13th November 2008, which can be accessed via the Authority's CMIS system .

Standards Board Case Review

- 13 The Board issued an annual Case Review 2008 Digest. The Case Review 2008 Digest supplements the Board's Case Review 2007, which presented a paragraph by paragraph analysis of the Code of Conduct.
- 14 The short 2008 Digest provides new information or cases on certain parts of the Code that the Board thinks may be helpful or interesting.
- 15 Copies of the 2008 Digest and the Case Review 2007 can be downloaded from the Board's website at www.standardsboard.gov.uk

Standards Board Annual Assembly

- 16 The seventh Annual Assembly of Standards Committees took place in Birmingham on 13th to 14th October 2008. The Standards Committee was represented at the Assembly.
- 17 The Eight Annual Assembly will be hold on 12th and 13th October 2009 again with representation from this Committee.

The Case Tribunals (England) Regulations 2008

- 18 The above Regulations came into force on the 12th December 2008 and complement the Standards Committee (England) Regulations 2008.
- 19 These new Regulations make provision in relation to the sanctions available to a case tribunal of the Adjudication Panel for England. Under the Regulations, case tribunals will have the power to censure a Member, require them to apologise, attend training, or enter into a process of conciliation. These powers are currently only available to local standards committees.
- 20 These sanctions will allow case tribunals to deal proportionately with cases that are referred to them, for example, because they are seen as very serious, but which the tribunals conclude are not so serious; and to deal appropriately with cases referred to them because a standards committee is conflicted out. The Regulations are available from www.opsi.gov.uk

Register of Members' Interests

- 21 Members are reminded to keep their interests forms under review and register new interests or delete obsolete interests within 28 days by completing a new Members' Interest Form.
- 22 Members also need to register gifts and hospitality worth £25 or more received in their capacity as a Member of the Authority.
- 23 Forms including guidance can be downloaded from the Council's website or alternatively can be requested from the Democratic Service Department of the Council.

Decided Cases

- 24 On the 18th August 2008 the Board's Press Office issued a press release regarding the following case:
- A husband and wife who were parish council Members were disqualified from office for a year after their 'aggressive' behaviour saw the parish clerk and their three fellow councillors resign. The ban, imposed at a hearing of the independent Adjudication Panel for England, follows an investigation by the Board into allegations that the Members failed to treat others with respect and brought their office into disrepute.
 - It was alleged that the subject Members behaved in an aggressive, intimidating and disrespectful way to fellow parish councillors and a member of the public in council meetings between May and June 2007.
 - It was also alleged that they made verbal and written attacks on the character and integrity of the ex-clerk to the council.
 - The Adjudication Panel concluded that:
 - the language in emails written by the subject Members was rude and unjustified;
 - Councillor Mr M was aggressive when speaking to another councillor and had suggested that the clerk had acted without authority for his own purposes; and therefore that Councillor Mr M's conduct was unacceptable for a council meeting;
 - Councillor Mrs M's shouting when other councillors disagreed with her was also unacceptable, as was her and her husband's behaviour at a meeting when they shouted at, talked over and interrupted other councillors, were aggressive, overbearing and rude, and without justification, questioned the clerk's integrity;
 - the subject Members' conduct brought their office into disrepute because their behaviour seriously affected the wellbeing of several individuals and damaged the normal running of the council by prompting the clerk and the other three Members to resign.
- 25 An appeals tribunal of the Adjudication Panel for England considered an appeal by a Member against sanctions imposed by his authority's standards committee.
- The history of the matter was that a complaint had been made by a Council employee that the Member in question had behaved inappropriately towards her at a training session. There was no real dispute about the facts, the only issue being the interpretation of the Member's behaviour. Two others present at the training shared the complainant's view of the Member's behaviour.

Item No. 5

- The Standards Committee felt that there were errors of judgement on the Member's part and that county councillors, especially those of cabinet rank, risked damaging the reputation of their office and the interests of the county council in ensuring good working relationships with staff members, when behaving in the way the Member had. The Standards Committee found that the impact on the complainant had been considerable.
- The Standards Committee concluded that the Member had failed to treat the complainant with respect, and that he had, while on official business, conducted himself in a manner which could reasonably be regarded as bringing his office as a cabinet member into disrepute.
- The Standards Committee therefore imposed the following sanctions:
 - censure;
 - suspension from the office of cabinet member (but not suspension as a councillor) for a period of one month;
 - a written apology to the complainant;
 - training as the Member's interpretation of events showed a lack of insight into proper conduct ; and
 - conciliation as the complainant and Member would have to work together in the future
- The Standards Committee took into account the fact that this was a first offence, the informal nature of the event, the Member's remorse, his willingness to apologise and the fact that he had spared the complainant further distress by not disputing the facts making her attendance unnecessary and that it was not a case where the same sort of behaviour was repeated on further occasions or after being told the behaviour was unacceptable. The Standards Committee nevertheless concluded that a sanction should be considered.
- The Committee had noted that the Member sought for his self-imposed suspension from his Councillor and cabinet office role to be taken into account. However the Committee believed his action, whilst commendable, did not equate to a formal suspension by the Standards Committee, which was a public act that also involved the withdrawal of a financial allowance for the period.
- As the appeal was against sanction only, it was not necessary for the Appeal Tribunal to consider the findings of fact or whether those findings amounted to a breach of the Code.
- The Appeals Tribunal considered the sanctions imposed by the Standards Committee and concluded that all should be upheld. Particular points:

- Censure: the Member had acted wholly inappropriately towards a newly appointed female member of staff, both in terms of the conduct itself and in the light of the position of authority he held as a member of the County Council. This conduct had been very upsetting to the complainant and had caused concern to two other people who had witnessed it.
- Training: the Member's conduct showed a lack of insight into the delicate relationship between councillors generally and council staff. It did not matter that he was no longer a cabinet member because he was still a councillor. What the Member regarded as informality, was particularly inappropriate in the work place as he was likely to be perceived by a member of staff as having considerable power and influence over them. This would have made any inappropriate conduct intimidating and upsetting.
- The Appeals Tribunal noted that the Standards Committee had taken into account the fact that the Appellant had absented himself from the council offices so as not to risk further distress to the complainant, when concluding that a partial suspension of one month should be given. The Tribunal also took this into account and like the Standards Committee did not feel this action, whilst commendable was sufficient to impress on the Appellant the serious nature of the matter or the severity of the breach.
- Standards Committee, like Appeals Tribunals must balance the need to uphold and improve the standards of conduct expected of members with a reluctance to interfere with the democratic will of the electorate who had elected the councillor. Therefore, the Appeal Tribunal concluded that a suspension from the office of cabinet member, but not councillor, for one month was reasonable and proportionate in this case.

The full appeal decisions can be accessed on the Adjudication Panel for England's website.

Contribution of standards committees' research project

- 26 The Board has commissioned new research into the responsibilities and contributions of standards committees.
- 27 Previous research undertaken by the Board has shown that there is a demand from standards committees for additional guidance on how to undertake some of the new responsibilities. As a result the Board have commissioned the Universities of Hull and Teesside, who have entered a joint bid for this research. They will collect effective practice examples from standards committees on activities they undertake to ensure high ethical standards.
- 28 It is hoped that the project will have findings to share in July 2009.

Options (and Reasons for the Recommendation)

- 29 The report is for information and discussion.

Key Implications

Financial

- 30 There are no identifiable financial implications.

Impact on and Outcomes for the Community

- 31 This report endeavours to set out the recent developments within the ethical framework thus providing Members and the public with news on current changes and events taking place.

Legal, Human Rights etc.

- 32 The information provided shows how the ethical framework is evolving and the legal changes taking place based on legislation, guidance and case law.

Resource (non-financial)

- 33 No additional non financial resource implications are identified.

Value For Money and Asset Management

- 34 There are no identifiable value for money and asset management implications associated with the contents of this report.

Equality

- 35 All members of the public have access to the information contained within this report.

Sustainability Checklist

- 36 The ever evolving ethical framework should provide the public with confidence that a robust system exists for enabling high ethical standards to be applied across all levels of local government.

Conclusions

- 37 Some of the recent developments surrounding the local standards regime and the ethical agenda are high lighted in this report in order that both Members and the public are kept informed and can discuss the implications of the changes and proposed changes.

Risk Assessment Statement

38 No risks have been identified with the contents of this report.

Sources of Information: Bulletins from the Board – February 2009
The Adjudication Panel's Website

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