

CITY OF DURHAM

STANDARDS COMMITTEE

18 July 2006

REPORT OF MONITORING OFFICER

1. Parish Representative Vacancy

The Durham County Association of Local Councils have reported no progress so far in nominating a parish councillor for the current vacancy. Members will recall that the County Association were proposing to resurrect the Durham District Local Councils Committee as a sub-committee of the county body and the intention would be that this sub-committee would then nominate a parish councillor to be appointed to the Standards Committee. Mr Ragg had a meeting with two councillors on the 5 July to discuss the establishment of the sub-committee but I understand that the councillors concerned did not turn up for the meeting. He is continuing to try to see if he can make some progress. If all else fails he will report the situation to the next executive committee meeting of the county body on the 6 September to see if anyone from the executive is prepared to stand as nominee.

2. Terms of Reference

Because of the need for my attendance at a public inquiry which extended from the 28 June until the 5 July I have been unable to prepare an item for Full Council in relation to the terms of reference for the Standards Committee. I will ensure that this issue is referred to the next meeting of Full Council which takes place on the 12 September.

3. Local Hearings

This item was deferred at the last meeting of the Standards Committee and the agenda item is therefore repeated hereunder:-

Members will recall that there was some discussion at the last meeting of the Standards Committee in relation to the Constitution of the panel to hear allegations against Councillors. The recommendation of the Standards Board for England is that allegations should be heard not by the full Standards Committee but by a smaller panel of three or a maximum of five members.

Some time ago the Standards Committee decided that it did not wish to delegate the issue of local hearings to a sub-committee but instead wanted hearings to be dealt with by the whole committee.

When the matter was discussed at the last meeting most of the committee were still supportive of that view. There was a feeling that the provision of a smaller panel might lead to allegations of a lack of political balance. The view was however expressed that a full committee of up to nine members could be overpowering to anyone who had been complained against. It was agreed therefore that the matter would be put on the agenda for this meeting, for further consideration.

The Relevant Authorities (Standards Committee) Regulations 2001 provide that a meeting of the Standards Committee or sub-committee is not quorate unless at least three members of the committee are present for the duration of the meeting. These

three members must include at least one independent member and if the Standards Committee is considering a parish matter then the committee must include at least one parish council representative.

Members' instructions are sought.

4. **Ethical Governance Audit**

Proposals for the carrying out of an Ethical Governance Audit are attached as Appendix A and Members instructions are requested.

5. **Standards Board for England**

a. SBE 15342.06

I have recently been notified by the Standards Board for England of a recent decision taken by the Board.

An allegation was made by a City Councillor that at a meeting of the Development Control Committee on the 24 May 2006 another Member had proposed and spoken in favour of a planning application submitted by Durham Villages Regeneration Company Limited of which that Councillor was a board member by appointment of the City Council.

A personal interest was declared by the Councillor in question in relation to his membership of the joint venture company. The allegation was however, that the Councillor did not declare two other interests namely his governorship at a local school on which the proposed development was to take place and his membership of the Council's Cabinet which in the opinion of the complainant had a major political stake in ensuring that the development went ahead.

The allegation was that the Councillor in question had brought his office and authority into disrepute.

The decision of the Standards Board was as follows:-

- i) In relation to the allegation of predetermination the Standards Board did not have jurisdiction in most cases to consider this issue. In certain instances evidence of predetermination may contribute to a view that an individual member has brought his authority into disrepute. However, this was not considered to be the case here. In all of the circumstances it was considered that the alleged conduct would not have involved any failure to comply with the authorities Code of Conduct.
- ii) It was noted that the Councillor had declared a personal interest on the basis that he was the Council's appointed representative for the joint venture company. Para 10 (2a) of the Code of Conduct states that a Member may regard himself as not having a prejudicial interest in a matter if that matter relates to a body to which they have been appointed or nominated by the authority as its representative. It is further noted that under the Code of Conduct Members are not, as a matter of course, required to declare their membership of committees. In any event it is not considered the Councillors membership of

Cabinet gave rise to a potential interest and accordingly it was not considered that those aspects of the allegations disclosed a potential breach of the Code of Conduct.

- iii) In relation to the school governorship, it was considered that he may have been required to declare this as a potential personal interest given that the school land was likely to be utilised as a result of the proposed development. As such it was considered that the alleged conduct disclosed a potential breach of Para 9 of the Code of Conduct. However, in all the circumstances, the Board considered that the alleged conduct was not of such significance of itself to justify investigation and any consequent action.

In conclusion the Board decided that the allegation should not be investigated.

The complainant has the right to ask for a review of the decision within a period of 30 days. If a review is requested the Standards Board arrange for an independent person within the Board to carry out the review. At the time of preparation of the agenda I am not aware that there has not been any request for a review to be carried out.

Recommended that the report be noted.

b. SBE 12622.05

A special meeting of the Standards committee was convened on 10th July 2006 to discuss the report of the Investigating Officer in respect of case SBE 12622.05. This matter had been referred to me for investigation by the Standards Board. The allegations were that a member had:-

- i) failed to treat a member of the public with respect
- ii) failure to report illegal bird auctions
- iii) refused to contact the Council with respect to illegal bird auctions and or take steps to prevent illegal bird auctions
- iv) made improper comments
- v) in capacity as a trustee of a village hall knowingly permitted illegal auctions to take place.

The Investigating Officer concluded that the second, third and fifth allegations could not be upheld and that, although there was a breach of the code of conduct in respect of the second and fourth allegations, no further action should be taken.

Having considered the report, and there being no additional representations from either the complainant or the subject of the complaint, the Committee found that two allegations could be substantiated and that the conduct of the Councillor fell below the standard of conduct that would be expected of an elected member. They resolved to write to the Councillor to highlight their concerns and to hope that there would be no further referrals.

There is a right to request a review of the decision within a period of 30 days. If a review is requested the Standards Board arrange for an independent person within the Board to carry out the review. At the time of preparation of the agenda I am not aware that there has not been any request for a review to be carried out.

ETHICAL GOVERNANCE AUDIT

In 2004 an Ethical Governance Audit was conducted by the Standards Committee. A questionnaire was prepared in the attached form and this was sent to the following:-

- i. A random sample of 15% of the Council's workforce
- ii. All City Council members
- iii. The County Council and all Parish Councils
- iv. Stakeholders such as the PCT, the Durham and Chester le Street Enterprise Agency, Durham City Arts, the Local Strategic Partnership, The NHS, Police Authority, Audit Commission
- v. Members of the public – The View Point Panel

Although the questionnaire could be returned anonymously the document was colour coded so that when the replies were received we would have some idea of whether the response if anonymous had come from staff for example or a stakeholder etc.

When the responses had been collated these were sent to the Audit Manager who had specifically requested to have a sight of the returns and the replies were also externally validated by Professor Alan Lawton of Teesside University who is the independent chair of a Standards Committee on one of the North Yorkshire authorities.

Perhaps members would indicate whether they wish to use a questionnaire in the same format and whether the consultees should be similar to the last occasion.

**DURHAM CITY COUNCIL
STANDARDS COMMITTEE**

ETHICAL GOVERNANCE AUDIT

Answer Code Key: 1 – Yes; 2 – To a large extent; 3 - Not really; 4 – Not at all (Please tick as appropriate)

Question	1	2	3	4	Comments (if any)
1. Is it important for local government to establish and operate by a set of strong ethical values?					
2. Do you believe standards of ethical conduct in this authority are high?					
3. Is there good access to information for:- a) Members b) The Public?					
4. Is there good access to the Register of Members' Interests?					
5. Are you aware of and have a broad understanding of the following documents:- <ul style="list-style-type: none"> • Council Procedure Rules • Scheme of Delegation • Members Code of Conduct • Officer/Member Protocol • Financial Regulations • Contract Procedure Rules • Special Codes and Protocols Do you know where you can put your hands on the above documents?					
6. Do you have a reasonable understanding of the role of the following statutory officers? <ul style="list-style-type: none"> • Head of Paid Service • Monitoring Officer • Chief Finance Officer (Section 151 Officer) 					

Question	1	2	3	4	Comments (if any)
7. Do you have a good understanding of the processes for the conduct of local authority business?					
8. Do you receive clear information about the work of the Council, which is relevant to you?					
9. Do you feel you know enough about the Council's procedures for recruitment?					
10. Are you content with these procedures? If not, please suggest changes you would like to see.					
11. Can you define what you think are the values of Durham City Council?					
12. Do you have sufficient knowledge of the City Council's policies on equal opportunities?					
13. Do you think there is any complacency about standards of conduct? <ul style="list-style-type: none"> • With Members • With Officers 					
14. Is there an understanding throughout the authority of the new ethical framework contained within the Local Government Act 2000.					
15. Are Officers clear as to their role and accountability?					
16. Are Members clear to their role and accountability?					

Question	1	2	3	4	Comments (if any)
17. Do non-executive Members identify strongly with the overview and scrutiny role?					
18. In respect of Ethical Governance are the City Council's practices and procedures relevant, up to date and clear?					
19. Does the City Council consistently follow such proper procedures?					
20. Does the Council deal effectively with mis-conduct? • Of Members • Of Officers					
21. Do Members have a common understanding of how to deal with conflict of interest?					
22. Do Officers have a common understanding on how to deal with conflict of interest?					
23. Do you believe the role of the Standards Committee is widely understood?					
24. Are Standards issues perceived as owned by Members and Officers generally?					
25. Do you know where (or from whom) you can obtain advice and support to help you on Standards issues?					
26. Have you had relevant training on issues relating to standards of conduct?					
27. Are there any questions you would want the Ethical Governance Audit to answer for you. Please detail.					

Answer Code Key: 1 – Yes; 2 – To a large extent; 3 - Not really; 4 – Not at all (Please tick as appropriate)

Please return to: Monitoring Officer
Durham City Council
4 Saddler Street
Durham City
DH1 3NZ
(email: LBlackie@durhamcity.gov.uk)

by no later than 5th June 2004.

If you prefer to complete the questionnaire by email – please refer to the Council's website: www.durhamcity.gov.uk

Please give details of your name and organisation, if you wish:

Name:

Organisation:

All responses will be treated in confidence and all reported data will be anonymous.