

City of Durham

At a Meeting of the **STANDARDS COMMITTEE** held in the Gala Theatre, Durham, on Thursday, 29th November, 2007, at 5.30 p.m.

Present: Mr B.R.J. Ingleby (in the Chair)
and Councillors Holland, Moderate and Simpson (City Council Members)
and Councillors J.S. Anderson and Mrs P. Hudson (Parish Council Members)
and Mr D. Hollingworth and Mrs T. Naples (Independent Members).

380. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Thompson.

381. MINUTES

The Minutes of the Meetings held on 25th September, 2007, 1st October, 2007, and 26th October, 2007, were confirmed as a correct record and signed by the Chair.

The Committee were however disappointed to note that they had not received a copy of correspondence sent to the Parish Council following the Meeting on 26th October, 2007. The Committee also required further confirmation of the training undertaken.

Resolved: (i) That the Monitoring Officer write to the Parish Council to request confirmation in writing of the courses attended by the Chair and to seek confirmation of the training undertaken by the Vice Chair and Clerk.

(ii) a copy of the letter to the Parish Council to be circulated to all the Members of the Committee and the response to be circulated at the next Meeting.

382. THE CODE UNCOVERED – DVD

A DVD, The Code Uncovered, was shown for Members' information.

383. REPORT OF VICE CHAIRMAN ON ROADSHOW 2007

The Vice-Chairman submitted a report the Standards Board for England's Roadshow 2007, which she had attended on behalf of the City Council.

Resolved: (i) That the report be noted.

(ii) That the Committee meet at 9.30 a.m. on 2nd January, 2008, to discuss arrangements for future management of the Committee.

(iii) That the Monitoring Officer provide further information in respect of the processes and resources likely to be necessary for the future support of the Standards Committee.

Report of Monitoring Officer

384. APPOINTMENT OF PARISH REPRESENTATIVE TO STANDARDS COMMITTEE

On 5th September, 2007, the council resolved to constitute a panel comprising of four Members of the Council and the Chairman of the Standards Committee to consider nominations made by the Parish Councils for a parish representative on the Standards Committee. Accordingly, on 11th October, 2007, the Chairman of the Standards Committee, together with Councillors Young, Moderate, Stoddart and Young interviewed the parish

council nominees. Once all interviews were complete, the panel decided to put forward Councillors Mrs Hudson as the suggested appointment.

The nomination was accepted by Full Council, on 13th November, 2007, and accordingly, Councillor Mrs Hudson was appointed to the Standards Committee as Parish representative.

Resolved: That the report be noted.

385. COMPLAINTS TO THE STANDARDS BOARD FOR ENGLAND

(a) SBE 19731.07

The Standards Board for England recently received a complaint from a member of the public concerning the alleged conduct of a Member of West Rainton and Leamside Parish Council. The general nature of the allegation was that the Member had failed to treat others with respect in that the Councillor had acted in a threatening manner.

The Standards Board for England, on considering the information provided, considered that the matter should be referred to an Ethical Standards Officer (ESO). The ESO had referred the matter for local investigation and accordingly, the Deputy Monitoring Officer had been instructed to conduct the investigation. His report would be referred to the Committee in due course.

(b) SBE 19601.07 & 19602.07

At the time of the last Meeting, these complaints were being considered by an Ethical Standards Officer at the Standards Board for England. The Board had since referred this matter for local investigation and accordingly, the Deputy Monitoring Officer had been instructed to investigate the matter and produce a report. The possible breaches of the Code of Conduct are that Parish Councillors have compromised the impartiality of those who work on behalf of the Parish Council, and used their position to improperly secure or confer an advantage or disadvantage. The investigating officer's report would be referred to the Committee in due course.

(c) SBE18323.07

The Committee met on 1st October, 2007, to consider this complaint. The outcome of the hearing was that the Committee considered that there had been no breach of the Code of Conduct. Arrangements were being made for the outcome to be reported in the local press.

(d) SBE 19941.07

The Standards Board for England had recently received a complaint from a Member of the City Council concerning the alleged conduct of Councillor Carol Woods. The Standards Board for England conducted an assessment and decided not to refer the complaint for investigation. It was acknowledged that this was a sensitive matter and that the reported conduct of the Member had attracted criticism from a number of quarters, however, on balance, it was not considered that the reported comments were likely to amount to an unlawful act under the Race Relations Act 1976 and other legislation. The Board further considered that the views expressed would be protected by the articles of the Human Rights Act pertaining to freedom of expression as the comments could be viewed in the context of the MP not being local to the Durham area rather than a specific comment on the capabilities of people who come from Belfast. The Board went on to determine that party political leaflets are usually

produced in a member's private capacity and as such the Code does not apply. Accordingly, no further action would be taken.

(e) SBE19988.07

The Standards Board for England recently received a complaint from a member of the public concerning the alleged conduct of Councillor Carol Woods.

The complaint was that a comment made by Councillor Woods that the local MP was born and bred in Belfast and was out of touch with the views of local people was insulting.

The complaint arose from the same facts as SBE 19941.07 and the Standards Board for England maintained their conclusion that the matter should not be referred to an Ethical Standards Officer as the comments were not likely to amount to an unlawful act under the Race Relations Act 1976, the comments would be protected by a right to political expression confirmed within the Human Rights Act 1998 and that the comments were contained in a political leaflet and had been produced other than when Councillor Woods was acting in her official capacity. Accordingly, no further action would be taken.

(f) SBE 14399.06

Further to concerns raised by Members in respect of this complaint, the Monitoring Officer confirmed that the Standards Board for England took the view that the failure of the Chairman to attend mediation sessions constituted a failure in the direction process and needed to be recorded in the Monitoring Officer's final report. Upon receipt of the final report, the Standards Board for England instructed that the outcome of the direction be reported in the press. The Board also noted that in the event of any further complaints being received, the failure to participate fully in the direction process would be taken into account during any investigation.

The outcome was published in the Durham Advertiser on 10th May, 2007, and the Monitoring Officer's final report was noted by the Standards Committee on 11th June, 2007.

Given that the matter was investigated by an Ethical Standards Officer, who decided that the most appropriate course of action was to issue a direction requiring mediation, it would not be appropriate for the Committee to take any further action in respect of this matter.

In the event that further allegations were made concerning the parties contributing to the failure of the process, the investigating officer and the Committee would need to take into account the issues raised.

(g) SBE 20308.07

Following the complaint to the Standards Board for England made by the Committee the Monitoring Officer confirmed that the Standards Board for England was currently determining whether to refer the matter for local investigation.

Resolved: That the report be noted.

386. DECLARATION OF MEMBERS INTERESTS

The Monitoring Officer advised that she had received a request for the provision of copies of Declarations of Councillors Interests. However as the record was purely in paper form at

present, there was no requirement for copies of the register to be forwarded to any person. The register was purely to be available for inspection at the Council's premises. It was currently held in the Monitoring Officer's department. The Committee were asked to consider whether it would be preferable for an electronic copy of the Register of Members Interests to be made available on the website.

Resolved: That an electronic version of the Register of Members' Interests be made available on the Council's website subject to Council's approval.

387. PUBLICATIONS

Copies of the following publications were circulated for Members' information:-

- (1) Factsheet: the Code of Conduct
 - Lobby Groups and Declarations of Interest under the Code of Conduct
 - Personal and Prejudicial Interests
 - Gifts and Hospitality
 - Bullying
 - Disclosing Confidential Information
 - The Ethical Framework for Local Government
- (2) Down to Details
- (3) The Daily Details
 - 15th October, 2007
 - 16th October, 2007
 - 26th October, 2007

The meeting terminated at 7.15 p.m.

Chairman

City of Durham

At a Special Meeting of the **STANDARDS COMMITTEE** held in Conference Room A, Dragonville Offices, Durham on Wednesday, 2nd January, 2008, at 9.30 a.m.

Present: Mr B.R.J. Ingleby (in the Chair)
and Councillors Holland, Moderate and Simpson (City Council Members)
and Councillor J.S. Anderson and Mrs P. R. Hudson (Parish Council Members)
and Mrs T. Naples (Independent Member).

432. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Thompson and Mr Hollingworth.

424. REPORT OF MONITORING OFFICER

The Monitoring Officer presented a comprehensive report in respect of the obligations and options which would be added to the remit of the Standards Committee from 1st April, 2008. Although the regulations governing the local assessment filter had yet to be published, it was necessary to take some initial decisions as to how the filter would work in practice.

Resolved: (i) That the local assessment filter be applied through a process to be known as the Local Assessment Procedure (LAP)

(ii) The LAP for complaints about Standards in Public Life should be publicised as widely as possible and the Monitoring Officer and Chair of Standards Committee shall meet with the Council's PR section to discuss a publicity strategy.

(iii) The Chair and Vice Chair will, where possible, attend parish council meetings with the Monitoring Officer to provide training to parish councils on the LAP and standards in public life in generally.

(iv) In the LAP, the Monitoring Officer shall be the first point of contact and appropriate publicity and briefings shall be undertaken to ensure that employees, Members and the public are aware that complaints about councillors should be referred to the Monitoring Officer at first instance.

(v) The committee will, from April, need to meet on a monthly basis. It is proposed that this meeting take place at 5.30 pm on a Thursday, dates to be advised.

(vi) It was also proposed that the committee should set aside one day each month for the hearing of complaints. This was to be the first Wednesday of each month at 9.30 a.m., commencing from March and preferably being held in the Mayor's Chamber.

(vii) The committee shall produce an annual report. The initial draft shall be considered at the March meeting.

(viii) The committee decided to make no further investigations in respect of joint working until such time as the volume of business produced by the LAP is known.

(ix) Feedback and review of the implementation of the LAP would be required and it may be desirable to undertake an audit of the procedure once it has been in place for a number of months.

Meeting terminated at 11.10 a.m.

Chair

CITY OF DURHAM

**STANDARDS COMMITTEE
15 January 2008**

REPORT OF MONITORING OFFICER

1. Complaints to the Standards Board for England

(a) SBE 20650.07

The Standards Board for England recently received a complaint concerning the alleged conduct of Cllr Morland of West Rainton and Leamside Parish Council. Officers of the SBE conducted an assessment and decided not to refer the complaint for investigation.

The complainant, Mr M Stabler reported that someone had made a complaint to the police about past and present members of the parish council and electoral irregularities, which was being investigated. Allegedly at a parish council meeting on the 19 July 2007, Cllr Morland wrongly accused the complainant of making the complaint and verbally attacked him at the meeting. The complainant alleges that the member launched an attack on the complainants' honesty and integrity which included verbal and physical threats. Despite written confirmation being provided from the police confirming he was not involved in making the complaint, the member concerned had refused to apologise for his accusations.

The SBE took the view that the information provided was insufficient to make a decision as to whether the complaint should be referred for investigation as no information was provided on exactly what was said or done at the meeting and what the exact details of the alleged verbal attack were. The SBE will consider the matter afresh should further information be provided.

(b) SBE 19731.07

The Deputy Monitoring Officer has advised that his report should be finalised in advance of the meeting on the 15 January 2008 and accordingly, the report will be circulated at that meeting if possible.

The delay in completing the report is as a consequence of the Member choosing to make an amendment to his submission once the draft report was forwarded to him.

(c) SBE 19601.07 and SBE 19602.07

The Deputy Monitoring Officer has advised that his report should be finalised in advance of the meeting on the 15 January 2008 and accordingly, the report will be circulated at that meeting if possible.

The delay in completing the report is as a consequence of the Members who are the subject of the complaint wishing to make amendments to the draft report.

(d) SBE 20308.07

The Standards Board for England has referred the allegation in respect of a member of Pitlington Parish Council to an Ethical Standards Officer for

investigation. The SBE has advised that there target is to complete 90% of investigations within 6 months.

2. Publications

Please find attached for your information an information sheet in respect of the Code of Conduct, Outside Interests and the Budget Debate provided by Bevan Brittan.

Authority Alert  November 2017

Code of Conduct, Outside Interests and the Budget Debate

The introduction of the revised Code of Conduct for Members is likely to give rise to a particular difficulty in this year's Budget Debate. Peter Keith-Lucas discusses how changes to the definition of 'prejudicial interest' could affect many councillors' ability to participate in the debate and suggests solutions.

The problem arises where a councillor is also a member of an outside body which will be in receipt of a grant from the Council and the Council will approve not just the council tax or precept for the coming year, but also a Budget and Medium Term Financial Plan, which set out the detailed spending proposals of the Council for the coming year and broader proposals for the next three years, and which include provision for that grant.

Under para.8(1)(a)(i) of the revised Code of Conduct, where a councillor would have a personal interest in the decision to make the particular grant, he or she would have exactly the same personal interest in a decision to approve a level of council tax or precept for the coming year, and to approve a Budget and Medium Term Financial Plan, which make provision for that grant, even though that grant comprises a very small proportion of the total Budget in the coming and future years.

In previous years, that councillor's interest would have been not just personal but also prejudicial where his or her interest was such that a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the councillor's judgement of the public interest. So, where the councillor was strongly associated with that outside body, it was likely to be not just a personal interest but also a prejudicial interest. However, the councillor could have taken advantage of the old para.10(2)(c). Under that provision, where the councillor was appointed as a "representative" of the Council, he or she could opt to treat his or her interest in the Budget as merely a personal interest, and so could stay, declare just a personal interest, and speak and vote on the Council Budget which included the funding for the grant to that outside body.

Under the revised Code of Conduct, the councillor certainly has a personal interest, but the definition of prejudicial interest has been subtly changed:

- the "representative" exception has been lost;
- it remains necessary that a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice the councillor's judgement of the public interest;
- a new exception has been introduced such that it is not a prejudicial interest where the proposed decision does not affect the financial standing of the outside body (but that is not going to provide any help in relation to the issue of a grant to the outside body); and
- a further exception has been introduced such that a councillor does not have a prejudicial interest in an item of business which relates to the function of setting the council tax or a precept.

That new exception is fine in respect of the actual resolution to set the council tax or precept, but it would not appear to cover any other resolutions which form part of the Budget Debate, such as the separate approval of the Council's Budget and Medium Term Financial Plan. As a result, it is likely that many more councillors than in previous years will have to declare a prejudicial interest in, and therefore withdraw for the duration of, the Budget Debate.



For many councils, the scale of outside appointments is such that at least half of the members of the Council may have such prejudicial interests. Where that is so, the Monitoring Officer might consider whether the Council's Standards Committee could grant a dispensation under the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002 (SI 2002/339) to those councillors who would otherwise be precluded from participating. Such a dispensation can only be granted to a councillor in response to a request for a dispensation from the individual councillor, but there is nothing which would prevent a Monitoring Officer canvassing councillors to join together in submitting an early joint request for such a dispensation, in plenty of time to enable the Standards Committee to grant such a dispensation in time for the Budget Debate. An appropriate form of request might be as follows:

"I request the Standards Committee to grant me a dispensation in respect of the Budget Debate at Council on [dd/mm/2008]. I have a prejudicial interest in the item of business as a result of my membership of the outside organisation listed below, which stands to receive grant from the Authority depending upon the Budget approved by the authority. Over 50% of the members of the Council would be prohibited from participating in the Budget debate by such prejudicial interests."

The form should then be signed by each Councillor seeking a dispensation, and each Councillor should list at least one outside body of which he/she is a member, which stands to receive grant from the Authority, and in respect of which he/she has a prejudicial interest.



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