At a meeting of the STANDARDS COMMITTEE held in the CIVIC CENTRE, SUNDERLAND on FRIDAY, 28TH MAY 2010 at 1.00 p.m.

Present:-

Mr G.N. Cook in the Chair

Councillors M. Forbes, Shattock and Wakefield, together with Mr. J.P. Paterson and Councillor Hepple (Hetton Town Council).

Welcome

The Chairman welcomed Councillor Shattock on her return to the membership of the Committee.

Apologies for Absence

Apologies for absence were submitted to the meeting on behalf of Councillor Tate, Mr. Stewart and Councillor Wilkinson (Hetton Town Council).

Minutes

The minutes of the meeting of the Committee held on 26th March, 2010 (copy circulated) were submitted.

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

Declarations of Interest

There were no interests declared.

Dates of Meetings of the Standards Committee 2010/11

The Chief Solicitor submitted a report (copy circulated) to advise Members of the Committee of the dates of the Standards Committee meetings for the Municipal Year 2010/2011.

(For copy report – see original minutes).

2. RESOLVED that it be noted that the dates of the Standards Committee meetings for the Municipal Year 2010/2011 are as follows and that all meetings are scheduled to commence at 1.00 pm:-

Tuesday, 29th June, 2010
Thursday, 30th September, 2010
Friday, 26th November, 2010
Friday, 11th February, 2011
Friday, 25th March, 2011

2010 Annual Assembly of Standards Committee – A Place for Standards

The Chief Solicitor submitted a report (copy circulated) advising of the 2010 Annual Assembly of Standards Committees entitled 'A Place for Standards' to be held on 18th and 19th October at the International Convention Centre, Birmingham.

(For copy report – see original minutes).

The Assistant Chief Solicitor, Ms. Rhiannon Hood, briefed the Committee on the report; and it was:-

3. RESOLVED that any Member of the Committee wishing to attend the Conference contact the Monitoring Officer so that the necessary arrangements can be made on their behalf.

Activities for the Year Ahead

The Chief Solicitor submitted a report (copy circulated) seeking the Committee's views on the scope of its activities for the forthcoming civic year.

(For copy report – see original minutes).

The Assistant Chief Solicitor, Ms. Rhiannon Hood, briefed the Committee on the current position.

The Chairman highlighted that the networking with Chairs of other Standards Committees worked well and that the meetings with the Leaders of the political groups of the Council were good.

Members of the Committee stressed the importance of further awareness raising and communication of the ethical agenda and the role of the Standards Committee with officers of the Council.

In response to the Chairman, Ms. Hood advised that regular training was undertaken to ensure officers of the Council had a broad awareness of the Code of Conduct and she advised that the next phase of the Community Leadership Programme would focus on these aspects to ensure there was an understanding of the above matters.

4. RESOLVED that the proposed range of activities be endorsed together with activities to ensure that the ethical agenda and an awareness of the role of the Council's Standards Committee are promoted.

Standards for England – Review of the Local Standards Framework

The Chief Solicitor submitted a report (copy circulated) advising that Standards for England had recently completed its review of the local standards framework and issued a report 'Local Standards 2.0 – the proportionality upgrade', which reflects on the first eighteen months of the operation of the local determination of complaints.

(For copy report – see original minutes).

The Chairman commented that he welcomed the recommendation for a commitment to greater transparency for Members who are the subject of complaints stating that he felt they should not be kept 'in the dark' about a complaint about them.

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

Local Determination of Allegations of Misconduct

The Chief Solicitor submitted a report (copy circulated) advising that the investigation of the complaint received in respect of Councillor Wake had now been completed and that he was seeking to make arrangements for a meeting of a Consideration and Hearing Sub-Committee.

(For copy report – see original minutes).

The Assistant Chief Solicitor, Ms. Rhiannon Hood, briefed the Committee on the report.

Councillor M. Forbes advised that she considered herself to be conflicted out from serving on the Sub-Committee.

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

6. RESOLVED that the Chairman and Vice Chairman of the Standards Committee together with Councillor Tate, be appointed to serve on the Sub-Committee which will undertake the functions under Regulations 17 and 18.

(Signed) Mr G. N. COOK,
Chairman.

At a meeting of the CONSIDERATION AND HEARING SUB-COMMITTEE OF THE STANDARDS COMMITTEE held in the CIVIC CENTRE, SUNDERLAND on MONDAY, 5TH JULY, 2010 at 9.30 a.m.

Present:-

Mr. G.N. Cook in the Chair

Mr. J.P. Paterson and Councillor Tate

Also present:-

Councillor Wake
Mr. R.C. Rayner - Monitoring Officer
Ms. E. Waugh - Investigating Officer
Mrs. C. Tilley - Clerk of the Hearing

Apologies for Absence

There were no apologies for absence.

Declarations of Interest

There were no declarations of interest.

Introduction

The Chairman introduced himself and the other Members of the Sub-Committee and those Officers present to Councillor Wake.

Determination of whether the Hearing should be held in Public or Private

The Chairman explained that the Sub-Committee had discretion as to whether the hearing should be held in public or private and that it must first determine this issue.

The Monitoring Officer explained that the agenda papers were stamped to indicate that the information related to an individual and that it also related to matters under Regulations 17 and 18 of the Standards Committee (England) Regulations. He advised that it was considered good practice for the papers to be thus marked as this

prevented publicity which may be prejudicial to a fair hearing occurring prior to the hearing.

The Monitoring Officer explained that the Sub-Committee had a discretion to exercise as the grounds were subject to an overriding public interest test; that is whether the public interest was best served by an open and transparent hearing. In this case it would provide the opportunity to correct any misleading impression given by the press coverage of the complaint. He advised there was no confidential information and that on balance therefore would recommend the hearing to be held in public save for when the Sub-Committee needed to deliberate.

The Chairman invited Councillor Wake to make representations before the Committee decided whether to hold the hearing in public or private.

Councillor Wake welcomed the opportunity for clarity and openness and to have the hearing in public.

The Sub-Committee AGREED to have the hearing in public.

Procedure to be Followed

The Chairman advised that the Council's Handbook for dealing with Complaints against Councillors sets out the procedure for local determinations at Part 5 and this was the procedure to be followed at the hearing.

Preliminary Considerations

The Monitoring Officer advised that the first thing the Sub-Committee needed to do was to act as a Consideration Sub-Committee under Regulation 17 and to determine whether it accepted the Investigating Officer's findings detailed at paragraph 2.1(a) and 2.1(b) of the report.

The Sub-Committee found that there was no failure in respect of the alleged breaches of paragraph 3(1) of the Code – treating others with respect by referring to elderly residents as living in "God's Waiting Room" and paragraph 3(2a) of the Code – breach of the equality enactments, in relation to referring to a Police Officer as a "woodentop" and "black".

The Sub-Committee found that in relation to the 'joke' about rape there were breaches of the Code in respect of paragraph 3(1) – treating others with respect and paragraph 5 – bringing the office or Authority into disrepute and agreed that the matter proceeded to a hearing on those matters.

The Chairman stated that having read the papers it appeared there was only a narrow area of disagreement regarding the finding of fact regarding the precise wording Councillor Wake had used in making the joke.

The Investigating Officer advised that the amendment to the wording suggested by Councillor Wake detailed at paragraph 3 of the Addendum did not alter her finding as set out in paragraph 7 of the report.

Councillor Wake confirmed that he had no disagreement about the facts in the Investigating Officer's report other than the accuracy of the wording relating to the telling of the joke about rape.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake withdrew to allow the Sub-Committee to consider the findings of fact.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake were re-admitted to the meeting.

The Chairman advised that there were some differences in the accounts of Councillor Wake and others interviewed as to exactly what was said by Councillor Wake, however that the Sub-Committee had concluded that Councillor Wake had told an extremely distasteful joke about rape to the Inspector.

The Chairman advised that the Sub-Committee now needed to consider whether based on the facts, it found that Councillor Wake had failed to follow the Code of Conduct.

The Chairman invited the Investigating Officer and Councillor Wake to comment.

The Investigating Officer commented that whatever the actual wording of the joke it was still the case that rape was a very serious offence. It was totally inappropriate to make the joke at an official meeting and that it was reasonable to say that Councillor Wake had brought the office of Councillor into disrepute. She asked the Sub-Committee to find that this was a breach of the Code of Conduct.

Councillor Wake commented that it was not an official meeting but an informal meeting of Councillors and Policemen in order to share information and form relationships. The meeting had finished and it was a private conversation between himself and two Police Officers. He had not received any training on the Code of Conduct prior to this incident as he had not been aware that this was available. He had not intended to bring the Council into disrepute or to be derogatory to Police Officers.

The Monitoring Officer advised that training sessions on the Code of Conduct were held regularly with all Councillors being invited. Councillor Wake had since attended training on the Code of Conduct.

The Monitoring Officer added that the purpose of the meeting Councillor Wake had attended on 3rd December 2009 between Washington Councillors and Washington Neighbourhood Policing Team was to discuss matters of local concern in respect of crime which related to the Council's functions in respect of crime and disorder and that Councillor Wake was therefore attending in his official capacity.

The Chairman stated the Council went to great lengths for Members and Officers to arrange the necessary training on the Code of Conduct and that it was Councillor Wake's responsibility to ensure that he received the training.

The Committee requested the Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake to withdraw from the meeting to enable them to consider the representations.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake were re-admitted to the meeting.

The Chairman confirmed that the Sub-Committee had decided that Councillor Wake had failed to follow the Code of Conduct in respect of paragraph 3(1) and paragraph 5 of the Code of Conduct in relation to the joke about rape.

The Chairman invited Councillor Wake and the Investigating Officer to make representations as to whether a sanction should be applied and what form it should take.

Councillor Wake admitted that he should not have made the joke about rape, that he and his family had suffered as a result as he had been maligned in the press and cast out of the Conservative Party. He asked the Sub-Committee not to make any sanctions.

The Monitoring Officer advised the Sub-Committee of the penalties available to the Sub-Committee as detailed in Schedule 2 of Part 5 included at pages 12 and 13 of the agenda and of the relevant factors when determining sanctions.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake withdrew from the meeting in order to allow the Sub-Committee to deliberate in private whether to impose sanctions and if so what the sanctions should be.

The Monitoring Officer, Investigating Officer, the Clerk and Councillor Wake were re-admitted to the meeting.

The Chairman advised of the Sub-Committee's decision as follows:-

1. RESOLVED that Councillor Wake should:-

   (1) be censured.

   (2) be required to apologise in writing to Councillors Snowdon and Fletcher and to the Police.

   (3) be suspended from Office until the letter has been sent.

The Chairman indicated that Councillor Wake should consult the Monitoring Officer regarding the wording of the letter.

Councillor Wake thanked the Monitoring Officer and the Investigating Officer for the fair and professional manner in which they had dealt with the matter and asked that this be placed on record.

A copy of the Reasons for Decision notice of the Consideration and Hearing Sub-Committee (as given by the Chairman) in relation to this case is appended to these minutes.

(Signed) G.N. COOK,
Chairman.

SUNDERLAND CITY COUNCIL

Consideration and Hearing Sub-Committee of the Standards Committee

Reasons for Decision **Case No 3/09**

1. Introduction

We have carefully considered the report and all the statements and the representations made today.

2. Background

2.1 This case concerns complaints made by Councillor Snowdon and Councillor Fletcher about the behaviour of Councillor Eddie Wake at a meeting held on 3 December 2009 between a number of Washington Ward Councillors and the police. The meeting was held to discuss local matters of concern including crime and disorder issues.

3. Findings

3.1 The purpose of the meeting was therefore relevant to the Council's functions. Accordingly, attendance and behaviour at a meeting of this nature falls within the scope of the Code of Conduct and constitutes acting in a Member's official capacity.

3.2 During the meeting Councillor Wake made comments about elderly persons as "in God's waiting room" and referred to police as "woodentops" which are considered to be inappropriate and of which we disapprove, notwithstanding that we were have found they did not in the circumstances, constitute a breach of the duty to treat others with respect.

3.3 In relation to Councillor Wake's reference to a PC as "black", we have noted that all concerned accept that Councillor Wake was intending to compliment the conduct of the officer at a remembrance day parade, and the police officers did not take offence at this reference. We conclude it did not have any racist motive and did not involve a breach of the equality enactments under paragraph 3 (2) (a) of the Code.

3.4 It is undisputed that at the conclusion of the meeting Councillor Wake told a joke about rape. Whilst there is conflicting evidence about the precise wording, this is not material to our conclusion that it was disgraceful, inappropriate and hurtful.

In doing so Councillor Wake demonstrated no sensibility to the sensitivities of others. We consider this represented a clear breach of Councillor Wake's obligations to treat others with respect (paragraph 3(1) of the Code) and that it could reasonably be regarded as brining his office or the authority into disrepute.

4. Sanctions

We have decided that Councillor Wake should:

(1) Be censured.
(2) Be required to apologise in writing to Councillors Snowdon and Fletcher and to the Police.
(3) Be suspended from office until the letter has been sent.

In reaching our decision we have noted that Councillor Wake has suffered adverse publicity, been expelled from his party and has found this a chastening experience. We understand that he has received training since the incident and therefore do not believe this is necessary.

5. Recommendations to the Authority

We have no specific recommendations to the authority but believe that this case will serve as a useful reminder to Members that they must maintain proper standards of conduct.

Signed _____ Dated: 5 July 2010

Chairman of the Standards Committee and of this Sub-Committee.

STANDARDS COMMITTEE **30 SEPTEMBER 2010**

ABOLITION OF STANDARDS FOR ENGLAND

Report of the Chief Solicitor

The purpose of this short report is to inform Members that the Government's "Programme of Government" of 20 May 2010 contained a commitment to "abolish the Standards Board regime". Primary legislation is required to do this and it is anticipated that provisions will be included in the Decentralisation and Localism Bill which is due to be presented in late 2010, with Royal Assent expected between July and October 2011.

This is likely to result in the closure of the organisation between January and March 2012.

In the meantime, the local standards framework still exists. Standards for England plan to continue to fulfil its statutory duties and Standards Committees and Monitoring Officers have an obligation to keep the system operating.

More recently in an announcement made on 20 September 2010 Communities Minister Andrew Stunell stated that Standards for England, the councillor watchdog, had 'become a vehicle for malicious and frivolous complaints'.

The government will legislate to make serious misconduct by councillors an offence that will be tried in court. It has also promised to give the Local Government Ombudsman 'real teeth'. Local authorities will be legally obliged to implement the findings of the ombudsman, which investigates public complaints over the way they have been treated by their council.

Stunell said: 'The Standards Board regime ended up fuelling petty complaints and malicious vendettas. Nearly every council had investigations hanging over them – most of which would be dismissed but not before reputations were damaged and taxpayer money was wasted.

'Frivolous allegations undermined local democracy and discouraged people from running for public office.'

Local Government Secretary Eric Pickles added: 'Failure to register or declare an interest, or deliberately seeking to mislead the public about an interest, will become a criminal offence while a newly empowered Local Government Ombudsman will investigate incompetence on behalf local people."

Recommendation

That the Committee notes the contents of this report.

STANDARDS COMMITTEE 30 SEPTEMBER 2010

PROTOCOL IN RELATION TO MEMBERS' BUSINESS DEALINGS COUNCILLOR B McCLENNAN AND COUNCILLOR I KAY

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. **Notices given by Councillor B McClennan and Councillor Ian Kay**

2.1 The purpose of this report is to inform the Committee that notifications have been received by and on behalf of the above named Members.

2.2 The circumstances are that Councillor McClennan is the Chief Executive of Education Business Connections Limited (EBC), a Sunderland based charity. Councillor Kay also undertakes work for the Company on an ad hoc basis. We agreed to meet to discuss their circumstances and to ensure they understood the Council's requirements, following their election in May. Both Councillors also attended a general training session on the Code of Conduct and I have given further advice in writing to Councillor McClennan in response to specific queries.

2.3 Councillor McClennan has been assiduous in giving notice of all contracts and grants between the company and these are included in her register of interests.

2.4 In April before election to the office of Councillor McClennan in her role as Chief Executive of EBC, submitted several tenders for work with the City Council (Commissioned Play and Positive Activity Service). Four tenders were submitted – three for provision of play-based activities in various areas of the city and a fourth for a distinct piece of work around community development. On each of the tenders it was made clear that she was a candidate in the forthcoming elections.

2.5 It has been agreed that Councillor McClennan will state she is a Councillor in all tender documents and grant applications. Further, Sunderland grants/contracts will be managed by her Assistant Chief Executive including delivery and compliance with all contract monitoring requirements. It is considered that these arrangements will minimise contact with Council officers in respect of Councillor McClennan's private business capacity. Further, in the interests of probity and transparency, if in fact she has any personal meetings then

two Council officers will be present and a note taken, a copy of which will be sent to the Chief Executive.

2.6 In relation to grants awarded by the Council since May, I gave appropriate advice to Members of the Area Committees on the need for those Members who were “close associates” of the Councillors to declare personal and prejudicial interests when the application were considered and to enable the issue of potential dispensations to be considered. Those Members concerned did make such declarations and withdrew from the meetings, but in the event there was no need to seek dispensations from this Committee as the numbers involved were fewer than half of the number of Members on the Committee.

3. Recommendations

That the contents of this report be noted.

STANDARDS COMMITTEE **30 SEPTEMBER 2010**

PROTOCOL IN RELATION TO MEMBERS' BUSINESS DEALINGS

COUNCILLOR GRAEME MILLER

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. **Previous Notice given by Councillor G. Miller**

2.1 The Committee will recall that it received a report on a notification given by Cllr Graeme Miller at its meeting on 29 September 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 In summary, the circumstances were 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. The contract had come to an end and the funding was passported directly to the 5 local authorities.

It had been agreed by the 5 Tyne and Wear Local Authorities that for the 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.

2.3 This was extended by the five Authorities to cover the academic year August 2009 to July 2010 and then further extended to 30 September 2010 to cover the transition period.

3. **Current Position**

3.1 Subsequently, Sunderland City Council has hosted the Connexions Hub on behalf of the five Tyne and Wear authorities. Staff in the hub are employed by the Council and provide various services related to the education and training of 14 - 19 year olds. The Tyne and Wear Authorities currently pay the Tyne and Wear Education Business

Link Organisation (TWEBLO), to carry out health and safety assessments in respect of work experience placements.

From 1 October 2010 the other four Tyne and Wear authorities intend to transfer the health and safety assessment work to the Connexions Hub. The Council will continue to contract with TWEBLO until 31 March 2011. The transfer will constitute a change in service provision under the Transfer of Undertakings (Protection of Employment) Regulations 2006. Muckle Solicitors, acting on behalf of TWEBLO, initially notified Sunderland City Council that five members of TWEBLO staff were assigned to the economic entity (TWEBLO) and would transfer to the Council, including Councillor Graham Miller.

It was considered that it would be acceptable for Councillor Miller to be involved in negotiations and be present at meetings between the Council and TWEBLO, given his senior position in the company, on condition that such discussions and negotiations were conducted through solicitors on both sides. Accordingly all meetings and correspondence have been conducted through Muckle LLP on behalf of TWEBLO and my staff on behalf of the Council.

3.2 Subsequently, Councillor Miller has confirmed that in fact he will not transfer his employment to the Council.

3. Recommendation

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

LOCAL DETERMINATION OF ALLEGATIONS OF MISCONDUCT – CASE 01/10

Report of Chief Solicitor

1. **Introduction**

1.1 The Assessment Sub-Committee agreed at a meeting on 3 February 2010 that complaints received in respect of a Councillor be investigated.

1.2 The conduct of the investigation was delegated to the Deputy Monitoring Officer and has now been completed.

1.3 In accordance with the relevant procedures a pre-hearing process is being undertaken to identify the issues for determination and the form of the hearing.

2. **Preliminary Consideration**

2.1 Under the Standards Committee (England) Regulations 2008 (the Regulations), the Monitoring Officer must refer a completed investigation report to the Standards Committee to consider and determine whether a Member has failed to follow the Code of Conduct for Members and, if so, what sanction (if any) should be applied.

2.2 Part of the pre-hearing process involves issues that may be decided only by the Standards Committee or a consideration and hearing Sub Committee.

The Regulations then provide for a separate date to be fixed for the hearing.

2.3 Proceeding in this way is somewhat cumbersome and further protracts the process. It is therefore proposed to schedule the Regulation 17 consideration as a preliminary matter with a view to the Regulation 18 hearing following on the same date. This expedient is becoming increasingly used by Authorities to streamline the proceedings and is acceptable to Standards for England.

3. **Appointment of Members to the Sub-Committee**

3.1 It is for the Standards Committee to determine the members of the Sub Committee to undertake the functions under Regulations 17 and 18.

3.2 The procedures adopted by the Committee provide that the Sub Committee shall comprise a minimum of 3 members to include at least

one independent member who will chair the proceedings. The Sub Committee must always include at least one elected Council member.

3.3 Members need to consider whether they are in any way conflicted out from serving on the Committee.

4. **Recommendation**

That the Committee determines the composition of the Sub Committee which will undertake the functions under Regulations 17 and 18.