

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

21 September 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 and senior officers of the Authority to keep them informed of key developments and decided cases in the standards regime.

3.0 THE STANDARDS BULLETIN

3.1 A draft Autumn 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 updated following the outcome of the Committee's meeting and then circulated to Members of the Authority.

CAROLE DUNN

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

County Hall
NORTHALLERTON

Background Documents:

Standards for England Bulletin – August 2009

14 September 2009



STANDARDS BULLETIN

INTRODUCTION

Welcome to the Autumn edition of the Standards Bulletin.

The Standards Committee continues to have a full Work Programme in relation to the local standards regime and the general ethical framework.

With the introduction of a new Code of Conduct for Members just around the corner, it is likely to be a busy time for all those involved in the standards regime over the next few months, as the remaining parts of the framework are introduced. Members will be kept informed of developments.

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:

- **County Councillor Philip Barrett**
- **Mr Henry Cronin***
- **Mr James Darglish (Chairman)***
- **Miss Gillian Fleming***
- **Dr Janet Holt***
- **County Councillor David Jeffels**
- **County Councillor John Marshall**
- **County Councillor Peter Popple**
- **County Councillor Peter Sowray**
- **County Councillor Geoffrey Webber**

* Independent non-elected Member

If in doubt, please seek advice from the following:

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- New Codes of Conduct for Members and Officers
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- Register of Members' Interests
- Sanctions: written apologies
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NEW CODES OF CONDUCT FOR MEMBERS AND OFFICERS

Standards for England has indicated that the current timescale for the introduction of the new Code of Conduct for Members is late autumn 2009

It is not anticipated that there will be many changes to the current Code, the main change being the extension of the Code to cover some conduct by Members in their private capacity, where it results in a criminal offence being committed.

Further consultation on the introduction of a national Code of Conduct for Officers is likely to take place in 2010.

SFE SUSPENSION OF ASSESSMENT AND REVIEW FUNCTIONS

Members have 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).

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/About/Suspendingstandardscommitteesassessment/>

Should you wish to see a hard copy of the SFE information on this issue, please contact the Monitoring Officer or any of her team.

ETHICAL FRAMEWORK GUIDANCE DOCUMENTS

The Standards Committee thought it would be helpful to remind Members of the existing explanatory and guidance documents regarding the Members' Code of Conduct and the ethical framework generally, available within the Council. A list is set out below for Members' information.

Copies of all documents are also available from the Monitoring Officer.

Standards documentation:

- **Statutory Principles** of conduct (appended to the Code of Conduct):
<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=147&p=0>
- the Council's **Code of Conduct for Members** and supporting information about the Code (in Part 5 of the Constitution and on the 'Councillor Conduct' section of the Council's website):
<http://www.northyorks.gov.uk/index.aspx?articleid=2898>
<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=146&p=0>
<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=1715&p=0>
- the supporting **NYCC Guidance Protocol** (in Part 5 of the Constitution and on the 'Councillor Conduct' section of the Council's website):

http://www.northyorks.gov.uk/m1990_0.pdf

<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=1716&p=0>

- the **Standards Committee Terms of Reference** (in Article 9 of the Constitution):

http://www.northyorks.gov.uk/m1990_0.pdf

- **Information about the Standards Committee and its Complaint Sub-Committees** and their roles (in Article 9 of the Constitution and on the 'Councillor Conduct' section of the Council's website):

<http://www.northyorks.gov.uk/index.aspx?articleid=2898>

<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=142&p=0>

- **Standards Committee Assessment Criteria** for the local assessment and review of complaints that Members may have breached the Code of Conduct (on the 'Councillor Conduct' section of the Council's website):

<http://www.northyorks.gov.uk/index.aspx?articleid=2898>;

<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=3942&p=0>

- **Standards Committee Complaint Assessment Procedure** for the local assessment (and review where necessary) of complaints that Members may have breached the Code (on the 'Councillor Conduct' section of the Council's website):

<http://www.northyorks.gov.uk/index.aspx?articleid=2898>

<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=3963&p=0>

- **Standards Committee Complaint Investigation Procedure** for the local investigation of complaints that Members may have breached the Code (on the 'Councillor Conduct' section of the Council's website):

<http://www.northyorks.gov.uk/index.aspx?articleid=2898>

<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=5490&p=0>

- **Standards Committee Complaint Determination Procedure** for the consideration of investigation reports and local determination of complaints that Members may have breached the Code (on the 'Councillor Conduct' section of the Council's website):

<http://www.northyorks.gov.uk/index.aspx?articleid=2898>

<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=5491&p=0>

- Standards Committee **Dispensation Request Procedure** (available from the Monitoring Officer);

- **A webpage on the Council website re 'How to complain about a Member':**

<http://www.northyorks.gov.uk/index.aspx?articleid=3815>

- Information about **Standards for England**, the national regulator of the standards regime:

<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=148&p=0>

www.standardsforengland.gov.uk

- Information about the **Adjudication Panel for England**:

<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=150&p=0>

<http://www.adjudicationpanel.tribunals.gov.uk/>

- **Protocol for Member/Officer Relations** (in Part 5 of the Constitution):
http://www.northyorks.gov.uk/m1990_0.pdf
- **Guidance Note for Councillors and Officers on Outside Bodies** (in Part 5 of the Constitution):
http://www.northyorks.gov.uk/m1990_0.pdf
- **Protocol re Defined Roles of Chief Executive Officer and Leader** (in Part 5 of the Constitution and on the 'Councillor Conduct' section of the Council's website):
<http://www.northyorks.gov.uk/index.aspx?articleid=2898>
<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=5456&p=0>
- **Information on the Monitoring Officer role** (in Article 12 and Schedule 4 to Part 3 of the Constitution):
<http://www.northyorks.gov.uk/CHttpHandler.ashx?id=143&p=0>

There is also other general information on the standards regime contained on the Council's website, accessed through the "Council and Democracy/Councillors/Councillor Conduct" webpages:

<http://www.northyorks.gov.uk/index.aspx?articleid=2898>

Those webpages also contain external links to the Standards for England's and the Adjudication Panel for England's websites where additional information and guidance documents can be found, for example:

Standards for England website (www.standardsforengland.gov.uk):

- **Information about making a complaint under the Code of Conduct for Members:**
<http://www.standardsforengland.gov.uk/Complaintsandinvestigations/Howtocomplain/>
- **National Code of Conduct for Members;**
<http://www.standardsforengland.gov.uk/Legislation/>
http://www.opsi.gov.uk/si/si2007/uksi_20071159_en_1
- **Guidance on Members' Code of Conduct;**
<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/CodeofConduct/filedownload,16126,en.pdf>
- **Pocket Guide to the Code;**
<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/CodeofConduct/filedownload,16127,en.pdf>
- **Legislative Framework**
<http://www.standardsforengland.gov.uk/Legislation/>
- **The Case Reviews;**
<http://www.standardsforengland.gov.uk/CaseInformation/TheCaseReview/>
- **Standards for England Bulletins;**
<http://www.standardsforengland.gov.uk/Publications/TheBulletin/>
- **Guidance on the Role and Make Up of Standards Committees;**
<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/filedownload,16775,en.pdf>
- **Guidance on Dispensations;**
http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/Dispensations%20FINAL_for%20web1.pdf

- **Guidance on the Local Assessment of Complaints** (along with a **Toolkit** of precedent documentation);

<http://www.standardsforengland.gov.uk/Localassessment/Guidanceandtoolkit/filedownload,16422,en.pdf>

<http://www.standardsforengland.gov.uk/Localassessment/Guidanceandtoolkit/#d.en.16399>

- **Guidance on How to Conduct an Investigation** (along with a **Toolkit** of precedent documentation);

<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Investigations/filedownload,16686,en.pdf>

<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Investigations/Toolkit/>

- **Guidance on Local Investigations and Other Action;**

<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Investigations/filedownload,16685,en.pdf>

- **Guidance on Other Action**

<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/Other%20action%20guidance%20FINAL%20for%20web%20small3.pdf>

- **Guidance on Local Determinations** (along with a **Toolkit** of precedent documentation)

<http://www.standardsforengland.gov.uk/determinations/filedownload,16783,en.pdf>

<http://www.standardsforengland.gov.uk/determinations/#d.en.16782>

- **Guidance on Joint Standards Committees**

http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/Joint%20Standards%20Committees%20FINAL_for%20web1.pdf

- **SFE Statement about power to suspend assessment and review functions**

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

- **Occasional Paper: Predisposition, Predetermination or Bias, and the Code**

<http://www.standardsforengland.gov.uk/Publications/OccasionalPaper/>

- **Factsheets**

<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/CodeofConduct/Factsheets/>

- **Frequently Asked Questions**

<http://www.standardsforengland.gov.uk/TheCodeofConduct/Factsheetsandfrequentlyaskedques/>

- **Training Materials**

<http://www.standardsforengland.gov.uk/Resources/>

- **Statistical Information**

<http://www.standardsforengland.gov.uk/CaseInformation/MonthlyStatisticalDigest/>

The Adjudication Panel for England website:

(<http://www.adjudicationpanel.tribunals.gov.uk/>)

- Information about **hearings and decisions:**

<http://www.adjudicationpanel.tribunals.gov.uk/Public/Hearings.aspx>

- **Forms and Guidance:**

<http://www.adjudicationpanel.tribunals.gov.uk/FormsGuidance.htm>

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) in the Register of Members' Interests.

Remember too:

- if you amend your County Council registration of interests form, consider whether you need to make the same or a similar amendment to your interests form on any other relevant authority on which you serve (eg the Fire Authority, or one of the National Park Authorities).

Should you wish to inspect the Council's Register of Members' Interests, or amend your registration entry, please contact Ann Rose (extension 2237) in Room 18, County Hall, Northallerton.

Alternatively, registration of interests forms are available for inspection on the Council's website via the [Homepage/Council and democracy/](#) Councillors link or by following the following link:

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

Should you have any queries in relation to the registration of your interests or of any gifts or hospitality received/offered, then please feel free to contact the Monitoring Officer or any of her team.

STANDARDS COMMITTEE SANCTIONS: WRITTEN APOLOGIES

One of the 11 possible sanctions available to a standards committee on finding that a Member has breached the Code of Conduct is the imposition of a requirement on the subject Member to give a written apology.

Standards for England has offered further advice on this sanction.

Standards committees must ensure that any sanction they impose complies with the statutory list of sanctions; for example, a sanction of a *verbal* apology would be invalid as it is not one of the specified sanctions.

If it is minded to impose a written apology sanction, a standards committee must:

- specify the form in which the apology should be written; and
- set a time-limit for the apology to be written.

An appropriate sanction?

If a Member shows no remorse for their conduct and they do not acknowledge that their behaviour was wrong then the Standards Committee should consider whether a written apology would be the appropriate sanction. A written apology should be a genuine apology otherwise the sanction becomes meaningless.

What happens if the Member doesn't comply with the sanction to give a written apology?

If a Member refuses to submit a written apology then they may face a further complaint of potentially bringing their office or authority into disrepute by failing to comply with the sanction.

However, a Member can be suspended by the Standards Committee for a period of up

to six months or until such time as the Member issues the written apology. This would ensure that if the Member does not apologise, they remain suspended.

However:

The Standards Committee must exercise care when deciding on the period of suspension that would apply if no apology is given. The period of suspension should reflect the seriousness of the conduct. In the SFE's view, a six month suspension to encourage an apology would be a 'misuse of the power'. A full six month suspension for a relatively minor breach of the Code may not be appropriate and careful consideration must be given to an appropriate sanction in light of the nature of the breach.

Further information on these issues can be found in the Standards Committee Determinations guidance at:
www.standardsforengland.gov.uk

CASES

Somerset County Council

The Standards for England Press Office issued a press release regarding the following case.

The Chief Executive of Somerset County Council made a number of complaints about the subject Member, who made a formal complaint to the Council about the Chief Executive. The Council decided not to investigate this complaint.

The Chief Executive made a further complaint about the subject Member and as a result the Member's political party asked him to suspend himself from the group pending the outcome of all ongoing investigations. The subject Member declined. The political party formally revoked his membership soon after.

The subject Member then wrote to the Council's Monitoring Officer and the

Association of Local Authority Chief Executives stating that the Chief Executive had behaved in an inappropriate manner and had displayed unacceptable behaviour.

The Tribunal had to decide whether:

- the subject Member had brought his office or authority into disrepute;
- the subject Member had used his position to improperly disadvantage the Chief Executive;
- the subject Member had intimidated or attempted to intimidate the Chief Executive.

The Tribunal found that:

- There was no evidence that the subject Member was reasonable in his belief in the seriousness of the Chief Executive's alleged behaviour;
- Whatever he had seen, he did not, at the time, regard the alleged incidents as seriously as he was asserting at the time he wrote the letters;
- He had knowingly exaggerated the facts about the Chief Executive's style and performance in order to strengthen his allegations of serious misconduct.

The Tribunal decided that the subject Member was motivated by a desire to cause harm to the Chief Executive and an intention to cause the Chief Executive a disadvantage in terms of his employment with the Council. The letters were an act of revenge and because of this the subject Member had used his position improperly and failed to follow the Council's code of conduct.

The subject Member was disqualified from acting as a Councillor for two years.

Needham Market Town, Suffolk,

The Standards for England Press Office issued a press release regarding the following case.

It was alleged that the subject Member had called another councillor and the Deputy Clerk 'proven liars' at a council meeting (where the other councillor was being elected as Mayor), and that he had refused to withdraw his remarks.

The Ethical Standards Officer considered that the words used by the subject Member were rude and offensive and were expressions of personal anger. His comment questioned the integrity, honesty and credibility of the councillor and demeaned an important occasion for the council.

The subject Member had previously been suspended for a three month period for failing to treat the same councillor with respect.

The Adjudication Panel for England found that the subject Member had breached the Code of Conduct by treating both the councillor and the council officer with disrespect, and was disqualified from office for one year.

Dr Robert Chilton, Chair of Standards for England, said: "While it is only right that members are entitled to challenge their fellow councillors and officers about their work, they have a duty to respect other people. In failing to do this, [the Councillor] has undermined confidence in his office and the council as a whole, and the one year disqualification reflects this."

Contributors:

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North Yorkshire Legal & Democratic Services

Resources

www.standardsboard.gov.uk

SBE Bulletins

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