

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

13 September 2010

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

Annual Assembly of Standards Committees

- 3.1 This year's Annual Assembly of Standards Committees, "A Place for Standards", due to take place at the ICC in Birmingham on 18 and 19 October 2010, has been cancelled. This decision follows the recent announcement by the Government to introduce provisions in the Decentralisation and Localism Bill to "abolish the Standards Board regime".
- 3.2 Standards for England does not expect the proposed Bill to be published until the autumn, when the implications for local government and the standards regime will be clearer. This will be too late to inform the Assembly event preparations, hence the decision by the SfE to cancel the Assembly.
- 3.3 Standards for England has stated that it is keeping in touch with Monitoring Officers throughout the country and will update them on the situation as soon as developments are communicated from Central Government. Members will, in turn, be kept informed of developments.

Decentralisation and Localism Bill

- 3.4 Standards for England has written to all Standards Committee Chairs, explaining that the Government announced in the recent Queen's Speech that the proposed Decentralisation and Localism Bill will include proposals to **'abolish the Standards Board regime'**.
- 3.5 No clear details of the scope or implications of this proposal are yet available, however, until such time as the relevant legislation is passed, the current statutory standards regime remains operative.

- 3.6 Bob Chilton, Chair and Glenys Stacey, Chief Executive of Standards for England have issued a joint statement on the SFE website, responding to this news, as follows:

“We are very disappointed at the Government’s decision to abolish the local government standards regime. Since 2007, Standards for England has dealt only with those matters which local authorities could not deal with themselves. Our recent review of this devolved local framework found that it is delivering increased confidence in the accountability of local politicians, improved member behaviour and contributing to better governance.

We do not have clear details as yet of what is proposed for the future, but for now the local standards framework remains pending legislative change. Our priorities are to fulfil our statutory duties, to support local authorities in maintaining high standards and to assist the government in developing and implementing any new arrangements.”

- 3.7 The Government will set out more detail about the proposals to be contained in the legislation over the coming months. Members will be kept informed of developments.

Standards for England Protocol for Partnership Working

- 3.8 Partners involved in local authority decision-making, who are not members of an authority, are not subject to the same rules governing their behaviour as elected or co-opted members on the same bodies. To help address this, Standards for England has developed a Partnership Behaviour Protocol, a copy of which is attached at Appendix 1 to this report.
- 3.9 Standards for England have advised that authorities can adopt the Protocol “wholly or amend it as appropriate” to suit their own requirements. The document is not prescriptive and the values and behaviours listed are not exhaustive; they are based on a research project undertaken by Standards for England with Manchester City Council and partners in 2009.
- 3.10 Further explanatory notes regarding the Protocol, taken from the SFE’s website, are attached at Appendix 2 to this report.
- 3.11 The Protocol appears to be a helpful document which may be of assistance to the Authority irrespective of the prospect of the abolition of Standards for England. The Monitoring Officer will consider the Protocol in more detail and will report back to the Committee, at a future meeting, regarding the possible application of the Protocol within the Authority. Any early observations from Members are welcome.

Outstanding parts of ethical framework

New Codes of Conduct for Members and Officers

- 3.12 The remaining parts of the standards regime, long - awaited, are the new Codes of Conduct for Members and Officers. Given the recent announcement by the Government of its intention to abolish the standards regime, it remains to be seen whether any new Codes based on previous consultation are ultimately introduced.
- 3.13 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 (10 May 2010), the Monitoring Officer has received three new standards complaints.
- 4.2 The first complaint was received on 16 July 2010 and was considered by the Complaints Assessment Sub-Committee on 6 August 2010 when it was referred to the Monitoring Officer for investigation. The Deputy Monitoring Officer will undertake the investigation on the Monitoring Officer's behalf.
- 4.3 Two further complaints were received on 23 July 2010 from the same complainant about one elected Member and one co-opted Committee Member in relation to essentially the same issue. Both complaints were considered by the Complaints Assessment Sub-Committee on 6 August 2010 when one was referred to the Monitoring Officer for investigation, and the other was considered to be outside the jurisdiction of the Sub-Committee and consequently no further action is to be taken on that complaint. The Deputy Monitoring Officer will undertake the investigation of the other complaint on the Monitoring Officer's behalf.

Previous complaints

- 4.4 The complaint received in January 2010 and assessed by the Complaints Assessment Sub-Committee on 1 February 2010, was determined by the Complaints Determination Sub-Committee on 6 August 2010, after being investigated by the Deputy Monitoring Officer on the Monitoring Officer's behalf.
- 4.5 The Complaints Determination Sub-Committee, on hearing and considering all of the evidence, reached the decision that there had been a breach of the Code of Conduct and imposed two sanctions upon the subject member; namely, to write a letter of apology to the complainant (in a form agreed by the Sub-Committee) and to undertake training with the Council's Monitoring Officer on the Code of Conduct and the Council's Use of IT Policy.

Recurring themes from Complaint Determination Hearings

- 4.6 The Complaints Determination Sub-Committee has now held two complaint determination hearings and on both occasions the complaints concerned the tone of, and language used in, emails sent by the subject Members to members of the public. On each occasion the subject Member has been sanctioned to undertake training with the Council's Monitoring Officer on the Council's Use of IT Policy.
- 4.7 Committee Members are requested to consider whether there may be a wider training issue for Members regarding the Council's Use of IT Policy and the use of email in particular and, if so, ways in which such training may be best addressed. Members may feel that an appropriate starting point might be a suitably worded article in the Standards Bulletin.

5.0 OTHER COMPLAINT MATTERS

Standards for England Monitoring

- 5.1 As the national regulator responsible for monitoring and promoting ethical standards, Standards for England 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 appropriate returns for the Authority for the reporting quarters to date in 2010.

6.0 RECOMMENDATIONS

- 6.1 That Members note the contents of this report.
- 6.2 That Members determine whether there may be a wider training issue for Members regarding the Council's Use of IT Policy and the use of email in particular and, if so, ways in which such training may be best addressed.

CAROLE DUNN

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

Background Documents:

Standards Committee minutes

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

Standards for England Bulletins

County Hall

NORTHALLERTON

25 August 2010

Partnership behaviour protocol

Achieve intended outcomes

Our priorities are evidence based and our decision making is transparent.

We will:

- Share resources to achieve joint outcomes
- Monitor how well we have used our resources
- Actively encourage ideas and innovation
- Ensure that decision making is transparent
- Be committed to continuous improvement
- Ensure that claims of improved performance are based on clear evidence
- Establish accountability both across the partnership (horizontally) and within each organisation (vertically)

Public interest

We act in the interest of the public and demonstrate value.

We will:

- Focus on long term as well as short term issues
- Act in the interests of the public good over individual interests
- Demonstrate to the community how we are achieving publicly valued outcomes
- Agree a protocol for the handling of complaints that relates to our joint work

Building partners' capacity

We build capacity in our partnership.

We will:

- Be committed to developing individual partners' skills to achieve our aims
- Encourage partners to be confident working outside of their organisational culture
- Be open to partners' suggestions and help

Value and respect each other

We respect and value everyone's contribution.

We will:

- Ensure that all partners contribute appropriately and openly
- Acknowledge the capabilities of all members
- Recognise and embrace the role of voluntary and community sector partners
- Avoid dominance by one or two individuals
- Respect each other's roles and needs
- Actively encourage the participation of all partnership members
- Build effective working relationships with each other
- Recognise the value of all partners' contributions

Act ethically

We act ethically. We are open and objective and encourage constructive challenge.

We will:

- Agree a mechanism for whistleblowing and dealing with complaints
- Ensure whistleblowers are supported
- Actively promote a 'no-blame' culture
- Support partners to both understand and constructively challenge any poor behaviour
- Use appropriate, unambiguous and simple language
- Agree how we will achieve democratic accountability
- Ensure that our dialogue is open and transparent
- Declare conflicts of interest and address them
- Make sure that the purpose of all meetings is made clear
- Be honest and objective

Aligning strategies and networks

We harness our collective efforts through joint planning, delivery and governance arrangements.

We will:

- Ensure that partners can influence the decision making of member organisations
- Allow sufficient time and capacity to be given to understand an issue and to reflect on its impact
- Make sure that actions taken by the partnership are clear, time-limited and task-orientated
- Encourage all partners to actively shape the strategy
- Ensure that agreed actions are carried out

APPENDIX 2

Protocol for local authority partnership working

Introduction

Standards for England firmly believes that high standards must be at the heart of all local government decision making. Partnership working between local authorities and other agencies - public bodies, the private sector and the voluntary sector - is an increasingly important aspect of public service delivery. Good governance of partnership arrangements enables an authority to work more effectively and to manage risk.

Partners involved in local authority decision-making who are not members of an authority are not subject to the same rules governing their behaviour as elected or co-opted members on the same bodies.

To help address this, Standards for England has developed a [partnership behaviour protocol](#). The values and behaviours in the protocol were developed in conjunction with Manchester City Council and some of its partners. As well as being devised through consultation, the protocol also draws on, and is consistent with, the CIPFA SOLACE (Chartered Institute of Public Finance Society of Local Authority Chief Executives) Good Governance Framework and the General Principles for the conduct of people in public life. These ten general principles are set out in the Relevant Authorities (General Principles) Order 2001.

Our approach involves partners developing a shared set of values and behaviours that they think should underpin their partnership work.

We invite local authorities to use our protocol and either adopt it wholly or adapt it to fit their own circumstances.

The purpose of the partnership behaviour protocol

Because of the variety of forms that local authority partnership working takes, there can be considerable variation in partnership governance arrangements.

Different partners may be accustomed to working in different ways, and there may be inconsistency in the guidelines that partners are working to and how these guidelines are enforced.

The Protocol for partnership working attempts to address these inconsistencies to improve the governance of partnerships.

Good governance can help promote:

- high quality leadership
- good decision making
- clarity in relation to roles, responsibilities and activities
- successful working relationships

The partnership behaviour protocol aims to:

- embed high ethical standards in partnership working
- address the disparity of rules and scrutiny governing those involved in local decision making
- enable partners to agree what behaviour they can expect from each other
- help partners hold each other to account and encourage constructive challenge between partners
- help partners to exercise leadership by demonstrating their own high standards of behaviour to other partners and to the public

- promote trust amongst the general public, demonstrating the partners' commitment to behaviour of a certain standard
- improve performance management

Suggestions for using the partnership behaviour protocol

We encourage local authorities and their partners to adapt the partnership behaviour protocol to fit local circumstances.

Forming partnerships

The protocol can be used to:

- assess the compatibility of partners by asking them to sign up to some common values and behaviours
- form part of a tendering process, asking potential partners if they would be willing to sign up to and provide evidence of the values specified

Managing partnerships

The protocol can be used to:

- form part of the partnership governance documents used by local authorities to set out the minimum governance requirements for their partners. The protocol will help demonstrate the values of good governance through upholding high standards of conduct and behaviour, in line with principle three of the CIPFA SOLACE Good Governance Framework.
- monitor the values and behaviours of partnerships on an ongoing basis
- enable those engaged in partnership working to hold each other to account for the values and behaviours outlined in their agreed protocol
- aid mediation on a disagreement by providing reference to clearly defined commitments by partners
- promote transparency and accountability of partnership decision making. Once a local protocol is finalised and all members of the partnership have signed up to it, the protocol should become a public document. The protocol should be easy to understand and make what are sometimes complex arrangements and accountabilities clear to the general public.

Overseeing partnerships: a role for the standards committee?

Note: The partnership behaviour protocol does not have a statutory basis or have sanctions attached to it. Despite this, authorities may wish to consider the role of their standards committee in maintaining and overseeing adherence to the partnership behaviour protocol.

We suggest that standards committees could:

- act as chief promoters and champions of the partnership behaviour protocol
- be well suited to oversee both the implementation of and adherence to the partnership behaviour protocol
- play an active role where issues do arise in a partnership, for example one partner challenges another partner about their behaviour in relation to the protocol
- mediate between partners where agreement cannot be reached or issues cannot be resolved

Local authority partnerships and the Code of Conduct

To align standards of behaviour in local government partnerships some have suggested that all partners sign the members' Code of Conduct. However, the statutory instrument, *The Local Authorities (Model Code of Conduct) Order 2007*, lists the authorities to which the Code applies and was issued by the Secretary of State to apply to members and co-opted members of these authorities only. It is a piece of legislation that cannot be made to apply to other bodies or individuals without approval by Parliament.

While those working in partnership with local authorities could sign up voluntarily to principles similar to those set out in the Code, partners would remain outside the statutory local government standards framework. This approach may also provide a disproportionate response to aligning standards that could discourage some bodies from working with local authorities.

The partnership behaviour protocol and local authority legal requirements

The suggested approach to developing a partnership behaviour protocol is **in addition to compliance with legal requirements**. The partnership behaviour protocol does not replace, but supports, the following:

- legal requirements on equal opportunities and anti-discrimination
- required mechanisms for good governance (rather than the values that underpin them) such as financial probity, systems for establishing value for money and good practice around contracting and procurement

Template

► [Protocol for partnership working template](#)

The research underpinning the development of the partnership behaviour protocol was undertaken by Manchester Business School. A copy of the research report, detailing the methodology used, is available here: [MBS research - protocol partnership working](#)

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