

At a meeting of the STANDARDS COMMITTEE held in the CIVIC CENTRE, SUNDERLAND on TUESDAY, 30TH JUNE, 2009 at 1.00 p.m.

Present:-

Mr. G.N. Cook in the Chair

Councillors Charlton, M. Forbes, Wakefield and Wares, together with Mr. J.P. Paterson, Mr. C. 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 Councillor Tate.

Minutes

The minutes of the meeting of the Committee held on 22nd May, 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

There were no declarations of interest.

Standards Board Intervention, Joint Standards Committees and Dispensations

The Chief Solicitor submitted a report (copy circulated) which informed the Committee of new regulations which came into force on 15th June 2009, which made provision for the Standards Board for England to suspend the functions of a local Standards Committee where the Committee was failing to perform its functions satisfactorily and either to discharge the functions itself or to arrange for another Authority's Standards Committee to do so.

(For copy report – see original minutes).

Bob Rayner, Chief Solicitor presented the report informing Members that the regulations also gave Authorities a power to establish Joint Standards Committees and extend the power of Standards Committees to give Members dispensations where they would otherwise be prohibited from participating on a matter because of a prejudicial interest. Members attention was drawn to paragraph 4 of the report which highlighted the changes to the dispensation regulations.

Consideration having been given to the matter, it was:-

2. RESOLVED that:-

- (i) the report be received and noted; and
- (ii) all Members be made aware of the new grounds for an application for a dispensation.

‘Improving Standards’ Event – 7th May, 2009 – North Tyneside Council

The Chief Solicitor submitted a report (copy circulated) which advised of the ‘Improving Standards’ event hosted by North Tyneside Council held on 7th May, 2009 and which appended a report on the event prepared by Mr. Colin Stewart, Independent Member of the Committee, who had attended to represent Sunderland City Council.

(For copy report – see original minutes).

Mr. Stewart having briefed the Committee on the presentations given by Mr. David Laverick, President of the Adjudication Panel for England and Dr. Michael Macaulay, Reader in Governance and Public Ethics, Teesside University, it was:-

3. RESOLVED that the report be received and noted.

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

(Signed) G.N. COOK,
Chairman.

Guidance on “other action”

Report of the Chief Solicitor

1. Introduction

The purpose of this report is to summarise guidance recently issued by the Standards Board on the taking of “other action” for members of Standards Committees.

2. Key Points

The Standards Board’s key messages on other action are:-

- Complaints should not be referred for other action when an investigation is in the public interest, when an allegation challenges the member’s honesty or integrity, or where if proven to be true, the alleged conduct would undoubtedly warrant a sanction.
- A referral for other action closes the opportunity to investigate.
- A decision to refer a complaint for other action makes no finding of fact, and the action decided on must not imply that the subject of the complaint has breached the Code of Conduct.
- Assessment sub-committees cannot direct the subject member or any other party to take action. The direction is to the monitoring officer.
- Although there is no formal route for dealing with a member who refuses to comply with other action, failure to co-operate may amount to bringing the authority into disrepute.

3. What is other action?

An assessment sub-committee has three options when dealing with a complaint that a member has failed or may have failed to comply with the Code of Conduct. It can decide to:-

- refer the complaint to the monitoring officer of the authority concerned;
- refer it to the Standards Board;
- or take no action.

If the assessment sub-committee decides to refer a complaint to the monitoring officer, it can direct them to investigate the matter. Alternatively, it can direct them to take steps other than carrying out an investigation. This is known as other action.

Generally, there are two indicators for other action. The first is when there is evidence of poor understanding of the Code of Conduct and/or the authority's procedures. The second indicator for other action is when relationships within the authority as a whole have broken down to such an extent that it becomes very difficult to conduct the business of the council.

The steps a standards committee can direct a monitoring officer to take are:-

- arranging for the member to attend a training course;
- arranging for the member and complainant to engage in a process of conciliation;
- any other steps (not including an investigation) which appear appropriate.

4. What might other action involve?

Training may be in anything the assessment sub-committee deems appropriate, such as:-

- chairing skills;
- working with external bodies and partnerships;
- governance issues;
- the Code of Conduct;
- council procedures and protocols;
- legal matters;
- planning and licensing;
- working with officers;
- use of council resources.

In general, other action may take the form of directing the monitoring officer to arrange for the:-

- redrafting of council procedures or policies;
- training of members of the council as a whole;
- mentoring of a member or members, or whole council;
- management of conflict;
- development of council protocols;
- implementation of a council complaints procedure.

A referral for other action does not mean that the member has been found to have done anything wrong. Other action cannot, for example, take the form of requiring the subject member to apologise.

An assessment sub-committee can only direct a monitoring officer to take other action. It has no power to direct anyone else to do so.

5. Deciding on other action

A decision to refer a complaint for other action does not involve making any findings of fact. No decision has been made about whether the subject member failed to comply with the Code.

A decision to direct the monitoring officer to take other action is an alternative to an investigation. It cannot ever result in a finding that the member has or has not failed to comply with the Code.

Other action is not intended to be a quick and easy means of dealing with matters which the assessment sub-committee considers to be too trivial or time-consuming to investigate. Genuinely trivial cases are better dealt with by a decision to take no action.

The decision should demonstrate to the complainant that their complaint is being addressed and being taken seriously, although perhaps as part of a wider issue.

Complaints should not be referred for other action when an investigation would be in the public interest. Other action should also be avoided where the allegation fundamentally challenges the member's honesty or integrity. It should additionally be avoided where the allegation, if proven, would warrant any of the sanctions (apart from training) available to a standards committee after a hearing.

Assessment sub-committees must not refer an allegation for other action without consulting the monitoring officer.

The monitoring officer may be able to advise the assessment sub-committee how viable the proposed other action is.

6. When is other action appropriate?

The first stage in assessing a complaint is to determine whether it is within jurisdiction.

The Standards Board believes that other action is most beneficial when used to deal with systemic problems rather than individual ones, for example where:-

- the same particular breach of the Code by many members, indicates poor understanding of the Code and the authority's procedures;
- a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the council;
- misunderstanding of procedures or protocols;
- misleading, unclear or misunderstood advice from officers;
- lack of experience or training;
- interpersonal conflict;
- allegations and retaliatory allegations from the same members;
- allegations about how formal meetings are conducted;
- allegations that may be symptomatic of governance problems within the council, which are more significant than the allegations in themselves.

The guidance recommends using the expedient of an adjournment to find out whether members will co-operate with other action.

7. Consideration of the Monitoring Officer's report

The monitoring officer must submit a written report to the standards committee within three months of receiving the direction, or as soon as possible after that. This report must give details of the action taken or the action proposed to comply with the direction.

The standards committee or an appropriate sub-committee should consider the monitoring officer's report and decide whether it is satisfied with the action described.

If the standards committee or sub-committee is satisfied with the action described in the monitoring officer's report, it should give notice of this to relevant persons.

If the standards committee or sub-committee is not satisfied, it must give another direction to the monitoring officer, which must again be to take some kind of other action.

The standards committee or sub-committee may also consider making a further direction where the report indicates that the member has refused to co-operate, has done so unwillingly or inadequately, or has not engaged with the process.

There is no formal route for dealing with a member who categorically refuses to comply with other action. However, the Standards Board believes that deliberate and continued failure to co-operate with a monitoring officer who is trying to carry out the directions of a standards committee may potentially amount to conduct which brings the office of councillor into disrepute.

Recommendation

That the Committee notes the contents of this report and adopts the criteria set out in paragraph 6 above in relation to taking other action and agrees that this be added to the handbook.

Protocol in relation to Members' Business Dealings

Report of the Chief Solicitor

1. Introduction

The protocol for Members' business dealings with the Council requires that any Member proposing to enter into a business dealing with the Council should notify the Chief Executive in writing at the earliest opportunity. The Protocol requires that such notifications should be reported to the Standards Committee.

2. Notice given by Councillor G. Miller

2.1 The purpose of this report is to inform the Committee of a notification received from Cllr Graeme Miller by letter dated 25 June 2009. Cllr Miller is the Chief Executive and Managing Director of TWEBLO (Tyne and Wear Education Business Link Organisation), which is a charity with not for profit status and a Company Limited by guarantee.

2.2 Cllr Miller has explained the circumstances as follows:-

"TWEBLO until the 31st of March 2009 received its funding as a NGO from the LSC (Learning and Skills Council) to actively promote education, training and work experience/work related learning activity across Tyne and Wear involving all 5 local authorities. This contract has now come to an end and the funding is now passported directly to the 5 local authorities.

It has been agreed by the 5 Tyne and Wear Local Authorities that the current Academic Year August 2008 – July 2009 delivery would continue on the TWEBLO business plan as presented to the LSC and that funds for the April to July 2009 period would be forwarded to TWEBLO for this period to cover activity being delivered to schools.

TWEBLO received a BACS payment notice from Sunderland City Council dated the 23rd of June covering the Sunderland LA amount of £46,806.00 and therefore TWEBLO is now receiving funding from the Council and is delivering a service on behalf of the local authority."

2.3 I met with Cllr Miller to discuss the position and he has instructed his staff that all TWEBLO-Sunderland City Council matters will be dealt with by TWEBLO's Operations Manager, Bryan Alderson. This is considered a satisfactory safeguard. In addition, Cllr Miller has given the appropriate notification in the revision of interests form to indicate

there is a contract between his employer and the Council and this is now on the register of interests.

Further Cllr Miller has been reminded that any completed tender forms or similar documents should also include a declaration of his position as a Councillor as well as Chief Executive at TWEBLO, and to be mindful of the need to make any declarations of interest if he is present at any meeting of the Council if the subject of TWEBLO's services to the Council are considered.

Cllr Miller appreciates that he has a prejudicial interest in the contract between TWEBLO and the Council, and is aware of the requirement not to seek to improperly influence any decision in relation to contracts between TWEBLO and the Council.

- 2.4 The Director of Children's Services has been apprised of the situation and agrees that the arrangements can be satisfactorily managed and monitored.

3. Recommendation

The Committee is requested to note the contents of this report.