

## City of Durham

At a Meeting of the **STANDARDS COMMITTEE** held in the Gala Theatre, Durham, on Monday 11<sup>th</sup> June, 2007 at 5.30 p.m.

**Present:** Mr B.R.J. Ingleby (in the Chair)  
and Councillor J.S. Anderson (Parish Council Member)  
and Mrs T. Naples (Independent Member).

**Also Present:** Councillor Wilkes.

### 66. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Simpson.

### 67. MINUTES

The Minutes of the Meeting held on 20<sup>th</sup> March, 2007, were confirmed as a correct record and signed by the Chairman.

#### Report of Monitoring Officer

### 68. APPOINTMENT OF PARISH REPRESENTATIVE

Former Parish Councillor Beswick did not retain his seat on Brandon and Byshottles Parish Council at the local election on 3<sup>rd</sup> May, 2007.

In the circumstances he had tendered his resignation as a parish representative on the Standards Committee.

**Resolved:** That the Parish Councils be asked for their nominations to replace former Councillor Beswick.

### 69. ROADSHOW 2007

The Standards Board for England was holding a roadshow in Newcastle-upon-Tyne on 12<sup>th</sup> June, 2007. The Monitoring Officer had reported to the last meeting of the Standards Committee that four places had been provisionally reserved. The venue was the Assembly Rooms in Newcastle, and the programme for the roadshow was circulated.

**Resolved:** That the event be attended by Mrs Naples, Councillor Anderson and the Monitoring Officer.

### 70. TRAINING EVENT FOR MEMBERS

Sedgefield Borough Council had organised a training event on standards issues to be presented by Mr Peter Keith Lucas of Bevan Brittan Solicitors on Wednesday, 27<sup>th</sup> June, 2007 in the Clevesferye Suite at Ferryhill Leisure Centre, from 10.00 a.m. to 4.00 p.m.

The event would give Members an opportunity to take part in a mock up of the initial stage of an investigation, involving small groups acting as a Standards Committee who would evaluate complaints and decide whether to conduct an investigation. The groups would then discuss why each complaint was or was not worth investigating and the cost implications of the different decisions would be demonstrated.

The event would also incorporate a discussion on the revised Members Code of Conduct. Authorisation had been received from the City Council to send up to 5 persons to the training session. This was particularly appropriate for Members who had not had an opportunity of taking part in formal training on ethical governance issues previously and was of specific benefit to new Members of the Standards Committee.

**Resolved:** That Members of the Standards Committee, particularly new Members, be encouraged to attend the training event.

## **71. CORRESPONDENCE FROM THE STANDARDS BOARD**

A letter dated 23<sup>rd</sup> May, 2007, addressed to all Leaders of local authorities and copied for Chief Executives and Monitoring Officers had been sent out by the Standards Board for England. A copy of this letter had been circulated. The letter urged early adoption of the new Code of Member Conduct and made a number of points about support for the Standards Committee and Monitoring Officer.

**Resolved:** That the correspondence be noted.

## **72. COMPLAINTS TO THE STANDARDS BOARD FOR ENGLAND**

- (a) The Monitoring Officer had recently been notified by the Standards Board for England of a number of recent decisions taken by the Board.

(i) **SBE 17785.07**

An allegation had been made by a Councillor on Pittington Parish Council that the Chairman of the Parish Council had breached the Code of Conduct as a result of remarks made during a meeting of the Parish Council on 20<sup>th</sup> February, 2007.

The comments in question were concerned firstly with the accommodation needs of gypsies and travellers, secondly with the motion by the complainant for the reinstatement of the public participation session at Council meetings and thirdly with remarks allegedly made by the Chairman that "the Parish Council will be better served by Councillors who lived in the Parish".

The decision of the Standards Board was that the allegations should not be referred to an Ethical Standards Officer for investigation. Having taken account of the available information, the Standards Board did not believe that a potential breach of the Code of Conduct was disclosed.

In relation to the alleged comments concerning gypsies and travellers the Board said that the complainant had not provided specific detail of this and in the absence of such detail the allegation was not sufficiently substantiated.

In relation to the alleged sarcastic remark of the Chairman following the motion of the complainant to have the public participation session at Parish Council meetings reinstated, the Board took the view that the Chairman was entitled to express his views on that motion.

Finally in relation to the alleged comments about the complainant not living in the Parish, the Board recognised that these alleged comments were

personally critical of the complainant, but fell within the realm of legitimate political debate. As the comments were made during the course of a Council meeting at which the complainant was present, the Board felt that the complainant had the same access to a public platform as the Chairman, in which to respond to any allegations.

**(ii) SBE 17786.07**

The Standards Board had also received a complaint from the same Member of Pittington Parish Council concerning the alleged conduct of the Vice-Chairman.

The first allegation was similar to part of the allegation made in complaint SBE 17785.07 and concerned the purported action of the Vice-Chairman in seconding comments made by the Chairman about the complainant no longer living in the Parish. It was alleged that in seconding the motion the Vice-Chairman had made an abusive, unnecessary and unprovoked personal and political attack on the complainant.

It was also alleged that at the same meeting the Vice-Chairman had read out a list of Parish Council achievements and had made disparaging comments in relation to a political leaflet issued by the complainant's party which it was allegedly said, was full of lies and brought the Parish Council into disrepute.

The Standards Board's decision was that the allegations should not be referred to an Ethical Standards Officer for investigation. The Board, having taken account of the available information, did not believe that a potential breach of the Code of Conduct was disclosed.

The Board said that in supporting a fellow Members motion, the Vice-Chairman did not commit a potential breach of the Code of Conduct. This would fall within the realm of legitimate political debate.

The expression of different political views and criticism of the public views of opposing political parties was considered to be a regular part of the cut and thrust of local politics. The Board acknowledged that Members would frequently use council meetings to indulge in political point scoring. It was felt that the Vice-Chairman's comments had been made in a similar vein and the Board noted also that the complainant had access to the same public platform from which to respond to criticism.

**(iii) SBE 18240.07 – SBE 18252.07**

The Monitoring Officer had recently received from the Standards Board for England decision notices in relation to 12 complaints which had been lodged by the same individual against Members of West Rainton Parish Council.

In all twelve cases the decision of the Standards Board was that it had jurisdiction only to deal with the conduct of individual members of local authorities and could not investigate the adequacy of an authority's administrative procedures, minutes of meetings or the merits of particular decisions taken by the authority. It had been noted that the complainants concerns over Access to Information had been raised with the Information Commissioner and the Standards Board felt that in the circumstances it was considered that this was the appropriate body for dealing with such matters. The conclusion was therefore that there was no information to support the view that the Councillors and former Councillors who were complained about

had potentially failed to comply with the Code of Conduct. The allegations therefore were not being referred to an Ethical Standards Officer for investigations and there had been no findings of fact. The complainant had an option of asking the Standards Board to review its decision if he considered it unreasonable in law; i.e. if the decision was allegedly flawed because of the irregular way in which the allegation was processed or because the judgement was irrational on the reported facts.

The complainants concerns related to issues with the Parish Council over a period of 18 months. The complainant had sought to acquire an additional burial plot at the local cemetery, to relocate a yew tree adjacent to his mother's grave and to erect a headstone. Because the Parish Council had taken a policy decision not to sell plots in the cemetery his request was refused. The complainant felt that this policy was unlawful and contradictory. He complained that the various Members against whom the allegations were made had:-

- failed to treat him with respect,
- had discriminated against him and treated him unfairly;
- had revealed information given in confidence or had prevented him from accessing information to which he was entitled,
- had failed to report the misconduct of other Members,
- had failed to reveal a personal interest,
- had used their position to the complainants disadvantage,
- had failed to provide adequate training for the Parish Clerk,
- had damaged the reputation of their office and authority,
- had failed to register financial or other interests and had misused the Parish Council's resources,
- had taken part in a meeting where the interest was so significant it would have been likely to affect their judgment,
- had implemented unlawful policies,
- had failed to have regard to various legislation,
- had failed to attend various meetings, seminars and training sessions,
- and had failed to hold the Chairman to account.

In addition the complainant had alleged that the Parish Council itself had:-

- failed to allow him to challenge the burials policy,
- failed to follow proper procedures,
- failed to hold proper meetings and had taken unlawful decisions
- had been obstructive and demonstrated evasive behaviour,
- had made decisions in camera and failed to keep proper records,
- had failed to comply with standing orders,
- had failed to comply with the Freedom of Information Act and had restricted the complainants access in contacting the Parish Council.

**Resolved:** That the report be noted.

**(b) SBE 14399.06**

In March 2006, the Standards Board for England had received a complaint from a Parish Councillor at Pittington Parish Council, alleging that the Chairman had breached the Code of Conduct and had acted towards her in a rude, unpleasant and hostile manner. The Standards Board decided to refer the allegation to an Ethical Standards Officer.

The decision of the Ethical Standards Officer was to issue a direction, requiring a process of mediation between the Members of Pitlington Parish Council and for appropriate training to be arranged. It was felt that this direction would address the root causes of the problems in the Parish Council and would improve the understanding of Council Members of Council procedures and correct conduct in meetings, as well as improving chairmanship skills.

On receipt of the Ethical Standards Officer's direction, the Monitoring Officer appointed a mediator who initially met the complainant and the Chairman of the Parish Council separately. Neither Councillor was prepared to take part in further mediation, and particularly, neither was prepared to participate in a joint session, so although the initial meetings brought about some improvement in the relationship between the Chairman and complainant, the mediation process faltered. The Ethical Standards Officer requested a follow up mediation meeting when the lack of progress was reported to her and at that stage the complainant agreed, albeit reluctantly, to participate, but the Chairman was not prepared to attend a follow up session. In the circumstances the mediator felt that there was nothing further to be achieved.

So far as training was concerned, a training course comprising six module in three groups was identified as appropriate chairmanship training and a provisional booking was made on behalf of the Parish Council Chairman. He did not attend the first session, claiming insufficient notice and the wish to have the matter of fees considered by the Parish Council beforehand. He then indicated he would be unable to attend the second session because of holiday commitments.

Regrettably, the organisers had had to cancel further modules because of insufficient interest from parish councils in the run up to the local elections in May.

There was however one successful outcome of the direction in that the Parish Council as a whole attended a training session entitled "What's on the Agenda" organised by the County Durham Association of Local Councils. The Clerk to the Parish Council had advised that a supply of "The Councillor's Guide" had been ordered for distribution amongst Parish Council Members and it was felt that this would aid the knowledge of the Members and provide examples of good practice.

The outcome of the direction had been largely disappointing although the benefit of the "What's on the Agenda" training was acknowledged. The Standards Board for England had been notified of the outcome and a copy of the Monitoring Officer's report was circulated for Members' information.

The view of the Standards Board was that if there were any further complaints in relation to this Parish Council, the information contained in the Monitoring Officer's report would be taken into account as to whether allegations should be referred for investigation.

The outcome of the direction was also advertised in the local press on Thursday, 10<sup>th</sup> May, 2007, in response to a request from the Standards Board.

**Resolved:** That the report be noted.

**(c) SBE 18323.07**

The Standards Board for England had recently received a complaint alleging a breach of the Code of Conduct by a Member of the City Council. The initial decision of the Standards Board was to refer the allegation to an Ethical Standards Officer for investigation, and the Ethical Standards Officer had determined to refer the matter to the Monitoring Officer for a local investigation.

The Monitoring Officer notified the Standards Committee that an investigation was about to be carried out, however was unable to provide any details of the allegation. This confidentiality was intended to avoid the perception of prejudice both in the Monitoring Officer's investigation and also in the subsequent Standards Committee determination.

**Resolved:** That the report be noted.

### **73. LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH BILL**

The Local Government and Involvement in Health Bill was currently going through its Parliamentary stages. It was expected to become law in the early autumn. The Bill was extensive and covered structural and boundary changes, new electoral arrangements, reorganisation of local authorities and other matters, but of interest to the Standards Committee was the chapter on the conduct of local authority members.

The Monitoring Officer outlined the provisions which were currently in the draft Bill, although it was noted that these provisions could be changed before the Bill became law.

**Resolved:** (i) That the report be noted.

(ii) That a further report be brought to the Standards Committee once the Local Government and Public Involvement in Health Bill becomes law.

### **74. LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) ORDER 2007**

The new Model Code of Conduct for local authorities was laid before Parliament on 4<sup>th</sup> April, 2007, and came into force on 3<sup>rd</sup> May, 2007.

Under the Local Government Act 2000, local authorities had six months in which to adopt a new Code of Conduct incorporating the mandatory provisions on the new Model Code, and if they failed to do so, the Code would be applied automatically.

The Monitoring Officer submitted a comprehensive report detailing the main provisions of the new Model Code, and Members of the Standards Committee were asked to consider these new provisions and to make recommendations to Full Council on adoption.

**Resolved:** (i) That Full Council be recommended to adopt the new Model Code of Conduct for local authorities, subject only to one addition, namely the inclusion in the Register of Members' Interests of offers of gifts and/hospitality (whether accepted or not) with an estimated value of at least £25.00.

(ii) That a training session for Members of the City Council and Parish Councillors on the provisions of the new Code of Conduct be arranged.

### **75. STANDARDS BOARD FOR ENGLAND – BULLETIN 33**

Copies of the latest bulletin from the Standards Board for England were circulated for Members' information.

**76. ASSOCIATION OF INDEPENDENT MEMBERS OF STANDARDS COMMITTEES  
IN ENGLAND (AIMSEC)**

Mrs Naples reported that as a member of the Association, she would attend the Association's meeting at the Annual Assembly in Birmingham and report back to the Standards Committee on progress.

**Resolved:** That the report be noted.

The meeting terminated at 6.10 p.m.

Chairman