

At a meeting of the STANDARDS COMMITTEE held in the CIVIC CENTRE, SUNDERLAND on FRIDAY, 27TH NOVEMBER, 2009 at 11.00 a.m.

Present:-

Mr. G.N. Cook in the Chair

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

Minutes

The minutes of the meeting of the Committee held on 29th September, 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 for Members' Business Dealings with the Council

Councillor Tate declared a personal interest as the above report related to himself.

Standards for England – Annual Conference

The Chief Solicitor submitted a report (copy circulated) providing feedback on the 2009 Annual Assembly of Standards Committees held on 12th and 13th October at the International Convention Centre at Birmingham.

(For copy report – see original minutes).

Mr. Bob Rayner, Chief Solicitor, briefed the Committee on the report. He referred Members to the Annual Review by the Standards for England detailed in

paragraph 2.3 of the report and to the sheet circulated at the meeting which showed the number of complaints received over the last year and how they had been dealt with.

(For a copy of the information – see original minutes).

Mr. Rayner highlighted the qualities detailed in the report that an excellent Standards Committee should have.

Mr. Rayner reminded the Committee that in 2008 there had been two meetings of the Assessment Sub-Committee of the Council's Standards Committee and one meeting of the Review Sub-Committee and the Sub-Committees had agreed that no action be taken. In 2009 there had been one meeting of the Assessment Sub-Committee to consider an anonymous complaint reference 1/09 and the Sub-Committee had resolved no action be taken. Further, one complaint had been made and withdrawn before there had been time to report it to the Sub-Committee.

Mr. Stewart stated that it had been a good Conference and offered his services as an Independent Member of the Committee to other Members for advice and support as and when he could be of help.

The Chairman commented that the Conference had been better this year as it had been more practical. There had been an acknowledgement that the role of Standards Committees had altered and emphasis had been made that learning was a continuous process.

Mr. Cook drew attention to the quiz circulated at the Conference 'Putting the public in the picture' which aimed to make Standards Committee Members look at how well their Local Authority website promoted the work of the Standards Committee. He commented that he had asked the Chief Solicitor to look at Sunderland Council's website in relation to this and to compare it with those of other Councils. This would be undertaken next year.

Councillor Tate referred to paragraph 2.2 and the comment made by Dr. Robert Chilton that the Conservative Party green paper 'Power to Local Communities' proposed to scrap Standards for England.

The Chairman commented that he felt if there was a change of government at the next election that the Standards for England would be dissolved but that he felt Standards Committees would be retained as there was a need and role for them to carry out.

In concurring with the Chairman, the Chief Solicitor commented that he felt that Standards for England did have a role although the regime needed reforming to make it more proportionate. However, if it was scrapped it would need to be replaced by some other body. Although a change in government may have a view on Standards for England, he felt it would initially have other priorities.

Mr. Rayner confirmed by saying that a major issue for the public had been MP expenses. The regime for Councillors in this respect was much stricter and public

opinion on Councillors was better. His view was that Government needed to be careful not to demolish the systems in place but to modify and keep the things that were working well.

Councillor Wakefield expressed concern that the recent complaint received and considered by the Assessment Sub-Committee was anonymous and asked whether there had been any guidance on this at the Annual Conference.

The Chief Solicitor advised that the guidance in the Council's Handbook for Standards Committee stated that "No action would normally be taken" if the complaint was anonymous. This in turn was based on the guidance issued by Standards for England. However, he added that there might be in some cases people who were genuinely afraid of reprisals and therefore would submit a complaint anonymously and the Assessment Sub-Committee would consider the complaint and whether to take any action.

The Chairman commented that the Members of the Assessment Sub-Committee who had considered the complaint had felt some discomfort at the time due to it being anonymous, however, they had considered it.

2. RESOLVED that:-

- i) the contents of the report be noted; and
- ii) the outcome of the complaints made to date also be noted.

Protocol for Members' Business Dealings with the Council

The Chief Solicitor submitted a report (copy circulated) concerning a query from Councillor Tate regarding the circumstances in which the above protocol is intended to operate.

(For copy report – see original minutes).

The Chief Solicitor briefed the Committee on the report and highlighted that the purpose of the protocol was to provide additional transparency to the situation where a Member's personal financial position was affected but was not intended to apply to situations where voluntary bodies on which Members are represented contract with the Council as is the case regarding the query from Councillor Tate.

3. RESOLVED that the position in relation to the protocol be noted and endorsed.

Council Publicity

The Chief Solicitor submitted a report (copy circulated) informing the Committee of the arrangements to be made for a guidance note to be prepared and circulated for Members and Officers on Council publicity.

(For copy report – see original minutes).

The Chief Solicitor advised that guidance would be prepared in advance of the local and general elections. Members of the Council would have a personal obligation to have regard to the Code issued by the Department for Communities and Local Government.

Members welcomed the proposal to produce the guidance.

In response to Councillor Tate, the Chief Solicitor stated that it could also be used by the political parties for them to provide to prospective candidates, however, his main concern was for current Members of the Council and officers to be reminded in the guidance about the use of the Council's resources. Mr. Rayner advised that he would look to circulate the guidance early in the New Year and this would also be referenced on the web pages for the Standards Committee when the review was undertaken.

Members welcomed the arrangements for a guidance note to be prepared, and it was:-

4. RESOLVED that the proposal that the Chief Solicitor prepare and issue a consolidated guidance note for Members and Officers on Council publicity be approved.

Standards for England – Assessment Made Clear – Local Assessments of Complaints

The Chief Solicitor submitted a report (copy circulated) advising the Committee that arrangements had been made to view the Standards for England DVD entitled "Assessment Made Clear – Local Assessment of Complaints".

(For copy report – see original minutes).

The Committee viewed the DVD and discussed some of the issues raised.

5. RESOLVED that the content of the report and DVD be noted.

The Chairman thanked everyone for their attendance and closed the meeting.

(Signed) G.N. COOK,
Chairman.

COUNCIL PUBLICITY – GUIDANCE NOTE

Report of the Chief Solicitor

1. At the last meeting of the Committee it was agreed that it would be helpful if a consolidated guidance note was produced for the benefit of Members and officers.
2. Section 2 of the Local Government Act 1986 prohibits authorities from issuing material that ‘in whole or in part, appears to be designed to affect public support for a political party’. The rule applies at all times and not just before an election.
3. Local authorities are required to have regard to the Code of Recommended Practice on Local Authority Publicity. This note is based on the Code.
4. The guidance applies to publicity produced using Council resources, not that produced by political groups or individual Councillors.
5. This note summarises the advice in the Code and also consolidates other references to the Constitution in Appendix A.
6. Under the Code of Conduct a Member:

“Must, when using or authorising the use by others of the resources of the authority;

(i) act in accordance with the authority’s reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes) and

must have regard to any applicable Local Authority Code on Publicity made under the Local Government Act 1986”.

Conclusion

The Committee is requested to:

1. Note and endorse the guidance note or advise on any desired changes.
2. Agree that copies be sent to all Members, Chief Officers and Heads of Service.

COUNCIL PUBLICITY

1. Purpose

- 1.1 This guidance note is intended to assist Members and officers to ensure that all publicity materials issued and all promotional activity undertaken by Sunderland City Council, or using council 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.

2. Background

- 2.1 The fundamental test of whether publicity is legal is enshrined in Section 2 of the 1986 Local Government Act. This prohibits authorities from issuing material that 'in whole or in part, appears to be designed to affect public support for a political party'. The rule applies at all times and not just before an election.
- 2.2 An objective test is applied, so that the intention behind the publicity is irrelevant.
- 2.3 The current Code of Recommended Practice on Local Authority Publicity was issued in 2001. Consultation on amendments to the code is taking place. This guidance is based on the current code.
- 2.4 Circumstances vary, and this guidance can not cover all eventualities. It does, though, seek to provide guidance on some of the issues that most commonly arise and specifically in relation to the run-up to an election ('purdah')

3.0 Application of the guidance

- 3.1 This guidance applies to:

- all publicity including materials produced and promotional activity undertaken by council officers using council resources.
- publicity material produced including promotional activity undertaken by other organisations, including community groups, where those publicity materials or promotional activity are funded wholly or in part by the council.

3.2 This guidance does not apply to:

- publicity produced using resources independent of the council, such as newsletters issued by community or political groups or individual Councillors using their own resources.
- However, Members should note that attributed statements they make in party publications about other Members must be consistent with all their obligations under the Code of Conduct in relation to showing respect for others.

4. Publicity and council resources

4.1 Publicity means communications and activity intended to provide information to the public or a section of the public about council activity.

4.2 Publicity may include any form of publication, including, for example leaflets, brochures, newsletters, residents' magazines, websites, advertisements or press releases. It includes promotional activity.

4.3 Promotional activity includes activity such as holding events, exhibition stands and distribution of the publications and promotional literature supporting these.

4.4 Council resources include funding, officer time and assistance, premises, equipment, stationery or advertising arrangements, provided by or on behalf of the council

5. The Code of Recommended Practice

5.1 This guidance supplements the Code, but does not replace it, and the Code takes precedence. The Code sets out the approach local authorities in their approach should take in relation to:

- Subject matter
- Costs
- Content and style
- Dissemination
- Assistance to others for publicity
- Individual councillors
- Elections, referendums and petitions

The Code provides guidance on the purpose of local authority publicity, and on the approach to be taken by a local authority in delivering publicity across communities.

5.2 The purpose of local authority publicity is ‘to increase public awareness of the services provided by the authority and the functions it performs; to allow local people a real and informed say about local issues that affect them, to explain to electors and ratepayers the reasons for particular policies and priorities, and in general to improve local accountability’

5.3 The Code states that local authority newspapers or information bulletins are a special case and that they are often a cost-effective means of disseminating information.

5.4 ‘The council must not discriminate between groups or individuals in the way publicity or promotional activity is delivered. Publicity and promotional activity should be designed to ensure that relevant information reaches sections of the community in the way that best meets their needs’

5.5 **Publicity about Individual Councillors**

5.5.1 Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive, or Chair of Overview and Scrutiny Committee) and their responsibilities. Publicity may also include information about individual councillors’ proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

5.5.2 Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals.

5.5.3 **What does this mean in practice?**

Examples of information the council will publish include;

- Factual information about Members giving contact and ward surgery details, roles and responsibilities within the council.
- Information about council activity, including details of formal decisions taken by Cabinet or by a Committee of the Council.
 - This may include supporting or explanatory statements.

- A Cabinet decision may be supported by a statement made by the holder of a relevant Portfolio, and a Committee decision by a statement made by the Chair.
 - A Cabinet decision may be supported by a photograph of the holder of a relevant Portfolio, and a Committee decision by a photograph of the Chair, a photograph taken at the relevant meeting, or of the full Committee membership, or of a section of committee membership that includes a representative of each recognised political group.
- Information about events attended by the Mayor or Deputy Mayor in their civic role.

The council will not publish information about individual members except in circumstances where this illustrates action taken bringing particular benefit to the community, for example an innovative approach to resolving a community issue, or activity that illustrates the positive work of councillors generally. This approach does not apply during the period in the run up to an Election.

The council will not publish information where the primary purpose appears to be promotion of the profile or personal views of an individual member.

5.6 **Publicity in the run up to an Election**

5.6.1 There are extra restrictions on council publicity in the six weeks leading up to an election. This period runs from the date the notice of election is published (known as the 'purdah' period).

5.6.2 The Code's requirements during this period include that;

- The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election.
- Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members of groups of members.
- However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political.
- Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control.
- Proactive events arranged in this period should not involve members likely to be standing for election.

5.6.3 Members are free to issue their own political publicity under the electoral rules so long as this does not involve the use of Council resources.

5.6.4 **What does this mean in practice?**

Examples of what the Council will publish in the period before an election;

- The council may choose to respond to events and legitimate service enquiries giving answers that are factual and not party political.
- In an emergency or where there is a genuine need for a member level response to an important event outside the council's control the comments of the Leader, or the holder of a relevant Portfolio, or Chair of a relevant Committee may be issued on behalf of the council.

Examples of what the council will not publish in the weeks before an election;

- The council will not issue other publicity or arrange other promotional activity involving Members during this time, for example;
 - Statements issued by the council to the press during this time, otherwise than in the situation of an emergency or need to respond to an external event outlined above, will not quote or include photographs of Members.
 - The council will not arrange statements to the media, photocalls, interviews, or press conferences involving Members during this time.
- Council publicity or promotional activity will not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members.
- Events proactively arranged by the council in this period will not involve members likely to be standing for election, or other politicians involved directly in the election.

6. **The Council's Constitution**

The Council's Constitution also contains protocols on publicity related issues as follows. Relevant extracts are attached at Appendix A.

7. **Queries**

Queries in relation to this guidance note should be raised with the Director of Communications and Marketing in the first instance, who will consult the Chief Solicitor where necessary.

APPENDIX A

Extracts from the Council's Constitution

- 6.1 Code of Conduct –General Obligations – Paragraph 6
6 You -
(b) must, when using or authorising the use by others of the resources of the authority;
(i) act in accordance with the authority's reasonable requirements;
(ii) ensure that such resources are not used improperly for political purposes (including party political purposes) and
(c) must have regard to any applicable Local Authority Code on Publicity made under the Local Government Act 1986.

- 6.2 The Protocol on Member/Employee relations outlines the basis of Council support to Members at paragraph 8.1. as follows;
8.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, IT equipment etc) to members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They must not be used in connection with party political or campaigning activity or for private purposes.

- 6.3 The Protocol for Members and voting co-opted Members – Use of Council resources and equipment outlines the permitted uses.

PCs and Printers - Paragraph 3.1 - The facilities are not to be used for producing material designed to affect public support for or to promote a political party or a candidate in an election or to promote a party political campaign.

PCs and Printers - Paragraph 3.2 - No political logos can appear on printed material.

PCs and Printers - Paragraph 3.3 - The name of a political party may appear on printed material once, but only in the form: 'Name of party Member'.

Photocopying - Paragraph 4.1 - Photocopying facilities are provided in connection with Council business only.

Postage - Paragraph 6.1 - This is available for Members in connection with Council business only (...) Members are also reminded that this facility cannot be used in connection with party political or election purposes.

Individual Web Sites - Paragraph 9.0

Individual Council web sites will be made available to Members wishing to have one. These sites will be subject to editorial control by the Chief Solicitor and will not contain material of a political nature.