

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

28 November 2011

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 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 as necessary following the outcome of the Committee's meeting and then circulated to Authority Members and senior officers.

CAROLE DUNN

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

County Hall
NORTHALLERTON

Background Documents:

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

17 November 2011

STANDARDS BULLETIN

INTRODUCTION

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)

The Localism Bill received Royal Assent on 15 November 2011 and is now the **Localism Act 2011**.

The Standards Committee is currently considering the provisions of the Act in terms of its impact on the standards regime and likely appropriate standards arrangements' options for the Authority in the future.

Members will be kept fully 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.

HENRY CRONIN

Chairman of the Standards Committee

IN THIS ISSUE:

- Changes to standards regime – the Localism Act 2011
- Standards for England – new accommodation
- Standards for England Annual Report and Accounts 2010/11
- Committee on Standards in Public Life – Public Attitude Survey 2011
- Standards Committee complaints
- Register of Members' Interests
- Decided Cases

*** CHANGES TO STANDARDS REGIME ***

The Localism Act 2011

In previous editions of the Bulletin, Members have been briefed on the progress of the Localism Bill, which intends to 'abolish the Standards Board regime'.

The Bill received Royal Assent on 15 November 2011 and is now **the Localism Act 2011**. A copy of the Act (which extends to 496 pages) is available at:

<http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted>

An updated Plain English Guide to the Localism Act is available on the Communities and Local Government website at:

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

Standards for England has confirmed on its website that *"under the standards provisions of the Act, Standards for England's regulatory functions will shortly cease. The date will be confirmed in commencement orders but we anticipate this will occur on 31 January, 2012. We expect further detail on transitional arrangements to be set out in regulations before the end of January."*

The standards provisions are contained in Chapter 6 (Predetermination) and Chapter 7 (Standards) of the Act.

The CLG Plain English Guide explains that the Act provides for the following in relation to the ethical framework:

- The abolition of Standards for England:

"Instead, local authorities will draw up their own codes, and it will become a criminal offence for councillors to deliberately withhold or misrepresent a financial interest. This means that councils will not have to spend time and money investigating trivial complaints, while councillors involved in corruption and misconduct will face appropriately serious sanctions. This provides a more effective safeguard against unacceptable behaviour."

- Clarifying the rules on predetermination:

"These rules were developed to ensure that councillors came to council discussions with an open mind. In practice, however, these rules had been interpreted in such a way as to reduce the quality of local debate and stifle valid discussion. In some cases councillors were warned off doing such things as campaigning, talking with constituents, or publicly expressing views on local issues, for fear of being accused of bias or facing legal challenge. The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on."

The Act also:

- creates a statutory duty on relevant authorities to 'promote and maintain high standards of conduct' by members and voting co-opted members;
- requires a relevant authority to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity;
- requires the code adopted to be consistent with the following principles:
 - ❖ selflessness
 - ❖ integrity
 - ❖ objectivity
 - ❖ accountability
 - ❖ openness
 - ❖ honesty
 - ❖ leadership
- requires the monitoring officer to establish and maintain a register of interests of members and co-opted members, which must be available for public inspection and published on the Authority's website;
- provides for an interests and dispensations regime;
- requires the authority to have in place:

(a) arrangements under which allegations can be investigated, and

(b) arrangements under which decisions on allegations can be made,

such arrangements to include provision for the appointment by the authority of at least one independent person.

The Act provides for transitional arrangements to be put in place.

Future regulations will set out further details of the new ethical framework.

Officers and members of the Standards Committee are currently considering the provisions of the Act in terms of its impact on the standards regime and likely appropriate standards arrangements' options for the Authority in the future.

Further details will be provided to Members in due course.

STANDARDS FOR ENGLAND **– NEW ACCOMMODATION**

Standards for England has moved to new accommodation located at:

Eleventh Floor
Portland Tower
53 Portland Street
Manchester
M1 3LF

Switchboard telephone number: 0161 212 7000

Should you have any queries in relation to the Code of Conduct or the standards regime, please contact the SFE's enquiries line:

telephone number: 0845 078 8181

or email:

enquiries@standardsforengland.gov.uk

STANDARDS FOR ENGLAND **ANNUAL REPORT AND** **ACCOUNTS 2010/11**

Standards for England recently published its Annual Report and Accounts for 2010/11, which documents its financial accountability and performance each year. Should Members wish to read the report, it is published on the SFE's website at:

<http://www.standardsforengland.gov.uk/media/Standards%20for%20England%20Annual%20Report%20and%20Accounts%20HC%201247%20v1.pdf>

COMMITTEE ON STANDARDS **IN PUBLIC LIFE – PUBLIC** **ATTITUDE SURVEY 2011**

The Committee on Standards in Public Life recently published its fourth biennial national survey into public attitudes towards conduct in public life. A copy is available online at:

http://www.public-standards.org.uk/Library/CSPL_survey_Final_web_version.pdf

The Foreword to the report, by Sir Christopher Kelly, Chairman of the Committee, highlights that:

- ... Previous surveys have shown that public confidence in those holding public office has been on a long term decline since 2004. The 2010 results suggest that the rate of decline may have increased. Worryingly, between 2008 and 2010, the proportion thinking that most MPs are dedicated to doing a good job for the public fell by twenty percentage points (from 46 to 26 per cent); the proportion thinking that most MPs are competent at their jobs fell by ten percentage points (from 36 to 26 per cent).
- On a more positive note, there has been some increase in the public's perception that professionals (other than MPs) 'tell the truth' and there is evidence to suggest that there is still a significant

degree of public confidence in many British practices and institutions.

and the Executive Summary states that:

- *Respondents are evenly split over whether the authorities are committed to upholding standards in public life. Most respondents are confident that the media will generally uncover wrongdoing by people in public office; fewer have confidence that the authorities would do this, and still fewer had confidence that public office holders will be punished for misconduct. Nonetheless, the levels of confidence in the authorities to uncover and punish wrongdoing are slightly higher than in the 2008 survey.*

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 no current/pending complaints that County Councillors may have breached the Code of Conduct for Members.

In terms of previous complaints:

- two complaints were recently considered by the Determination Sub-Committee and in each case the Determination Sub-Committee accepted the Investigating Officer's conclusion that there had been no breach of Code;
- in relation to the other complaint, this was subsequently withdrawn by the complainant.
- in one case, the Determination Sub-Committee had 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. A letter of censure from the Chair of the Determination Sub-

Committee was subsequently sent to the subject Member.

The subject Member appealed the decision.

The appeal was determined by the First Tier Tribunal on 7 September 2011, when it concluded that the subject Member had not breached the Members' Code of Conduct. The appeal was therefore upheld by the Tribunal and the decision of the Determination Sub-Committee was rejected. The decision of the Sub-Committee (including the sanction imposed) therefore ceased to have effect from the date of the rejection.

A copy of the Tribunal's Decision Notice is published on the Tribunal's website at:

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

and a paragraph about the outcome of the appeal, with a hyperlink to the Tribunal's Decision Notice on its website, has been included on the Standards Committee's page on the Authority's website.

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.

The complainant alleged that the subject member lied at a ward meeting about her decision making role in relation to the proposed amalgamation of two local schools, in that the subject member stated that the decision was one for the Secretary of State for Education to make.

It was alleged that this was a lie and that the subject member was Deputy Leader of the Council and the decision whether to amalgamate the two schools was for her and the council's cabinet to make. It was also alleged that she did not tell the truth at the meeting because it was a heated meeting and she did not want to have the discussion with the people who were in attendance.

The Ethical Standards Officer ("ESO") found that, at the time of the ward meeting, the authority had begun a consultation on the proposed amalgamation. At the same time the authority had applied to the Secretary of State for the two schools to merge to become one academy. One of the two schools had applied in its own right to become an academy without the other school. Consequently, while the decision to press ahead with the proposal to merge the two schools would be taken by the cabinet, the final decision on whether the two schools would merge would be a matter for the Secretary of State. If the Secretary of State approved the school's solo application, then the authority would not be able to merge the two schools as a joint academy.

The ESO found that the subject member had not lied at the ward meeting when she said the decision to merge the schools rested with the Secretary of State. Consequently, as the subject member had not lied, she had not contravened Paragraph 5 of the Code of Conduct, which states that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.

Eythorne Parish Council

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

The complainant alleged that the subject member had failed to treat others with respect, bullied someone, and prevented a person from having access to information to which they were entitled by law.

CASES

Redcar and Cleveland

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

It was alleged that the subject member made a complaint against the clerk in an attempt to discredit her and then lied about having done so.

It was also alleged that the subject member became acting chair of the Council despite having previously resigned from her position as vice-chair and that she failed to give the clerk information about the whereabouts and security of the clerk's confidential personnel file.

The ESO found that the subject member had expressed concerns about the clerk's performance to the chair of the Council. Without commenting on the veracity of the subject member's concerns, the ESO considered that the subject member acted reasonably. The ESO saw no evidence to support the allegation that the subject member was deliberately trying to discredit the clerk or that she subsequently lied about the matter.

The ESO found that although the subject member had submitted her resignation as vice-chair prior to the chair of the Council's own resignation, the chair had not accepted it and it had been agreed to discuss the matter at a later date. The ESO was satisfied that the subject member's decision to subsequently take on the role of acting chair following the chair's resignation was reasonable and in the interest of the Council. Having done so, the ESO considered that the subject member could not be held personally responsible for not being able to provide the clerk with a copy of her personnel file.

The ESO considered that the subject member had not breached the code of conduct.

Ellistown and Battleflat Parish Council

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

The complainant alleged that during a Council meeting the subject member was disrespectful and abusive to another councillor. It was alleged that the subject member shouted expletives, kicked chairs over in the Council chamber, frightened other councillors with his behaviour and, immediately after the meeting, continued his disruptive behaviour in the street.

The ESO found that during the Council meeting the clerk walked out of the meeting because she was upset at the way she was being treated. The subject member blamed another councillor for what appeared to be the clerk's resignation. The subject member lost his temper and swore several times at the councillor. After leaving the meeting the atmosphere between councillors remained somewhat heated, however the subject member had calmed down considerably and did not shout or swear when in the street.

The ESO was of the view that the subject member's behaviour was rude, offensive and intimidatory and breached the Code. While the subject member had indicated that he was to a certain extent provoked by the way others had treated the clerk, his reaction was grossly disproportionate and strayed well beyond the realm of what is permissible under the Code.

In coming to her finding on the matter the ESO considered that the unpleasant atmosphere at the meeting and the dysfunctional history of the authority, neither of which the subject member could be held wholly responsible for, was likely to have contributed to his outburst. While the subject member's conduct was completely unacceptable, his subsequent resignation from the authority meant that in the circumstances no further action was necessary.

Contributors:

MOIRA BEIGHTON
North Yorkshire Legal & Democratic Services

Resources

www.standardsforengland.gov.uk
<http://www.communities.gov.uk/corporate/>