

At a meeting of the STANDARDS COMMITTEE held in the CIVIC CENTRE, SUNDERLAND on TUESDAY, 29TH SEPTEMBER, 2009 at 1.00 p.m.

Present:-

Mr. G.N. Cook in the Chair

Councillors M. Forbes, Tate and Wakefield, together with Mr. J.P. Paterson and Councillors G.W.K. Hepple and A.R. Wilkinson (Hetton Town Council).

Apologies for Absence

Apologies for absence were submitted to the meeting on behalf of Councillors Charlton and Wares and Mr. C. Stewart.

Minutes

The minutes of the meeting of the Committee held on 30th June, 2009 (copy circulated) were submitted.

(For copy report – see original minutes).

1. RESOLVED that the minutes be confirmed and signed as a correct record.

Declarations of Interest

Item 5 – Protocol in relation to Members' Business Dealings

Councillor Tate declared a personal interest as an associate of Councillor Miller.

Guidance on “other action”

The Chief Solicitor submitted a report (copy circulated) summarising guidance recently issued by the Standards Board on the taking of “other action” for Members of Standards Committees.

(For copy report – see original minutes).

Mr. Bob Rayner, Chief Solicitor, presented the report highlighting the key points on other action detailed in Section 2 of the report and the options available to an Assessment Sub-Committee when dealing with a complaint that a Member has failed or may have failed to comply with the Code of Conduct detailed at paragraph 3. He briefed Members on Section 5 of the report in relation to deciding on other action and when other action is appropriate in Section 6.

In response to Councillor Wakefield, who commented that a breakdown of relationships, including those between Members and Officers could equally be Officer and Member, Mr. Rayner advised that where this was the case it would be dealt with under the Member/Officer Protocols. The report looked at when other action was appropriate and the example referenced was on the premise that the fault lay with the Member and was a general complaint. In relation to the submission of a written report to the Standards Committee within three months of receiving a direction, Mr. Rayner stated that he would strive to submit a report to the Standards Committee in as short a time as possible but the three months did provide for conciliation.

The Chairman highlighted that a referral for other action closed the opportunity to investigate.

Mr. Rayner confirmed that a decision to direct the Monitoring Officer to take other action was an alternative to an investigation and therefore the Assessment Sub-Committee needed to be sure this was appropriate as it could not subsequently decide to investigate the matter.

2. RESOLVED that the contents of the report be noted and the criteria set out in paragraph 6 of the report, in relation to taking other action, be adopted and added to the Handbook for Standards Committee.

Protocol in Relation to Members' Business Dealings

The Chief Solicitor submitted a report (copy circulated) informing the Committee that a notification had been received from Councillor Graeme Miller of his business dealings with the Council as Chief Executive and Managing Director of Tyne and Wear Education Business Link Organisation (TWEBLO).

(For copy report – see original minutes).

Mr. Bob Rayner, Chief Solicitor, briefed the Committee in relation to the circumstances of Councillor Miller's business dealings with the Council and the safeguard put in place for all TWEBLO – Sunderland City Council matters to be dealt with by TWEBLO's Operations Manager, together with the requirements for Councillor Miller in relation to declaring his interests as detailed in paragraph 2.3 of the report. Mr. Rayner added that at the end of the year his annual report would include details of the notifications received under the protocol.

3. RESOLVED that the contents of the report be noted.

The Chairman then closed the meeting having thanked Members and Officers for their attendance.

(Signed) G.N. COOK,
Chairman.

STANDARDS FOR ENGLAND – ANNUAL CONFERENCE**Report of Chief Solicitor****1. Introduction**

The 2009 Annual Assembly of Standards Committees was held on 12th and 13th October at the International Convention Centre at Birmingham.

The theme for the conference was “Bringing Standards into Focus”. This report summarises the main issues discussed at the three plenaries. In addition, workshops were held for Monitoring Officers and Members of Standards Committees, and in particular from the perspective of independent members.

It is envisaged that those Members also attending the conference will share their experiences when this report is considered.

2. State of the Nation Address

2.1 A video message was given by Rt Hon Rosie Winterton. The main points she made were as follows:-

- Trust is the cornerstone of local democracy.
- The devolved conduct regime is now fully implemented.
- Standards Committees create a sense of ethical well-being.
- Independent Members give the public re-assurance
- Misconduct damages the reputation of Local Authorities.
- Training and/or mediation can be more effective than suspension.

2.2 Dr Robert Chilton felt the key issues were as follows:

- Standards has become a political issue as a result of the anger at national level over MP's expenses.
- The Conservative party green paper 'Power to Local Communities' proposed to scrap Standards for England, and it needed to fulfil its role by continued excellent performance.
- 50% of complaints were dismissed at the 1st stage of assessment. People had forgotten what the position was before the Code e.g. bullying was common.
- Pre-determination of planning applications was not a Code of Conduct but a common law issue and was difficult for Members to understand.

In response to the criticism of the function of Standards, there was a need to get the facts out. The vast majority of persons felt that

standards had improved since 2002, and that Local Government was more transparent and trusted than Parliament.

Support for the Code of Conduct was high:

Standards Committee members	98%
Monitoring Officers	97%
Elected Members	90%
Town/Parish Members	92%
Town/Parish Clerks	94%

The task was to improve the system. He asked:

- It is proportionate?
- Is it slow?
- Were the costs too high?
- No mechanisms for vexatious/persistent complainants.

Despite this, survey results revealed:

- 81% agreed that maintaining high standards is an important issue for local government.
- 47% think the standards have improved.
- 42% think the Standards Committee has a high profile in the authority.

An excellent Standards Committee:

- Secured compliance
- Had quality outcomes
- Innovated
- Had influence
- Communicated its role (e.g. annual report to Council and to outside world).

2.3 Glenys Stacey – Chief Executive of Standards for England

She referred to the Annual Review, “Local standards national perspective” and highlighted the following key figures:

- 2,863 complaints were received by local authorities.
- Standards Committees took an average of 20 working days to make initial assessment decisions about complaints.
- From 8 May 2007 to 31 March 2009, Standards for England received 177 referrals from Standards Committees.
- 74% of stakeholders agree that the local standards framework is now successfully bedded in.
- 94% of stakeholders support the need for Members to sign up to the Code of Conduct.

She highlighted the following work over the last 12 months:-

Best Practice – Developing their approach to best practice throughout the year.

Communications – Attended a local government communications officers' conference in May to spread our views.

Other Action – We have continued to offer advice on this over the past year, and published specific guidance on Other Action. [This was the subject of a report at the last meeting].

Parishes – We have talked to authorities about practical ways of dealing with difficult parishes, in particular those that are serial complainants and that have a high volume of tit-for-tat complaints. We have worked with representative organisations in the parish sector to improve relations between Standards Committees and parishes in general. We have also tried a different way of working with parishes – whole parish mentoring – the initial results of which look promising.

Standards in local partnerships – Advice is available on this and was a topic of one of the sessions at this year's assembly.

Training – We have produced a new DVD on local assessment.

3. **The Costs of Ethical Failure**

This session consisted of an introduction of Professor Alan Lawton of Hull University. The causes of major failures could include:-

- Pressure to meet targets
- Lack of understanding
- Personal differences

Failure impacted on:-

- The individual.
- The organisation (Council).
- The wider community

The most important quality for a Monitoring Officer was courage, in the face of stressful situations. The organisation's ethical failure resulted in a tarnished, difficulties in recruitment and retention staff, poor performance and lost credibility.

In respect of the community the impact was upon trust and community engagement through adverse perceptions of Councillors and officers.

Kim Riley former Chief Executive of Hull City Council indicated that Hull's troubles had started in 2002 and were due to poor political leadership and governance and bullying of officers. A peer review in 2004 stated Members were responsible for setting the mood and must take responsibility for behaviour and conduct.

In leading the Council to recovery it was important to have visible leadership from the top, improved systems and procedures with incentives to change as well as courage and determination. Although it had taken 4 years for a leading Member to be disqualified, Hull was now a 3 star authority and had recovered its reputation.

Peter Moore, the Executive Director of Lincolnshire County Council provided a similar account of troubles at his authority. In 2002 a KPMG public interest report referred to a "climate of fear, suspicion and mistrust" which was confirmed by an ethical governance audit in the same year undertaken by Rodney Brooke. The Leader had been jailed for misconduct in public office and his successor had been disqualified. In 2005, a corporate governance inspection was still critical but thereafter a peer review led by Sir Les Elton had signed off an improvement plan similar to that at Hull and the authority had again begun to recover its tarnished reputation.

4. The Local Standards Framework a Force for Good or a Necessary Evil? A Debate

David Prince CBE Chair of Standards for England believed that it had built a positive culture in Local Authorities and increased public confidence.

Councillor M Chater, Chair of NALC stated the ethical framework could not just be abolished but would have to be replaced. The system was well established and necessary.

Councillor Gloak of Somerset County Council felt that governance and high standards were necessary ingredients to good decision making. Standards Committees had a steady influence and were good for Members and good for public confidence.

Kirsty Cole, Monitoring Officer of Newark and Sherwood District Council referred to the problems in the 90s e.g. Lady Porter at Westminster and "Donnygate" which had diminished the reputation of Local Government. She felt that Nolan had been given a fresh start. Perception is as important as reality. She felt the framework could be managed with another regulatory system (Ombudsman). Monitoring Officers had insufficient discretion to weed out trivial and vexatious complaints. The system had been abused by those with personal vendettas making political points. She felt we needed a code with a lighter touch. It was disproportionate after potentially three hearings and an investigation for a Member to simply make an apology.

5. **Other Presentations**

Other workshops and presentations were attended by the Council's representatives and in summary these were felt to be more practical than in previous years.

6. **Recommendation**

That the Committee notes the content of this report.

PROTOCOL FOR MEMBERS' BUSINESS DEALINGS WITH THE COUNCIL

Report of Chief Solicitor

1. Introduction

A query has been received from Councillor Tate regarding the circumstances in which the above protocol is intended to operate (a copy of his letter is attached and this is self explanatory).

2. Background

In the circumstances described by Councillor Tate, he would have to declare a personal interest in items affecting those bodies when they are considered by the Council or at a Committee of which he is a Member, and a prejudicial interest if it related to the financial interests of those bodies. There is an exception for the budget meeting of Council.

The contracts between the organisations and the Council do not require to be registered under the Members' Code of Conduct as this applies to contracts for goods, services or works made between the Authority where the Member is a partner in the company or a remunerated director or hold shares in the company concerned.

The purpose of the protocol was to provide additional transparency to the situations where a Member's personal financial position was affected. It was not intended to apply to the situations where voluntary bodies on which Members are represented contract with the Council.

3. Recommendation

The Committee is requested to note and endorse the position in relation to the protocol.

Councillor R D Tate
25 Ennerdale Street
Hetton le Hole
DH5 0DT

28 September 2009

Bob Rayner
Chief Solicitor
Sunderland City Council
Civic Centre
Sunderland
SR2 7DN

Dear Mr Rayner

Protocol in Relation to Members' Business Dealings with the Council

I should be grateful if you would clarify whether the protocol is intended to apply to the situations set out below.

I have always registered my position as Chair of Hetton Home Care Services Voluntary Management Committee, which is a registered charity on the Members' Register of Interests and declared this interest where appropriate at Council meetings.

Whilst I receive no remuneration, there is a contract with the Council for home care provision. The Business Manager deals with business operations and I have no involvement in the tender process, nor do I meet any Council Officers in respect of the contract.

In addition, I am also a member of the Board of the Easington Lane Community Access Point, which has a contract with the Council's Youth Services to provide youth commissioned services and also a Service Level Agreement to provide social and educational activities for local people at the Community Centre.

Yours sincerely



Councillor David Tate

COUNCIL PUBLICITY

Report of the Chief Solicitor

1.0 Purpose of Report

- 1.1 To make arrangements for a guidance note to be prepared and circulated for the guidance of Members and officers on council publicity.

2.0 Background

- 2.1 The Council has longstanding arrangements for giving guidance to Members and officers on the proper use of council publicity arrangements based on the Code of recommended practice on local authority publicity issued by the Department for Communities and Local Government (the Code).
- 2.2 Existing guidance on aspects of use of publicity is contained within various documents including the Code of Conduct for members and co-opted members, within the Employees' Code of conduct, the Guidance for Members in relation to the use of council facilities, and within the Protocol for use of member websites, at Part 5 of the Constitution.
- 2.3 The Department for Communities and Local Government has now consulted on proposals for amendment to the Code between 17th December 2008 and 12th March of this year. Draft proposals are awaited.
- 2.4 However, it is proposed that, pending re-issue of the Code in an amended form, the Chief Solicitor should prepare and issue a consolidated guidance note on council publicity.

3.0 Recommendation

- 3.1 The Committee is asked to agree the proposal that the Chief Solicitor should prepare and issue a consolidated guidance note for Members and officers on council publicity.

4.0 Background Papers

- 4.1 The Code of recommended practice on local authority publicity issued 5 May 2006

4.2 Consultation paper on revision of the Code of recommended practice on local authority publicity DCLG website

**STANDARDS FOR ENGLAND – ASSESSMENT MADE CLEAR – LOCAL
ASSESSMENT OF COMPLAINTS**

Report of the Chief Solicitor

1.0 Purpose of Report

- 1.1 To advise the Committee that arrangements have been made to view the Standards for England DVD entitled “Assessment Made Clear Local Assessment of Complaints”.

2.0 Background

- 2.1 The DVD is designed to help Standards Committee Members and Local Authority Officers involved in the assessment of complaints. It goes through the four stages of the assessment process, looking at important or contentious issues along the way. These stages are pre-assessment, assessment, decision and review.
- 2.2 Dramatised case studies are used to demonstrate the criteria that guide each decision, including whether any investigation should be conducted locally or referred to Standards for England. The DVD also shows when it may be appropriate to take no action or other action.
- 2.3 The DVD includes:-
- Scene selection;
 - Learning points from the programme;
 - Optional English subtitles.

The running time of the DVD is 44 minutes.

3.0 Recommendation

- 3.1 Members are asked to note the content of this report and view the DVD.

4.0 Background Papers

- 4.1 Assessment Made Clear Local Assessment of Complaints DVD.