

# Item 6

## REPORT TO STANDARDS COMMITTEE

05<sup>th</sup> JULY 2007

## REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

### STANDARDS BOARD ROADSHOW, 12<sup>TH</sup> JUNE 2007, NEWCASTLE

#### 1. SUMMARY

- 1.1 This report summarises the event attended by Standards Committee Members held by the Standards Board on the 12th June 2007 at The Assembly Rooms, Newcastle.
- 1.2 The purpose of the event was to give an overview of the revised Code of Conduct, and outline the Challenges for 2008, including the local filter for complaints and a more strategic role for the Standards Board. The issues of predetermination and bias were addressed, although not part of the Code, both are important for Members and Monitoring Officers. Attendees were given the opportunity to discuss their concerns and share their views on the revised Code of Conduct.
- 1.3 Representatives of the Standards Board for England were present at the event, including the Chief Executive, David Prince, and Standards Board Member, Roger Taylor.

#### 2. RECOMMENDATIONS

- 2.1 That the Standards Committee considers the report and the views expressed therein.

#### 3. DETAIL

- 3.1 A number of views were expressed by the Standards Board during the course of the introductory session:-
  - Managing the change system is dependent upon strategic regulation and supporting the locally based framework.
  - The Standards Board will define the standards regime, issue statutory and other guidance and provide advice and support.
  - New Local Government Bill to receive Royal Assent in July or October, which will bring into force a raft of detailed regulations in preparation for local filtering in 2008.
- 3.2 **The Revised Code of Conduct:** Emphasise at the Roadshow was placed on the changes to the Code of Conduct and each change was outlined in detailed. The changes are as follows:

1. *Complying with Equality Laws (anti-discrimination)*: In summary, there are four main forms of discrimination; direct, indirect, harassment and victimisation, all of which will amount to a breach of the Code of Conduct. Equality laws also impose positive duties to eliminate unlawful discrimination and harassment and to promote equality.
  2. *Bullying and Intimidation*: The Code does not offer a definition of bullying but the Board gave a working definition as “*offensive, intimidating, malicious, insulting or humiliating behaviour based on abuse or misuse of power or authority, which attempts to undermine an individual or a group*”, however, guidance will be issued by the Board to clarify.
  3. *Confidential Information*: It was highlighted that you can only disclose confidential information, where you have consent or are required by law, or the disclosure is made to a third party to obtain professional advice, however, the third party must agree to be bound by confidentiality. The disclosure must be reasonable and in the public interest. Board Member, Roger Taylor stressed that only in exceptional circumstances can confidentiality be breached. Members must ask themselves four questions; ask why it is confidential, raise concerns through appropriate channels seeking advice, consider circumstances, and decide how much of the information needs to be disclosed.
  4. *Disrepute*: Applies when acting in your official capacity, however when the Local Government Bill is introduced, the Code will apply to conduct in a private capacity which results in a criminal conviction, only if it involves disrepute, misusing your position or intimidation. Potentially, the Code could be amended to apply to any conduct in a private capacity, but the Government at present is only interested in conduct, which results in a criminal conviction.
- 3.3 Comment was made upon personal and prejudicial interest. The Board explained that the major change to declaring a personal interest is where a public body exemption applies. This will apply where an interest arises solely from membership, of, or position of control or management on, any other body which you were appointed or nominated by the authority or any other body exercising functions of a public nature. It was also interesting to note that a gift or hospitality now amounts to a personal interest.
- 3.4 A prejudicial interest can only materialise from a personal interest. The test is focused on what a member of the public, who knows the relevant facts, would reasonably think. If you have a prejudicial interest you can attend the meeting, but only make representations, answer questions or give evidence, if the public can do so for the same purpose (this does not give you the same rights that the public might have to stay in the meeting afterwards).

- 3.5 **Bias and Predetermination:** Although not part of the Code a short presentation explained both issues. Bias and predetermination is mainly a common law, natural justice ground but nevertheless has prevented Members participating in meetings. To summarise, the Board made reference to statements made by Phil Woolas, one of particular interest was “what members must not do is finally make up their mind before the council meeting, so as not to be prepared to listen to the arguments and representations under consideration at the meeting. Also, they must not give the impression that this is their position”.
- 3.6 **Challenges for 2008:** Chief Executive, David Prince, stressed the need for a local focus on ethical issues. By 2008, the following aspects of the ethical standards regime will be transferred to local ownership:
- Filtering allegations
  - Reporting on Performance
- 3.7 A summary of the statistical figures relating to complaints was presented, interestingly:
- There has been at least one complaint about a Member of each District Council over five years;
  - A quarter of all other principal authorities had no complaints made about their own Members in five years;
  - A principal authority can expect an average of six complaints about its own Members each year;
  - There have been no complaints about Members of 80% of all Parish Councils over five years;
  - A District Council with 100+ Parishes can expect around 18 allegations about them each year.
- 3.8 Board Member, Roger Taylor laid emphasis on making the elements of local investigation work based on a local system. The whole process for dealing with allegations will be local, not just the investigation and hearing but the actual receiving of allegations and the decision whether to refer them for investigation.
- 3.9 The Board raised issues for local authorities to consider when receiving and assessing complaints, for example the handling of the allegations, the receipt and notification, the decision taken by the Standards Committee, criteria to use and appeal mechanisms. Focus was placed on the pilot schemes, which the Standards Board are currently supervising. 50 authorities signed up to the scheme and the pilots are covering three areas, receiving allegations, joint Standards Committees and reporting and intervention, feedback will be available when the pilots are complete.
- 3.10 During the questions and discussions section of the event, issues relating to the revised Code of Conduct were discussed and other emerging issues were identified as follows:-

- How many cases can you expect to be dealing with?
- How will your Standards Committee make referral decisions?
- How long will it take to make the decision?
- How important are consistent criteria?
- How will joint arrangements be managed?
- Does the work of the Standards Board need publicising?

#### **4. RESOURCE IMPLICATIONS**

4.1 No specific financial implications have been identified.

#### **5. CONSULTATIONS**

5.1 The Council's Management Team has considered this report.

#### **6. OTHER MATERIAL CONSIDERATIONS**

6.1 All material considerations have been taken into account in the contents of this report. In particular, risks may arise unless Members of Council are fully appraised on standards matters.

#### **7. OVERVIEW AND SCRUTINY IMPLICATIONS**

7.1 None apply.

#### **8. LIST OF APPENDICES**

8.1 None apply.

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**Wards:** N/A

**Key Decision Validation:** N/A

**Background Papers**

The Code of Conduct – Guide for Members  
Roadshow 2007 - Presentation

**Examination by Statutory Officers**

	<b>Yes</b>	<b>Not Applicable</b>
1. The report has been examined by the Council’s Head of the Paid Service or his representative	<input type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council’s S.151 Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council’s Monitoring Officer or his representative	<input type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input type="checkbox"/>	<input type="checkbox"/>

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