

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

1 December 2008

Standards Bulletin

1.0 PURPOSE OF REPORT

1.1 To present to the Committee, for consideration, a draft Standards Bulletin.

2.0 BACKGROUND

2.1 The Standards Bulletin is produced periodically and circulated to Members and key officers to keep them informed of developments and decided cases in the standards regime.

3.0 THE STANDARDS BULLETIN

3.1 The latest draft of the Bulletin is attached to this report at Appendix 1. The Committee is requested to consider the Bulletin with a view to its subsequent circulation.

4.0 RECOMMENDATIONS

4.1 That subject to any comments Members may have, the Bulletin be approved for circulation.

CAROLE DUNN
Monitoring Officer

County Hall
NORTHALLERTON

Background Documents:
None

20 November 2008



North

Yorkshire County Council

INTRODUCTION

Welcome to the Winter edition of the Standards Bulletin.

We are pleased to welcome Councillors David Jeffels, Caroline Seymour and Jim Snowball to the Standards Committee and look forward to working with them in taking the ethical agenda forward. We are currently recruiting an additional independent Member for the Committee and further details will follow in due course.

The local standards regime continues to develop and the Bulletin updates Members as to how matters are progressing.

Should you wish to discuss any standards matter, please do not hesitate to contact the Monitoring Officer or any of her Team.

JAMES DAGLISH

Chairman of the Standards Committee

THE STANDARDS COMMITTEE

The Members of the Standards Committee:

- **Mr James DGLISH (Chairman) ***
- **Miss Gillian Fleming ***
- **Dr Janet Holt ***
- **Independent Member vacancy**
- **County Councillor David Jeffels**
- **County Councillor Brian Marshall**
- **County Councillor John Marshall**
- **County Councillor Caroline Seymour**
- **County Councillor Jim Snowball**
- **County Councillor Peter Sowray**

* Independent non-elected Member

If in doubt, please seek advice from the following:

Carole Dunn

Assistant Chief Executive (Legal & Democratic Services) & Monitoring Officer

Tel: 01609 532173

carole.dunn@northyorks.gov.uk

Stephen Knight,

Deputy Monitoring Officer

Tel: 01609 780780 (ext 2101)

stephen.knight@northyorks.gov.uk

Stephen Loach,

Principal Committee Administrator

Tel: 01609 780780 (ext 2216)

stephen.loach@northyorks.gov.uk

Moira Beighton

Lawyer (Professional Support)

Tel: 01609 532458

moira.beighton@northyorks.gov.uk

IN THIS ISSUE:

- Local standards regime
- New Standards Committee Members
- Local Handling of Complaints
- Standards Board Monitoring
- New Codes of Conduct consultation
- SBE Case Review Digest 2008
- Standards Committees' Annual Assembly
- Decided cases

LOCAL STANDARDS

REGIME

The local standards complaints regime is now in place and provides for the local receipt, assessment, investigation and determination of complaints that a Member may have breached the Members' Code of Conduct, by **standards committees**.

The Standards Board has produced a range of guidance documents on the local complaints process:

1. "Local Assessment of Complaints";
2. "The Role and Make-Up of Standards Committees";
3. "Local Investigations and Other Action";
4. "How to Conduct an Investigation"; and
5. "Standards Committee Determinations";

along with a Toolkit of proforma documentation for each stage of the local assessment process.

All guidance documentation, along with further information about the ethical framework generally, is available to download from the Standards Board's website at www.standardsboard.gov.uk

Authorities must have regard to the new Standards Board Guidance in exercising their functions under the new standards regime.

At its meeting on 2 June 2008 the Standards Committee considered certain issues relating to the implementation of the new local standards regime and determined various recommendations to the Executive and full Council in July, which were approved and are being implemented.

The required legislation to bring in the remaining parts of the local regime (application of the Code to some private conduct by Members, and joint standards

committees) is not yet in force, although the extension of the scope of the Code beyond purely official capacity is the subject of current Government consultation (see later).

Members will be kept informed of developments in relation to these outstanding parts of the local framework.

NEW STANDARDS **COMMITTEE MEMBERS**

One of the Standards Committee recommendations agreed by the Authority was the increase in size of the Committee by appointing another Councillor from each political group and recruiting another independent Member, bringing the total membership of the Committee to 10.

On 23 July 2008, full Council appointed Councillor Jeffels, Councillor Seymour and Councillor Snowball to the Standards Committee.

We are currently undertaking a recruitment process for a new Independent Member, and Members will be informed of any appointment.

Our new Members are warmly welcomed to the Committee and we look forward to working with them to further implement the new local standards regime.

LOCAL HANDLING OF **COMPLAINTS**

Under the new regime, standards committees now have three separate but distinct roles in relation to complaints about Member conduct:

- receiving and assessing complaints;
- reviewing local assessment decisions where this is requested by the complainant; and

- considering investigation reports and conducting hearings determining complaints, following investigation.

The Standards Committee has therefore established three sub-committees to undertake these functions on its behalf:

- a) a Complaint Assessment Sub-Committee;
- b) a Complaint Review Sub-Committee; and
- c) a Complaint Determination Sub-Committee

with fixed membership and chairmanship and appointed substitutes (from the Standards Committee itself) for each.

Complaints will be assessed in accordance with the Standards Committee's agreed Jurisdiction and Local Assessment Criteria and determined in accordance with the Committee's Complaints Determination Protocol, which is currently being reviewed by the Monitoring Officer.

STANDARDS BOARD MONITORING

As the national regulator responsible for monitoring and promoting ethical standards the Standards Board monitors local standards regime arrangements via an online information return system.

Returns are made by authorities on a quarterly basis. The Monitoring Officer has submitted nil returns for the Authority for the reporting quarters April to June and July to September 2008.

The Standards Board has released information about the first reporting period (8 May to 30 June 2008) which showed that 164 English local authorities had 360 cases 'in the system'. A further 279 authorities said they had no cases to report in those first few weeks.

By way of comparison, an average of 295 complaints a month were handled by the Standards Board last year, who referred around one case in every seven for investigation, weeding out vexatious or politically motivated complaints.

Dr Robert Chilton, Chair of the Standards Board, has said: *"We can see that a good proportion of local authorities are now gaining first hand experience of their new role in receiving complaints and we wait with interest to see whether the change to a local framework will bring a change to the pattern of cases referred for investigation both locally and to the Standards Board."*

"The Standards Board is working closely with local authorities and government agencies to ensure good standards of member conduct are at the heart of local government. We want to make sure there is a transparent, effective local standards system, backed up by effective local investigation and principled decision making, which will make a big contribution towards building confidence in local democracy."

To complement the quarterly return, the Standards Board is currently considering the introduction and content of an Annual Return, which would set out information/criteria regarding wider ethical standards within an authority, other than purely case handling.

Members will be kept informed of developments.

NEW CODES - CONSULTATION

On 1 October 2008, the Government issued a consultation paper entitled "Communities in Control: Real people, real power, Codes of conduct for local authority members and employees".

The consultation has the support of the Standards Board for England, which will be

making its formal response to the consultation during the autumn.

The consultation paper sets out, and seeks views on, proposals for revising the model Members' Code of Conduct (including the extension of the scope of the Code to some private, criminal conduct by Members which brings disrepute to the Authority), providing clarification of the General Principles Order and introducing a new Code for employees.

Progress in relation to the employees' Code of Conduct has been long awaited and will be discussed at the next Standards Committee meeting on 1 December.

Dr Robert Chilton, Chair of the Standards Board stated, in respect of the prospective officers' code:

"... we want to take a measured view around what's likely to be best for public confidence in local democracy, and indeed to consider whether there's any role the Standards Board itself could play in supporting local authorities with the practical application of an officers' code..."

It is proposed that any new Members' Code of Conduct would take into account any existing registrations of interests. This would avoid existing Members having to re-register their interests under any new Code.

The deadline for responses to the consultation is 24 December 2008.

Subject to responses received, CLG is minded to implement the proposals from the local government elections in 2009.

The consultation paper is available to download from:

<http://www.communities.gov.uk/publications/localgovernment/codesconductconsultation>

STANDARDS BOARD CASE REVIEW 2008

The Standards Board has issued its annual Case Review 2008 Digest.

The Case Review 2008 Digest supplements the Board's Case Review 2007, which presented a paragraph by paragraph analysis of the Code of Conduct.

The short 2008 Digest provides new information or cases on certain parts of the Code that the Board thinks may be helpful or interesting. The 2007 document is not being updated and reprinted due to the limited extent of the changes.

Copies of the 2008 Digest and the Case Review 2007 are available from the Monitoring Officer or can be downloaded from the Standards Board's website by following this link:

<http://www.standardsboard.gov.uk/CaseInformation/TheCaseReview/>

STANDARDS COMMITTEE ANNUAL ASSEMBLY

The seventh Annual Assembly of Standards Committees took place at the ICC in Birmingham on 13-14 October 2008. The Standards Committee was represented at the Assembly.

All materials (eg presentations, handouts, case studies and guidance) from the Assembly are now available to download from www.annualassembly.co.uk.

REGISTER OF MEMBERS' INTERESTS

Don't forget:

- to keep your interests form under review and register any required

amendments within 28 days by providing written notification to the Monitoring Officer;

- to register gifts and hospitality worth £25 or more and received in your capacity as a Member of the Authority.

DECIDED CASES

On 18 August 2008, the Standards Board Press Office issued a press release regarding the following case:

A husband and wife who were parish council Members were **disqualified** from office for a year after their 'aggressive' behaviour saw the parish clerk and their three fellow councillors resign.

The ban, imposed at a hearing of the independent Adjudication Panel for England, follows an investigation by the Standards Board into allegations that the Members failed to treat others with respect and brought their office into disrepute.

It was alleged that the subject Members behaved in an aggressive, intimidating and disrespectful way to fellow parish councillors and a member of the public in council meetings between May and June 2007.

It was also alleged that they made verbal and written attacks on the character and integrity of the ex-clerk to the council.

The Adjudication Panel concluded that:

- the language in emails written by the subject Members was rude and unjustified;
- Councillor (Mr) M was aggressive when speaking to another councillor and had suggested that the clerk had acted without authority for his own purposes; and therefore that Councillor (Mr) M's conduct was unacceptable for a council meeting;

- Councillor (Mrs) M's shouting when other councillors disagreed with her was also unacceptable, as was her and her husband's behaviour at a meeting when they shouted at, talked over and interrupted other councillors, were aggressive, overbearing and rude, and without justification, questioned the clerk's integrity;

- the subject Members' conduct brought their office into disrepute because their behaviour seriously affected the wellbeing of several individuals and damaged the normal running of the council by prompting the clerk and the other three Members to resign.

Dr Robert Chilton, chair of the Standards Board for England said:

"To maintain public confidence in local government, it is essential that councillors' conduct meets the high ethical standards which the electorate has every right to expect from them. [The subject Members'] behaviour fell far short of those standards."

"Their conduct led to the resignation of the council's clerk and three other councillors, depriving the parish council of representation for nearly a year. The disqualification for a year recognises the seriousness of the behaviour and its consequences."

ADJUDICATION PANEL CASES

West Sussex County Council

An appeals tribunal of the Adjudication Panel for England considered an appeal by a Member against sanctions imposed by his authority's standards committee.

The history of the matter was that a complaint had been made by a Council employee that the Member in question had

behaved inappropriately towards her at a training session. There was no real dispute about the facts, the only issue being the interpretation of the Member's behaviour. Two others present at the training shared the complainant's view of the Member's behaviour.

The Standards Committee felt that there were errors of judgement on the Member's part and that county councillors, especially those of cabinet rank, risked damaging the reputation of their office and the interests of the county council in ensuring good working relationships with staff members, when behaving in the way the Member had. The Standards Committee found that the impact on the complainant had been considerable.

The Standards Committee concluded that the Member had failed to treat the complainant with respect, and that he had, while on official business, conducted himself in a manner which could reasonably be regarded as bringing his office as a cabinet member into disrepute.

The Standards Committee therefore imposed the following sanctions:

- censure;
- suspension from the office of cabinet member (but not suspension as a councillor) for a period of one month;
- a written apology to the complainant;
- training (as the Member's interpretation of events showed a lack of insight into proper conduct); and
- conciliation (as the complainant and Member would have to work together in the future).

The Standards Committee took into account the fact that this was a first offence, the informal nature of the event, the Member's remorse, his willingness to apologise and the fact that he had spared the complainant further distress by not disputing the facts (making her attendance unnecessary) and that it was not a case where the same sort

of behaviour was repeated on further occasions or after being told the behaviour was unacceptable. The Standards Committee nevertheless concluded that a sanction should be considered.

The Committee had noted that the Member sought for his self-imposed suspension from his councillor and cabinet office role to be taken into account. However the Committee believed his action, whilst commendable, did not equate to a formal suspension by the Standards Committee, which was a public act that also involved the withdrawal of a financial allowance for the period.

As the appeal was against sanction only, it was not necessary for the Appeal Tribunal to consider the findings of fact or whether those findings amounted to a breach of the Code.

The Appeals Tribunal considered the sanctions imposed by the Standards Committee and concluded that all should be upheld. Particular points:

- censure: the Member had acted wholly inappropriately towards a newly appointed female member of staff, both in terms of the conduct itself and in the light of the position of authority he held as a member of the County Council. This conduct had been very upsetting to the complainant and had caused concern to two other people who had witnessed it.
- Training: the Member's conduct showed a lack of insight into the delicate relationship between councillors generally and council staff. It did not matter that he was no longer a cabinet member because he was still a councillor. What the Member regarded as informality, was particularly inappropriate in the work place as he was likely to be perceived by a member of staff as having considerable power and influence over them. This would have made any inappropriate conduct intimidating and upsetting.

- The Appeals Tribunal noted that the Standards Committee had taken into account the fact that the Appellant had absented himself from the council offices so as not to risk further distress to the complainant, when concluding that a partial suspension of one month should be given. The Tribunal also took this into account and like the Standards Committee did not feel this action, whilst commendable, was sufficient to impress on the Appellant the serious nature of the matter or the severity of the breach.

Standards Committees, like Appeals Tribunals must balance the need to uphold and improve the standard of conduct expected of members with a reluctance to interfere with the democratic will of the electorate who had elected the councillor. Therefore, the Appeals Tribunal concluded that a suspension from the office of cabinet member, but not councillor, for one month was reasonable and proportionate in this case.

The full appeal decision can be accessed on the Adjudication Panel for England's website at:

http://www.adjudicationpanel.co.uk/documents/ape_0407_full_final_decision_copy1.pdf

Contributors:

MOIRA BEIGHTON
North Yorkshire Legal Services