

Item 9

REPORT TO STANDARDS COMMITTEE

7TH FEBRUARY 2008

REPORT OF LEADER

PORTFOLIO: STRATEGIC LEADERSHIP

STANDARDS BOARD FOR ENGLAND : LEADER'S ETHICAL PLAN 2008-09

1. SUMMARY

- 1.1 This report sets out the Leader's mission and objectives for the Council, in terms of policy approach to issues of member ethics, standards and conduct.
- 1.2 This report also takes the opportunity to provide information on Council performance on standards, under the direction of the Council's Monitoring Officer, during the year 2007/8; it includes the Leader's mission and objectives and outlines the measures the Council has taken, and intends to take, in taking forward this important aspect of the agenda of modern local government.
- 1.3 It is considered that the independent scrutiny of the behaviour of members of local authorities, contributes to public confidence in local democracy. The leadership of the Council believe that the best authorities must always have a primary focus upon achieving high standards in behaviour.
- 1.4 New regulations have been introduced which increase the powers of the Standards Committee to deal with a greater number of cases locally. A Revised Members' Code of Conduct came into force on the 3rd May 2007 and changes have been implemented.
- 1.5 The leadership continues to be committed to supporting the local Standards Committee and its Monitoring Officer in handling appropriate cases at a local level, to achieve robust investigations and just outcomes. It is in this context that the plans contained in this report have been developed.

2. RECOMMENDATIONS

- 2.1 That Standards Committee note the report.

3. DETAIL

- 3.1 The Ethical Plan comprised in this Report sets out the mission and objectives for the Council in the area of standards and member conduct.
- 3.2 The core functions of the Standards Committee are as follows:-

- (a) *promoting and maintaining high standards of conduct by Councillors and co-opted Members;*
- (b) *assisting Councillors and co-opted Members to observe the Members' Code of Conduct;*
- (c) *advising the Council on the adoption or revision of the Members' Code of Conduct;*
- (d) *monitoring the operation of the Members' Code of Conduct;*
- (e) *advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;*
- (f) *granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;*
- (g) *dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer;*
- (h) *the exercise of (a) to (g) above in relation to the Parish Councils wholly or mainly in its area and the Members of those Parish Councils;*
- (i) *overview of the whistle blowing policy;*
- (j) *oversight of the constitution;*
- (k) *to deal with cases referred to the Standards Committee by the Standards Board and to conduct local determination hearings in accordance with the Model Hearing Procedure at Part 4I;*
- (l) *to take such other steps as may from time to time be taken in accordance with the powers of the Local Government Act 2000 and any subordinate legislation thereunder.*
- (m) *to deal with cases referred to the Standards Committee by the Council's Monitoring Officer and to conduct a hearing in accordance with the model hearing procedure in Part 4I, as amended, or substituted, where necessary, for that purpose.*

Challenges Ahead

3.3 There are a number of challenges and issues facing the Council over the coming year:-

- The re-organisation of local government in County Durham, the abolition of the Council and the creation of a new County-wide unitary authority.

- Changes to the ethical standards regime (including local assessment) resulting from the Local Government (Public Involvement in Health) Act 2007.
- The expected increase and handling of cases at a local level.
- The need to ensure continuity in the provision of guidance and advice of a high quality to members of the Borough Council and Parish and Town Councils.
- To ensure appropriate organisational capacity, including increased flexibility and adequacy of resources, to produce guidance, good practice and advice and to support whatever work is determined as appropriate by the Standards Committee regarding training and how to best target advice and training effectively.
- As in other aspects of modern local government, as the October 2006 White Paper emphasised, there is always the challenge of ensuring that the Council exploits opportunities to work in partnership with others, as well as engaging with the public more directly and maintaining appropriate awareness of key issues on standards and ethics.
- How best to identify the support needed for the Borough Council's members and members of Parish and Town Councils.

Mission and Objectives

- 3.4 The Leader has reviewed the work of the Standards Committee and had discussions with the Statutory Officers, the Chief Executive, Monitoring Officer and Section 151 Officer. In light of the advice provided and the recognition that there is a need to adopt clear policy objectives in this important field, the Leader has developed a mission and a set of objectives, which accurately reflect the leadership's aspirations for the future.

Ethical Mission Statement

- 3.5 The Council, via its Standards Committee, aims to be the respected body responsible for promoting ethical behaviour and building confidence in local democracy.

- 3.6 In order to achieve this, the Leader will:-

- review, monitor and ensure that arrangements are in place for an efficient, fair and proportionate handling of complaints, enabling local issues to be dealt with at a local level wherever possible.
- ensure that resources are available so that authoritative guidance and support continue to be received by members.
- strive to ensure that public confidence is increased in the authority by working in partnership to promote high standards of conduct.
- that the ethical arrangements of the authority are fit for purpose and that the combined work of the Standards Committee and its Monitoring Officer constitute a fit for purpose organisational arrangement.

Review of Performance 2006 to 2007

- 3.7 In 2006, a complaint, which had been submitted to the Standards Board for investigation by an Ethical Standards Officer, was referred to the Adjudication Panel for England. After a Hearing on the 9th October 2007 the Panel found the Councillor had brought his office into disrepute and breached the Code of Conduct. The Councillor was suspended from office for one month.
- 3.8 In 2007, eleven complainants submitted allegations of misconduct to the Standards Board against several local Councillors. However, some of these involved multiple allegations. It is important to recognise that no adverse implications should be inferred from the fact merely that allegations have been made; the evidence, and outcomes, demonstrate that the majority of cases referred to were relatively minor.
- 3.9 The majority of the allegations made which could have potentially resulted in a breach of the Code of Conduct involved disrespectful behaviour or publication of material. Seemingly in all but one case, the allegation was either outside the Standards Board's jurisdiction or the alleged misconduct was not sufficiently serious to amount to a breach.
- 3.10 The Standards Board has referred one of the allegations to an Ethical Standards Officer for investigation.

3.11

| Case | Type of Issue | Outcome | Implications | Review |
|-------------|--|----------------|---------------------|---------------|
| 1 | Failure to declare interest | No breach | | No |
| 2 | Publication of letter containing highly contentious issues | No breach | | No |
| 3 | Publication of article containing misleading statements | No breach | | No |
| 4 | Disrespectful conduct and unacceptable behaviour | No breach | | No |

| Case | Type of Issue | Outcome | Implications | Review |
|-------------|---|--|---------------------|---------------|
| 5 | Disrespectful conduct and unacceptable behaviour | No breach | | No |
| 6 | Office into disrepute by publication of letter in newspaper containing defamatory statements | No breach | | No |
| 7 | Disrespectful conduct | No breach | | No |
| 8 | Breach of copyright | No breach | | No |
| 9 | Disrespectful conduct and office into disrepute by publication of letter in newspaper containing false statements | No breach | | No |
| 10 | Misconduct in connection with a planning matter | Referred to an Ethical Standards Officer for investigation – ongoing | | |
| 11 | Disrespectful conduct and failure to declare interest | No breach | | No |

Guidance and Support

- 3.12 The Monitoring Officer Advice Series is issued to all Borough Members and Town and Parish Councillors. It offers guidance to Members and keeps Members up to date with changes in the law and procedure.
- 3.13 Since 2002, 104 MO advice notes have been issued. The advice notes have covered a range of topics including the Code of Conduct, Registers of Interests, Standards Board Bulletins, dispensations and gifts and hospitality.
- 3.14 Other advice is regularly issued in advice notes "MO/SBC" which includes (since 2002) 45 separate guidance notes covering functional and procedural advice covering best practice within the Council's internal arrangements; a further series "MO/SBC/CONS" provides information and updates to officers on changes to the Council's Constitution, which is regularly updated on advice from the Constitutional Review Group headed by the Monitoring Officer. 18 separate updates have been issued since 2002. The Monitoring Officer is assisted by a Legal Assistant (Secretarial and Standards Support) who prepares reports on performance issues, best practice elsewhere and in supporting training initiatives and updating the website data on the Council's website. Another Legal Assistant (Standards Support) compiles and maintains Member Registers.

Actions and Measures

- 3.15 On average the Standards Committee meets 4 times a year and during 2007 has considered a variety of reports, including annual reports from the Committee on Standards in Public Life and the Standards Board. Many of the reports advised and informed Members on issues of standards and ethics, current trends in allegations of misconduct at national and local level, changes to the Code of Conduct, including a DVD presentation on the Revised Code of Conduct.

Provision of authoritative guidance and support to relevant authorities, members and officers

- 3.16 A range of training events had been organised throughout 2007. A one-day training event was held at Ferryhill Leisure Centre on the 27th June 2007. The issues on standards were presented by Mr Peter Keith Lucas of Bevan, Brittan Solicitors. The training was aimed at Members of Local Authorities Standards Committees, Monitoring Officers and their Deputies, Town and Parish Clerks and their Members.
- 3.17 The event covered problem areas of the Code of Conduct, complaints and investigations and the pre-hearing process and also provided the opportunity to take part in a local standards mock event.
- 3.18 Five training events reviewing the Revised Code of Conduct took place in the Autumn, one at the Council Offices and four at selected Town Councils. The event provided members with an update on standards issues, included the showing of the latest Standards Board DVD on the Revised Code of Conduct and provided an opportunity to discuss current issues and receive feedback.

Working in partnership to promote high standards

3.19 There are two areas where the Council's approach is supplemented by joint working arrangements with other authorities:

- Parish and Town Councils within the Borough: the Council's Monitoring Officer provides an on-line advice and information service to Parish and Town Council Clerks and their members covering Standards Board updates, bulletins and guidance.
- County Monitoring Officers Group: the Monitoring Officer is Chair of the County Group of Monitoring Officers comprising officers from the County Council and District Councils: the Group considers and organises joint initiatives for training and collaborative working and support amongst authorities.

New Initiatives Implemented

3.20 This year saw a number of initiatives and steps taken that will improve the Council's support on ethical matters:-

- Training on Chairmanship role of Council Committees
- Training on Regulatory Committee membership
- Amendments to the Member Code of Conduct implemented
- New Member Induction Programme completed
- Parish and Town Council Training Programme completed
- Latest Standards Board Training Video presented to Standards Committee

Standards Committee and the Constitution

3.21 The Standards Committee regularly receives reports from the Chief Executive who, on advice from the Monitoring Officer, makes proposals for constitutional revisions to ensure effective decision-making at all levels within the Council's framework. The Monitoring Officer is supported by a team of officers comprising the Constitutional Review Group, which he leads.

Local Government Re-Organisation

3.22 On the 25th July 2007 the Government announced that the Secretary of State for Communities and Local Government was intent upon creating a single Unitary Council for County Durham. Since then, the Local Government (Public Involvement in Health) Act 2007 has received Royal Assent and implementation orders for re-organisation were laid before Parliament early in the New Year.

3.23 Elections to the new unitary authority will take place in May 2008 and the new County Durham Unitary Authority will be established from May 2009. It is

within this context that joint arrangements are currently being developed to establish a smooth transition to the creation of the new authority.

- 3.24 The new unitary authority will be responsible for 50 Parish and Town Councils or thereabouts. Major logistical issues will be involved in the convergence of the work of the Borough and County Authority regarding standards matters.
- 3.25 The challenge for the Council going forward will be to ensure the maintenance of Council's continued commitment to achieving high standards for its members whilst ensuring a smooth transfer of functions to the new unitary authority.
- 3.26 To this end, meetings of the County Monitoring Officers Group are taking place, under the chairmanship of the Council's Monitoring Officer, and a number of tasks have already been identified:-
- the need to adopt a shared approach amongst the Councils to reporting to members on the introduction of new local assessment procedures
 - the establishment of a joint approach to training
 - the identification of key milestones in achieving convergence
 - the development of a mutual assistance approach to future training
 - the issue of agreed advice on publicity prior to the May 2008 elections
 - the submission of baseline information on standards activities within authorities

The Local Government (Public Involvement in Health) Act 2007 – Standards Issues

- 3.27 The Local Government (Public Involvement in Health) Act 2007, at Part 10, gives effect to a number of key changes to the locally managed framework for standards issues, and, in particular, the introduction of local assessment of complaints.
- 3.28 The legislation now proscribes change in a number of important areas:-
- the size of Standards Committees
 - structure of Standards Committees
 - local assessment criteria for dealing with complaints
 - the future role of the Standards Board in monitoring the ethical framework
- 3.29 In addition to the above requirements, the Standards Board for England will, henceforward undertake an increasingly pro-active approach towards giving advice on the operation of the ethical framework and will issue recommendations in relation to each of the above matters. Further detail is shown in Appendix A to this report.

4. RESOURCE IMPLICATIONS

- 4.1 The plan emphasises the need to retain sufficient organisational flexibility to manage the uncertainties and risks inherent in this work at a local level. The plan will be regularly monitored – annually – to ensure that resources remain directed to the highest priorities of case handling and support to the Standards Committee.

5. CONSULTATIONS

- 5.1 This Report has been prepared by the Leader, in consultation with the statutory officers of the Council: the Chief Executive, the Monitoring Officer and Section 151 Officer. Management Team has also considered the terms of the Report.

6. OTHER MATERIAL CONSIDERATIONS

- 6.1 Links to corporate values:

Strategic Leadership

Strong Communities

- 6.2 Legal Implications: the requirements of the Local Government Act 2000 (and related legislation) impose duties and obligations upon the Council, its Standards Committee and the Monitoring Officer. The approach taken in this Report supplements and supports the Council's compliance within the new ethical agenda.

7. OVERVIEW AND SCRUTINY IMPLICATIONS

None identified.

Contact Officer: Dennis A. Hall
Telephone Number: 01388 816166, Ext. 4268
E-mail address: dahall@sedgefield.gov.uk

Wards: N/A

Key Decision Validation: N/A

Background Papers

Reports:

- Standards Committee - 8th February 2007
 - Strong and Prosperous Communities : The Local Government White Paper – Implications for Standards and Ethics*
 - Standards Board for England Conference : Local Investigations and Appeals from Local Decisions*
 - An Analysis of the Current Trends in Allegations of Misconduct at National and Local Level – 2006*
 - Arrangements for the Review of the Constitution*
 - Revised Model Code of Conduct for Members*
- Council - 27th February 2007
 - Arrangements for the Review of the Constitution*
- Standards Committee - 5th April 2007
 - SBE : Case Review: Relationship between Council Leaders, Chief Executives and Officers*
 - Guidance from the Standards Board: Implications of Collins J in the Livingstone Case*
 - SBE Case Review: Bullying*
 - SBE Conference: Conducting and Holding an Effective Hearing*
 - Arrangements for the Review of the Constitution*
- Council - 20th April 2007
 - Arrangements for Review of the Constitution*
- Standards Committee - 27th April 2007
 - Arrangements for Review of the Constitution*
 - Implementation of the Revised Model Code of Conduct for Members*
- Council - 18th May 2007
 - Arrangements for Review of the Constitution:*
- Standards Committee - 5th July 2007
 - Committee on Standards in Public Life: Annual Report 2006*
 - Standards Committee Forward Plan 2007/2008*
 - Training Arrangements for Members 2007*
 - Standards Board Roadshow – 12th June 2007 - Newcastle*
 - Arrangements for Review of the Constitution*
- Council - 27th July 2007
 - Arrangements for Review of the Constitution – Changes to Contract Procedure Rules*
 - Arrangements for Review of the Constitution*
- Standards Committee - 1st November 2007
 - Standards Board Annual Review 2006/2007*
 - Standards Board Training Events – Evaluation Questionnaires*

Examination by Statutory Officers

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

This page is intentionally left blank