

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

2 February 2009

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 of the Authority to keep them informed of key 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 circulated to Members of the Authority.

CAROLE DUNN

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

County Hall
NORTHALLERTON

Background Documents:

None

21 January 2009



STANDARDS BULLETIN

INTRODUCTION

Welcome to the first edition of the Standards Bulletin in 2009.

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

There have been some interesting Adjudication Panel cases recently, some of which are detailed in the Bulletin, along with a recent decision on bias and prejudicial interests.

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 Henry Cronin***
- **Mr James Daghlish (Chairman) ***
- **Miss Gillian Fleming ***
- **Dr Janet Holt ***
- **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:

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THE CASE TRIBUNALS (ENGLAND) REGULATIONS 2008

The above Regulations come into force on 12 December 2008 and complement the Standards Committee (England) Regulations 2008.

These new Regulations make provision about the sanctions available to a case tribunal of the Adjudication Panel for England.

Under the Regulations, case tribunals will have the power to censure a member, require them to apologise, attend training, or enter into a process of conciliation (powers currently only available to local standards committees).

These sanctions will allow case tribunals to deal proportionately with cases that are referred to them, for example, because they are seen as very serious, but which the tribunals conclude are not so serious; and to deal appropriately with cases referred to them because a standards committee is conflicted out.

The Regulations are available from:
www.opsi.gov.uk

LOCAL ETHICAL FRAMEWORK DEVELOPMENTS

The Government intends to complete its reform of the standards framework early in 2009 by making further regulations, following consultation, to allow authorities to establish joint standards committees.

These Regulations will also enable the Standards Board to suspend a standards committee's powers to assess Code of Conduct allegations, in certain circumstances where it considers this to be in the public interest.

The Standards Board also intends to revise the existing Standards Committee dispensation regulations.

Members will be kept informed of developments.

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, July to September and October to December 2008.

STANDARDS BOARD ANNUAL RETURN

The Standards Board will be collecting information from standards committees on their activities and on their arrangements for supporting ethical conduct each year, starting in April 2009.

The aim is that this information will enable the Board to "drive up the performance of standards committees and of ethical conduct generally by identifying and then sharing notable practice. We will also be able to identify and offer support to those authorities experiencing problems."

The annual return will complement the quarterly return, which concentrates on case handling, whilst the annual return will collect information that will allow the Board to understand the culture and wider ethical governance arrangements in authorities.

The Board is now consulting on, and conducting a pilot exercise on, the specific questions that will make up the annual

return. North Yorkshire County Council has participated in this pilot exercise.

Members will be kept informed of developments.

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.

For some time, all Members' and Standards Committee independent Members' registration of interests forms have been published on the Council's website.

The navigation process has recently been simplified as Members' forms are now published individually rather than in one combined document.

The forms are accessible on the website via the [Homepage](#) / [Council and democracy](#) / Councillors links or by following the following link:

<http://www.northyorks.gov.uk/index.aspx?articleid=8066>

ADJUDICATION PANEL CASES

Erewash Borough Council

On 20 November 2008, the Standards Board Press Office issued a press release regarding the following case:

A former member of the Borough Council, who was convicted of making and possessing indecent images of a child, has been disqualified from office for five years.

The Standards Board investigated allegations that Councillor D brought his office or authority into disrepute by being convicted on several counts of making and possessing indecent images of a child. Thirteen images were found on a computer that had been provided to Councillor D by the council in his capacity as a councillor.

Councillor D was later sentenced to a three-year rehabilitation order, a five-year sexual offences prevention order and registered as a sex offender for seven years. He was also ordered to pay £10,000 costs. His term of office ended in May 2007 and he did not stand for re-election.

The Standards Board's investigation opened after Councillor D was charged, but was postponed until his trial, sentencing and appeal processes were over.

The Adjudication Panel for England imposed the most serious sanction at its disposal. The Panel agreed with the ethical standards officer's conclusion that Councillor D had breached the Code of Conduct by bringing his office and authority into disrepute.

Dr Robert Chilton, chair of the Standards Board for England, said: *"By using a council computer to possess this material, [Mr D] brought his conduct out of his private capacity and linked it with his office as councillor. The public elect councillors to positions of trust, and when that trust is abused, they rightly expect council members to be brought to account.*

"Although [Mr D] did not receive a custodial sentence upon conviction, he used publicly-funded council resources to commit serious offences involving the exploitation of children and which are seen by the public as particularly repugnant. Such behaviour is not only criminal, but also seriously undermines the electorate's confidence in

local democracy and the suitability of such an individual to hold office.”

Liverpool City Council

The former leader of the council, Councillor S, was alleged to have met Councillor B and another man privately to conspire to try to remove the Chief Executive of the Culture Company, thus failing to treat the Chief Executive with respect.

The Ethical Standards Officer (ESO) concluded that Cllr S had given confidential information about the Chief Executive’s health to a newspaper reporter.

The Ethical Standards Officer found that "It is not part of Cllr Storey's responsibility to comment on personal information relating to an employee of the council." and consequently that Councillor S had breached the code of conduct.

The ESO took into account that the reporter already knew the confidential information and that Cllr S had apologised, and found that no further action was needed.

R (Gardner) v Harrogate Borough Council

Mrs. A (a Borough Councillor) applied with her husband to the council for outline planning permission.

When the planning application came to be considered, Mrs. A was associated the chair of the planning committee, Councillor S, through car sharing arrangements, church activities, political events, village gatherings and mutual friends.

The planning application was approved, after Councillor S made a casting vote, contrary to the recommendations of planning officers to refuse the application.

Complaints were made to the Local Government Ombudsman and the Standards Board.

Later, Mr and Mrs A made another planning application, when Councillor S declared a prejudicial interest and left the meeting.

The Ombudsman considered that the involvement of Councillor S in the first planning committee meeting amounted to maladministration, as without his votes the application would have been refused.

The (ESO) concluded that Councillor S did not have a personal interest under the code of conduct and therefore could not have a prejudicial interest.

Whilst ‘a friend can be defined as someone well known to another and regarded with liking, affection and loyalty by that person’ (Adjudication Panel for England decision 0211), the ESO did not ‘consider the nature of the relationship between Councillor S and [Mrs A] . . .such as to constitute a friendship for the purposes of the code of conduct’.

The council, however, accepted the Ombudsman's report that the grant of planning permission was procedurally flawed due to apparent bias on the part of the Chair of the planning committee.

The council leader made a judicial review application, seeking an order quashing the planning permission.

Mr and Mrs A argued that the nature of the relationship between Mrs A and Councillor S was not such as to meet the test for bias ie would not cause a fair-minded and informed observer to conclude there was a real possibility of bias.

The council’s judicial review application was allowed. The court held that the contact between Mrs A and Councillor S went beyond that which might be expected between fellow councillors in the same political party. They were perceived as friendly acquaintances.

Contributors:

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