

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

21 September 2009

Complaints and findings/guidance from Standards for England

1.0 PURPOSE OF REPORT

- 1.1 To update Members on the development of the ethical agenda and any complaints received about Members of the Authority.

2.0 BACKGROUND

- 2.1 Members of the Standards Committee previously agreed it would be helpful to have a standing item on each agenda setting out developments in relation to the ethical framework and any complaints received or pending against Members of the Authority. This is to ensure that Members are up to date with developments and aware of the type of issues that are being raised.

3.0 DEVELOPMENTS

New Codes of Conduct for Members and Officers

- 3.1 Standards for England has confirmed that a revised Code of Conduct for Members is expected late autumn 2009. The SFE does not anticipate many changes to the Code, the main development being to allow the Code to cover certain conduct by Members in their private, non-official capacity, where that conduct would constitute a criminal offence.
- 3.2 Further consultation on the introduction of an Officers' Code of Conduct is likely to take place in 2010.

Suspending a standards committee's assessment and review functions

- 3.3 The Committee has previously been informed about the Standards Committee (Further Provisions) Regulations 2009 which came into force on 15 June 2009. The Regulations allow Standards for England ("SFE") to suspend a relevant authority's local assessment functions (eg where an authority has failed to have regard to the SFE's guidance/directions, or to carry out its standards functions properly, or where the standards committee requests the SFE's intervention).
- 3.4 Standards for England has recently published, on its website, information about its power to suspend standards committees' assessment and review functions. The information can be accessed via the following link:

<http://www.standardsforengland.gov.uk/Aboutus/Suspendingstandardscommitteesassessment/>

and a copy of the information is attached at Appendix 1 to this report.

New SFE training DVD

- 3.5 The SFE is currently finalising a new training DVD on local assessment, which will follow the work of a fictional assessment sub-committee as it considers a number of complaints. The aim of the DVD is to help standards committees and officers who support them in dealing with complaints under the standards regime, exploring important/contentious issues.
- 3.6 The SFE aims to send copies of the DVD to all monitoring officers in October 2009. The DVD, once received, will form part of any future training to the Standards Committee.
- 3.7 Members will be kept informed of developments.

4.0 COMPLAINTS RECEIVED

New complaints

- 4.1 During the period since the last meeting of the Committee, the Monitoring Officer has received one new complaint against a County Councillor that they may have breached the Code. A meeting of the Complaints Assessment Sub-Committee will take place on 21 September 2009, prior to the Standards Committee meeting, to assess the complaint.

Previous complaints

- 4.2 The complaint made in May 2009 that a County Councillor may have breached the Code was assessed by the Complaints Assessment Sub-Committee, which found that no action should be taken. The complainant requested a review of the decision. The Complaints Review Sub-Committee also found that no action should be taken.

5.0 OTHER COMPLAINT MATTERS

Standards Board Monitoring

- 5.1 As the national regulator responsible for monitoring and promoting ethical standards the Standards Board monitors local ethical framework arrangements via an online information return system. Returns are made by authorities on a quarterly basis. The Monitoring Officer has submitted the return for the Authority for the reporting quarter April to June 2009.

6.0 RECOMMENDATIONS

- 6.1 That Members note the contents of this report.

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

Background Documents:

Standards Board for England website at www.standardsforengland.gov.uk
Standards Board Bulletins

County Hall
NORTHALLERTON

10 September 2009



Suspending a standards committee's assessment and review functions

Introduction

Standards for England can direct that a standards committee's assessment and review functions be suspended and instead undertaken either by us or by another relevant authority. We were given this power by the Local Government Act 2000, as amended.

We intend to use this power only as a last resort. Suspension will usually only happen after a series of attempts to improve performance have failed. The attempts to improve performance might result from our notification as well as happening beforehand.

Reasons for suspension

The circumstances in which we may suspend assessment functions are set out in the Standards Committee (Further Provisions) (England) Regulations 2009. They are:

- The standards committee has failed to have regard to our guidance in respect of the exercise of functions under Part 3 of the Act or associated regulations.
- The standards committee has failed to comply with a direction issued by us in respect of the exercise of functions under Part 3 of the Act or associated regulations.
- The standards committee or the monitoring officer has failed to carry out one or more of the functions under Part 3 of the Act or associated regulations in a reasonable time or a reasonable manner.
- The authority or the standards committee has invited us to suspend the committee's assessment and review functions.

We will base our decision on the information we receive and collect about how authorities are performing. This includes quarterly and annual returns.

Notice of intention to suspend functions

Before directing that a standards committee's assessment and review functions be suspended, we will send the authority written notice of our intention, as required by regulation 5. We will not send such a notice in cases where the standards committee or authority has invited us to suspend its functions, because the regulation does not require any notice period in these circumstances.

The purpose of the notice is to inform the authority of the proposed suspension, and to give them an opportunity to avoid suspension. The notice will state our intention, give our reasons, and set a date before which the direction may be given. This date must be no later than six months from the date the

notice was served.

Copies of the notice will be sent to the monitoring officer and the chair of the standards committee. The notice will give the authority no less than 28 days to respond. The monitoring officer, on behalf of the authority, can take this opportunity to tell us why the authority's assessment and review functions should not be suspended, and what actions will be taken to address the issues set out in the notice.

We will take account of any observations made by the authority, as well as any other relevant information, before deciding whether to proceed with a direction. At this point we may well decide not to suspend the authority's assessment and review function, and to continue to work with and support the authority.

If we have not served a direction before the time specified in the notice, we cannot serve it until after we have issued another notice.

Direction to suspend functions

Where we decide that an authority's assessment and review functions should be suspended, we will serve a direction on the authority in writing. Copies of the notice will be sent to the chair of the standards committee and the monitoring officer of the authority.

We can decide that the assessment and review functions should be carried out by another authority rather than by us. Where we are considering this course of action, we will consult with that authority, and will only proceed with its agreement. We will then notify the monitoring officer and the chair of the standards committee of the authority which will be taking over the assessment function as referred to in the direction.

The direction will state the date the suspension is to begin, the reasons for the decision, and the name of the body which will be dealing with the assessment of complaints – either Standards for England, or another named authority.

The direction will also require the authority to publish details of the direction in at least one local newspaper, and, if we consider it appropriate, on the authority's website or any other publication. We may also publish this information.

Amendments to the direction

During the period in which an authority's assessment and review functions have been suspended, we may serve a further direction specifying a different body to deal with these functions. The notice will specify the date this comes into effect, and copies of it will be sent to the chair of the standards committee, the monitoring officer, and the chairs of any standards committees referred to in the notice.

Assessment and review during a suspension

The standards committee of an authority which has been served a direction must refer all the complaints and review requests it receives on or after the date the suspension begins to the body specified in the direction. It must also refer all those complaints and review requests it received before that date, but which it has not yet assessed.

During the suspension period, Standards for England or the other specified authority will carry out all assessments and reviews in relation to the authority, and will produce the written summaries and decision notices. On receipt of a complaint from a suspended standards committee, Standards for England or the other specified authority can decide to:

take no action refer it to an ethical standards officer, or refer it to the monitoring officer of the suspended authority, or the monitoring officer of another authority if that is more appropriate, with a direction to investigate or take other action.

If Standards for England or the other specified authority decides to take no action, the complainant has the right to request that the decision is reviewed. The review must be carried out by someone other than the person or the sub-committee who made the original decision.

Standards for England's work with a suspended authority

The purpose of a suspension is to improve performance and address the issues that gave rise to it. Standards for England will provide a range of tailored support to help the authority improve. We may also work with the standards committee and the monitoring officer to develop an action plan, which we will closely monitor. Support may also include advice and guidance, sharing best practice, training or facilitating peer reviews. Support may be provided by organisations other than us if we consider that is most appropriate.

We expect suspended authorities to cooperate fully with us or the standards committee which is carrying out its functions. This includes providing access to all relevant information required to carry out those functions. If only some of an authority's functions have been suspended, yet it fails to cooperate, we are likely to amend the direction so that all of their functions are carried out by another authority.

If an authority fails to respond to informal requests for information and assistance from us, we will use our powers to formally request information under Section 66C of the Act.

Revocation of a suspension

While an authority's assessment and review functions are suspended, we will monitor and review its performance. When we are satisfied that the circumstances which gave rise to the suspension notice no longer apply, we will revoke the direction to suspend.

When we have decided to revoke a suspension direction, we will serve written notice of this decision on the authority. Like the suspension notice, the revocation notice will specify the date on which the revocation will take effect. Copies will also be sent to the chair of the standards committee, the monitoring officer, and the chair of any standards committee to which the direction referred. It will also require the authority to publish details of the revocation in at least one local newspaper, and, if the authority considers it appropriate, on the authority's website or in any other publication.

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