

At a meeting of the STANDARDS COMMITTEE held in the CIVIC CENTRE, SUNDERLAND on FRIDAY, 29TH JANUARY, 2010 at 2.00 p.m.

Present:-

Mr. G.N. Cook in the Chair

Councillors M. Forbes, Tate and Wakefield, together with 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 Messrs. J.P. Paterson and C. Stewart.

Minutes

The minutes of the meeting of the Committee held on 27th November, 2009 (copy circulated) were submitted.

(For copy report – see original minutes).

Matters Arising

The Chief Solicitor advised the Committee that there had been a third complaint received for 2009/10 which the Assessment Sub-Committee had decided he should investigate. A further complaint had recently been received, bringing the total to four for the year and a meeting of the Assessment Sub-Committee would be convened to consider what action to take. The Standards Committee would be informed in the Annual Report as to the final number of complaints received for 2009/10 and what action had been taken on them.

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

Declarations of Interest

There were no interests declared.

Council Publicity – Guidance Note

The Chief Solicitor submitted a covering report and proposed guidance note for the Committee's approval (copies circulated), aimed at assisting Members and officers to ensure that all publicity materials issued and all promotional activity undertaken by the Council or the use of its resources, meets the standards set out in the Government's Code of Recommended Practice on Local Authority Publicity, the Code of Conduct for Members, and complies with the law.

(For copy report and guidance note – see original minutes).

The Chief Solicitor briefed the Committee on the guidance note drawing attention to where the guidance applied and did not apply as detailed in paragraph 3.2 of the report. He advised that he was proposing to circulate it to all Members, Chief Officers and Heads of Service following the approval of the Standards Committee, in order to provide clarity before the Council moved into the more sensitive time in the run up to the election.

In response to Councillor Wakefield, the Chief Solicitor advised that the guidance was based on the current Code of Recommended Practice for Local Authority Publicity and other agencies had their own protocols and guidance.

Members having considered the report and guidance note, it was:-

2. RESOLVED that:-
 - i) the guidance be noted and endorsed;
 - ii) copies of the Guidance Note on Council Publicity be sent to all Members of the Council, Chief Officers and Heads of Service; and
 - iii) the Council be recommended to formally adopt the Guidance Note on Council Publicity and that this be included in the Council's Constitution.

(Signed) G.N. COOK,
Chairman.

**ANNUAL REPORT ON THE WORK OF THE STANDARDS COMMITTEE
2009-2010**

Report of the Chief Solicitor

1. Introduction

- 1.1 This is the second annual report to have been prepared on the work of the Standards Committee, for consideration initially by the Committee and then by Council at its meeting in June 2010.
- 1.2 The report will be used to complete the tick box annual return questionnaire issued by Standards for England.

2. Membership

The Committee is comprised as follows:-

- 5 City Council Members (Councillors Charlton, M. Forbes, Tate, Wakefield and Wares).
- 3 Independent Members (Mr. G.N. Cook – Chairman, Mr. J.P. Paterson – Vice Chairman and Mr. C. Stewart).
- 2 Members of Hetton Town Council (Councillors Hepple and Wilkinson).

3. The role of the Standards Committee

The main purpose of the Committee is to promote and maintain high standards of conduct by Members, including Co-optees. The detailed terms of reference are set out in Article 9 of the Constitution.

4. Meetings

The full Committee will have held 6 meetings during the course of the year.

5. Matters Considered

The Committee agreed a list of activities to be undertaken in the civic year at its first meeting on 22 May 2009 and these have been pursued as summarised below:-

5.1 **Changes to the Code of Conduct**

The Government has indicated that there is insufficient parliamentary time to make further changes to the Code of Conduct until after the election.

5.2 **Protocol on Members' Business Dealings**

The protocol requires that Members notify the Chief Executive of any proposed business dealings with the Council.

The Committee noted the notifications given by Councillor Paul Watson and Councillor Susan Watson in respect of the assignment of their interest in the Ford and Hylton Club, which the Council could not unreasonably refuse under the terms of the lease.

It also noted the notification by Councillor Graeme Miller regarding his employment by TWEBLO which now contracts with the five Tyne and Wear Authorities (including Sunderland) following a change in funding arrangements. The Sunderland contract is managed by TWEBLO's Operation Manager, and the Director of Children's Services is monitoring the arrangements.

The Committee also considered a report concerning Councillor Tate's query in relation to his position as Chair of Hetton Home Care Services Management Committee, and membership of Easington Lane Community Access Point.

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.

The Committee noted and endorsed the position in respect of the protocol.

5.3 **Council Publicity – Guidance Note**

The Committee approved a guidance note regarding Council publicity. The note summarised the provision of the Local Authority Code on Publicity issued under the Local Government Act 1986. The note was issued to all Members and senior officers in January 2010.

5.4 **Training**

5.4.1 **Standards for England Conference**

This training event was attended by the Monitoring Officer, the Chairman of the Committee and Mr. C. Stewart.

A summary of the conference was considered by the Committee.

5.4.2 **Assessments Made Clear**

The Committee viewed and discussed a DVD produced by Standards for England on Local Assessments which covered the four stages of pre-assessment, assessment, decision and review. The DVD provided scenarios and discussion points.

5.4.3 **“Other Action”**

The Committee considered a report on “other action” and agreed to adopt the guidance and incorporate it in the handbook.

5.4.4 **Training for Other Members**

Refresher training sessions were held for all Members on 11 December 2010 (7 Members attended) and 18 January 2010 (11 Members attended). In addition an event was also held at the offices of Hetton Town Council on 25 January 2010 which was attended by 17 Councillors, including one who is also a City Councillor.

Training on the Code of Conduct will, as always, be provided to new Members on induction in May 2010.

6. **Local Assessments considered by the Assessment Sub-Committee**

In respect of Case No. 1/109 the Sub-Committee determined that an anonymous complaint should not be investigated.

With regard to Case No. 2/09 the Sub-Committee decided that three alleged breaches of the Code of Conduct by a Member should be investigated and this is currently being carried out.

A third complaint was received in 2009 but this was withdrawn after the complainant received an apology.

In Case No. 1/10 the Sub-Committee determined that two allegations of breaches of the Code of Conduct by a Member should be investigated, and this is also currently underway.

The cases were reported to the Sub-Committee within the average time-scale of 20 working days following receipt of the complaint, as recommended by Standards for England.

7. **Relationships**

(i) Other Standards Committee

I have continued to organise occasional meetings of Chairs of Standards Committees and their respective Monitoring Officers in the region to share experiences and develop good practice.

(ii) Leaders of Political Groups

An informal meeting with the Chair of the Committee has been offered to the Leaders of three groups.

(iii) Members

Proactive guidance is given to Members and advice is regularly given on queries and on declarations of interest by me and my colleagues. Copies of the Standards Board's publication "the Bulletin" are placed in the Members' room with case summaries.

(iv) The Public

It is proposed to include a further article in Sunrise to raise public awareness of the work of the Standards Committee.

Since the inception of the new arrangements, forms of complaints and guidance notes about Councillors can be downloaded from the Council's website. Forms may also be obtained from Civic Centre

reception points. It is intended to develop the Council's website further in respect of Standards issues.

8. Register of Interests

In the interests of transparency the register of interests continue to be available to be accessed electronically on the Council's website. Members are sent a copy of their interests during the course of the year to check that their entries are up to date.

9. Use of Resources

Overall the Council's use of resources and governing the business scored 3 out of 4 in the Audit Commission's CAA report which included the comments that:

"The Council's Constitution clearly describes roles and responsibilities for Members and officers. The Constitution is underpinned by a wide range of other supporting guidance including protocols on officer and member relations."

"The Council has adopted codes of conduct for its members and staff, and these are widely publicised. All Council Members are required to make a declaration that they agree to abide by the Code of Conduct, and all staff are bound by the Employees' Code. Policies for whistleblowing and 'comments, compliments and complaints' are well publicised and prompt action is taken in response to any allegations made. The Chief Executive has set out clearly, in public documents, its expectation that all elected Members will provide visible and credible local community leadership. Registers of interests, gifts and hospitality can be viewed on the Council website."

"The Council has a comprehensive code of practice for partnerships which has been identified as notable practice."

10. Conclusion

The Committee is requested to note the report and recommend it to be reported to Council with any additional comments that Members consider appropriate.

Report of the Chief Solicitor.

ADJUDICATION PANEL FOR ENGLAND BECOMES KNOWN AS FIRST-TIER TRIBUNAL (LOCAL GOVERNMENT STANDARDS IN ENGLAND)

1. Introduction

On the 18th January 2010 the functions of the Adjudication Panel for England were transferred to the First-tier Tribunal (Local Government Standards in England) and the Adjudication Panel for England was abolished. The First-tier Tribunal sits in the General Regulatory Chamber with Charity, Gambling, Information, Estate Agents, Claims Management, Consumer Credit and Transport Tribunals.

The role of the First-tier Tribunal is to hear cases referred to it by an Ethical Standards Officer or a Standards Committee following an investigation. The Tribunal will also hear appeals by a subject member against the decision of a Standards Committee.

2. Powers and Procedures

The First-tier Tribunal now has additional powers and procedures. It has the power to summon witnesses or require witnesses to produce documents relating to its hearings.

All Tribunal hearings can now be conducted either orally or by written representations with the consent of all parties.

Hearings can be conducted by less than 3 Tribunal members.

The President of the Adjudication Panel for England has been appointed as a Principle Judge of the First-tier Tribunal, legal members are now Judges and lay members are members.

3. Appeals

Previously any appeal from the Adjudication Panel was heard at the High Court. This process has now changed. Appeals will now be heard by the Upper Tribunal. The Upper Tribunal is an appellate tribunal created by the Tribunals, Courts and Enforcement Act 2007. The Administrative Appeals Chamber is the part of the Upper Tribunal which hears and decides appeals from decisions of the General Regulatory Chamber of the First-tier Tribunal.

4. Who can appeal to the Upper Tribunal?

Any party may appeal to the Administrative Appeals Chamber of the Upper Tribunal if they can show that the First-tier Tribunal made an error of law.

Additionally, the subject member has the right to appeal findings of fact, if their appeal is against

- (a) a decision that they failed to comply with a code of conduct,
- (b) a decision imposing suspension or another sanction

5. Appeals by other parties

A further change to the appeals process is that if a subject member is successful at the First-tier Tribunal, it is still possible for an Ethical Standards Officer or Standards Committee to appeal on a point of law to the Upper Tribunal. The First-tier Tribunal will notify the subject member if any of these parties wish to appeal.

6. Costs

The First-tier Tribunal now has the power to make an order for costs if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings. It may make an order for costs following an application or on its own initiative.

This will mean that the Tribunal can award costs against a standards committee, Ethical Standards Officer or subject member if they have acted unreasonably in the conduct of their investigations or hearings. The First-tier Tribunal may also make an award for wasted costs incurred by any legal or other representative where the Tribunal considers that they have acted negligently, improperly or unreasonably in bringing, defending or conducting proceedings.

7. Recommendation

That the contents of this report be noted.