



STANDARDS BULLETIN

INTRODUCTION

The Standards Committee continues to consider the impact of the Localism Bill on the standards regime and to consider appropriate standards arrangements' options for the authority in the future.

Members will be kept fully informed of developments but it is important to remember that until the Bill is enacted, the current Members' Code of Conduct and standards regime will continue to apply.

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

HENRY CRONIN

Chairman of the Standards Committee

THE STANDARDS COMMITTEE

The Members of the Standards Committee:

- **Ms Hilary Bainbridge***
- **County Councillor Philip Barrett**
- **Mr Henry Cronin* (Chairman)**
- **Mrs Hilary Gilbertson MBE ***
- **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:

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:

- Changes to standards regime
- Statement by SFE Chairman
- Register of Members' Interests
- Current Standards Committee Complaints
- Decided Cases

*** CHANGES TO STANDARDS REGIME ***

Localism Bill

The Localism Bill, once enacted, will have a significant impact on the national standards regime, abolishing the current legislative framework and leaving the internal 'regulation' of member conduct matters to relevant authorities' discretion.

Details of the Bill are available on the Department for Communities and Local Government website:

<http://www.communities.gov.uk/localgovernment/decentralisation/localismbill/>

<http://services.parliament.uk/bills/2010-11/localism.html>

Members may recall that the proposals in the Bill are:

- statutory clarification of the common law rules on predetermination and bias. The Bill states that a member decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making a decision just because the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter and the matter was relevant to the decision. This reflects the current common law position that such matters would amount to predisposition;
- the creation of a statutory duty to 'promote and maintain high standards of conduct' by members and voting co-opted members;
- the abolition of Standards for England (on a date appointed by the Secretary of State) and its functions;
- the removal of the First-tier Tribunal (Local Government Standards in England)'s jurisdiction over member conduct;
- the revocation of the statutory General Principles of conduct;

- the abolition of the *requirement* for relevant authorities to have a Members' Code of Conduct;
- the abolition of the *requirement* for relevant authorities to have standards committees;
- the revocation of relevant authorities' power to suspend members.

Transitional arrangements will be put in place.

New regulations will set out a statutory interests' regime, including the registration and declaration of certain interests and may also make provision for:

- preventing/restricting Member participation in authority business to which a declared interest relates;
- the granting of dispensations;
- the sanctions which may be imposed by the authority for breach of the regulations;
- requiring the Register to be available to the public.

Failure to comply with these requirements without reasonable excuse will constitute a criminal offence. The penalty that a magistrates' court may impose upon conviction of such an offence will be a fine of up to £5,000. The court may also order the disqualification of the person from being a member/co-opted member of a relevant authority (the authority in question or any other relevant authority) for up to five years.

The Bill is due to have its report stage and third reading on 17 and 18 May 2011. It is anticipated that the Bill will receive Royal Assent late 2011. However, until such time as the relevant legislation is passed, the current statutory standards regime remains operative.

Department for Communities and Local Government has published an Impact Assessment to assess "the impact of abolishing the Standards Board regime, to clarify the law on predetermination to ensure that councillors may speak or vote on matters on which they have previously spoken or campaigned, and to maintain high standards of conduct by introducing a new statutory requirement to register and declare certain personal interests on a publicly available register." The Impact

Assessment can be downloaded from the CLG website using the following link:

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

Standards for England has confirmed, on its website, that it is likely that it will cease to investigate complaints in late 2011 and will be formally abolished in early 2012. It has established a specific webpage on its website to publish developments in relation to the national standards regime:

<http://www.standardsforengland.gov.uk/news/futureofthelocalstandardsframework/>

The Standards Committee is currently considering the options available to the Authority in terms of any new standards regime.

STATEMENT BY SFE CHAIRMAN

On 11 March 2011, the Chairman of Standards for England, Dr Robert Chilton, made the following statement:

Following the departure of our Chief Executive, Glenys Stacey, in February, I am pleased to welcome Standards for England's current Director of Regulation - Tim Leslie - into the role of Interim Chief Executive.

Prior to joining Standards for England in 2008, Tim held a series of high level roles in the financial, risk management and IT services sector.

During his time with Standards for England, Tim has played a key role in the development of the organisation's role in guiding and maintaining an effective and self-supporting local standards framework.

His oversight of the recently concluded Project Excellence programme enabled the organisation to re-engineer our case handling processes, resulting in consistency of standards as well as significantly faster completed investigation times.

Tim also played a principal role in the development of our recommendations for simplifying the local standards regulatory

framework as part of the Proportionality Review to Government in early 2010.

He will now assume the role of Interim Chief Executive, in addition to his existing role in Regulation, until the closure of the organisation under proposals contained in the Localism Bill.

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), 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.

CURRENT STANDARDS COMMITTEE COMPLAINTS

The Standards Committee agreed that it would be helpful to publish in the Standards Bulletin, statistics in relation to current complaints being dealt with by the Committee via its three complaint handling sub-committees.

There are three current complaints that County Councillors may have breached the Code of Conduct for Members.

- Two of the complaints are the subject of current investigations on behalf of the Monitoring Officer.
- The other is awaiting assessment.

Two complaints have recently been considered by the Determination Sub-Committee:

- in relation to one complaint, the Determination Sub-Committee accepted the Investigating Officer's conclusion that there had been no breach of Code;
- in relation to the other complaint, the Sub-Committee found that there had been a breach of paragraphs 10 and 12 of the Code of Conduct, as the subject Member had failed to declare a prejudicial interest and to withdraw from the relevant Committee meeting. The Sub-Committee imposed a sanction that the subject Member be censured by the Sub-Committee

CASES

North Tyneside Metropolitan Borough Council

The following Case Summary is published on Standards for England's website:

The complainant alleged that the Mayor:

- was inappropriately involved in the process by which their assistant was appointed;

- knowingly permitted the assistant to act unlawfully once in post and had not reported the assistant's unlawful actions;
- provided misleading answers to questions regarding the assistant's appointment and, after subsequent internal investigations had shown these answers to be factually incorrect, had failed to correct the record.

The Ethical Standards Officer (ESO) found that the Mayor had not breached the Code of Conduct and that:

- the Mayor had had very limited involvement in the appointment process and there was no evidence that any involvement had been inappropriate;
- the Mayor had not been involved in the stage of the process during which the terms of the assistant's secondment were discussed or agreed;
- there was no evidence which established to the ESO's satisfaction that the Mayor knew the assistant was acting unlawfully, or had permitted him to act in such a manner;
- council officers had drafted the responses to the questions asked and the Mayor had provided answers in good faith.

The ESO was, however, concerned that the minutes of the council meeting in question still contained only the factually incorrect information and asked the council to consider the possibility of inserting a link which would take the reader to the subsequent corrections. The ESO did not find that any failures in this regard were attributable to unethical conduct on the part of the Mayor.

Cheshire East Council

The following Case Summary is published on Standards for England's website:

The subject member was a cabinet member (with responsibility for finance) of Cheshire East Council from its inception in April 2009 until November 2010.

Over several years he developed an idea which involved allowing developers to build houses on council owned land. The buyers would only need to pay initially 50% of the value of the houses, so enabling people to buy houses they otherwise could not afford, and the council would gain a proportion of the equity of the houses. The subject member projected that this would bring significant financial benefit to the authority.

The complainant alleged that the subject member had:

1. sought to compromise the impartiality of council officers;
2. failed to register a personal interest;
3. disclosed confidential information;
4. used resources not in accordance with the authority's reasonable requirements;
5. used or attempted to use his position improperly to secure an advantage;
6. brought his office or authority into disrepute.

The ESO found that the subject member was not in breach the Code of Conduct.

Allegations 1) and 2) related to a meeting the subject member held with a senior council officer in August 2009 in an office owned by a large property developer. His housing idea was mentioned at the meeting. The ESO found that they had met there as a matter of convenience, as the subject member was unable to get to the council offices at the time. She considered there was no evidence that the meeting had altered the officer's views about his housing idea, or that it was likely to do so. She therefore found he had not compromised or attempted to compromise the officer's impartiality.

The ESO also considered whether the subject member ought to have registered the fact that the property developer made the office available for the meeting in August 2009, in the register of members' interests. As there was no business of the authority which could have affected the property developer, she considered the subject member was not under an obligation to register the hospitality. Therefore he did not fail to comply with the Code of Conduct.

Allegation 3) concerned a plan of an area of land which the subject member requested from a council officer and then forwarded to the same property developer as in allegation 1). It was alleged that the subject member improperly

disclosed confidential information. The ESO found that the plan was readily accessible information and was therefore not confidential. The subject member therefore did not fail to comply with the Code of Conduct.

Allegation 4) related to the subject member allegedly misusing officers' time to promote his housing idea. He asked for an update on the plan he obtained, and he discussed his idea with a senior officer. The ESO considered that the Code of Conduct was not intended to prevent such dialogue and that the subject member had not failed to comply with it.

Allegation 5) related to paragraph 6(a) of the Code of Conduct which states that a member must not use or attempt to use their position improperly to secure an advantage. Evidence in support of this allegation was that in October 2010 the subject member told the leader of the council that he was hoping for personal gain from his housing proposal, and in an email to the deputy leader he wrote that he was "hopeful of a share in the company" and "wanted a reward for my efforts". The subject member denied that he stood to make a gain from the housing proposal. He denied using the words alleged to the leader, but the ESO concluded that he had done so.

Another witness stated that the subject member had said on 25 October that he had already told the developer that the council would be releasing land. Both the subject member and the developer denied that any such undertaking had been given.

The ESO considered that the subject member's proposal had not related to one particular site, but he had used one site to demonstrate the viability of his idea. She noted that it was understandable that the subject member's email and admission to the leader had caused concern to the complainant. However, she considered that the subject member had always been open about his proposals, which were at a formative stage. She concluded that there was insufficient evidence to show that the subject member had attempted improperly to gain an advantage from his housing idea.

Allegation 6) related to disrepute. The ESO considered that in the absence of any other breaches of the Code of Conduct, the subject member had not brought either his office or his authority into disrepute. She observed that the subject member ought to reflect on his actions

as they had caused understandable concerns from senior officers and other members about the public perception of his relationship with the property developer.

Contributors:

MOIRA BEIGHTON
North Yorkshire Legal & Democratic Services

Resources

www.standardsforengland.gov.uk

SFE Bulletins

www.adjudicationpanel.tribunals.gov.uk