

**TEESDALE DISTRICT COUNCIL**

**Report To: STANDARDS COMMITTEE  
11 June 2008**

**From: Chief Governance Officer (Monitoring Officer)**

**Ward Members: All**

**Subject: REPORT OF MONITORING OFFICER**

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**1.0 SUMMARY**

1.1 This report informs members of relevant standards matters since the last meeting of the committee.

**2.0 RECOMMENDATION**

2.1 It is recommended that the committee considers the matters raised in this report and makes decisions as appropriate, as follows:

2.1.1 Note the position relating to Membership together with any comment, if appropriate;

2.1.2 Note the position relating to Standards Board complaints;

2.1.3 In relation to Local Assessment:

- Note the Regulations, Guidance and Publicity relating to Local Assessment;
- Determine the arrangements for organising the Local Assessment function, as set out in paragraph 6.10;
- Approve the Procedure for Local Determination of Allegations against Councillors subject to the comments made in paragraph 6.11;
- Approve the format and means of publicity for Local Assessment within Teesdale as set out in paragraph 6.12;

2.1.4 Approve the Annual Report and determine the means for reporting and circulation of the report;

2.1.5 Note the Factsheets produced by the Standards Board.

**3.0 LINK TO CORPORATE KEY PRIORITIES/AMBITIONS**

3.1 **Priority:** The Council aims to act, at all times, in the interests of its community.

3.2 **Ambition:** To ensure that all local authority members demonstrate the highest ethical standards.

3.3 **Outcome:** Improved ethical standards, supported by a strong and supportive Standards Committee.

#### **4.0 MEMBERSHIP UPDATE**

4.1 The committee's recommendation that Councillor Rosemary Thompson, a member of Cotherstone Parish Council, be appointed as a Parish Council representative on the Standards Committee was approved by the Council on 23 April 2008.

4.2 The Council, at the same meeting, also approved this committee's recommendation that the establishment of the Standards Committee be increased by the appointment of a third Parish Council representative, to give it greater capacity to be able to deal with local assessment of complaints against members (District and Parish Council).

4.3 An application from a member of Cockfield Parish Council, supported by the Parish Council, has been received for the newly created third Parish Council place. I have invited the applicant in for a discussion with myself and also to attend, informally, this meeting to enable her to observe proceedings (and members to meet her). Formal appointment to the committee will need to await the approval of the next meeting of full Council (30 June).

#### **5.0 STANDARDS BOARD COMPLAINTS**

5.1 I reported, at the last meeting of this committee, that a member of the District Council had reported an alleged breach of the Code of Conduct by eight members of the District Council. Specifically, the members were alleged to have:

- Damaged the reputation of the overview and scrutiny committee by stating that it was underperforming
- Discredited the complainant
- Been personal in nature towards the complainant
- Split the Council
- Brought the Council into disrepute.

5.2 The Standards Board for England decided that the allegations should not be referred for investigation as the matters complained about did not amount to a breach of the Code of Conduct. Specific comments in the Decision Notice include that the Standards Board does not have legal jurisdiction over internal party political matters. In addition, allegations about disrespectful comments made in the course of political discussion are only likely to be referred for investigation where there is clear and excessive abuse of people rather than ideas.

5.3 I did not issue a public notice about the decision at the time as the 'purdah' election period was imminent and also because the member complainant informed me that he proposed to request a review of the decision.

5.4 The Standards Board issued its decision following the request for a review on 19 May. The decision was that the case was handled correctly and the decision reached was reasonable. The Standards Board now considers the matter to be closed.

5.5 I will now arrange to give public notice of the decision in accordance with the Standards Board's guidelines for such notices.

## **6.0 LOCAL ASSESSMENT**

6.1 The Local Government and Public Involvement in Health Act 2007 gives Standards Committees the role of undertaking the initial assessment of misconduct allegations, a role previously undertaken by the Standards Board for England. The Standards Committee (England) Regulations 2008 were laid before Parliament on 17 April and came into force on 8 May 2008. The Regulations set out in detail the way in which the local assessment function is to be discharged by Standards Committees and are attached as **Appendix A**.

6.2 In complying with its obligations under the Regulations, Standards Committees are also required to take account of any guidance published by the Standards Board. The Standards Board published its guidance 'Local Assessment of Complaints' on 2 May 2008 and this is attached as **Appendix B**.

6.3 A Procedure for Local Determination of Allegations against Councillors is attached as **Appendix C**. Members may wish to consider this procedure's suitability for adoption within Teesdale.

6.4 The Standards Board has issued publicity about the new local assessment function. A copy of the leaflet 'Making a Complaint: Complaining about the Behaviour of a Local Authority Member' is attached as **Appendix D**. Suitable local publicity needs to be undertaken.

6.5 In carrying out the local assessment function, the Standards Committee is required to appoint separate sub-committees to undertake the initial assessment (Assessment Sub-Committee) and, if necessary, to review the initial assessment (Review Sub-Committee).

6.6 Upon receipt of a written allegation that a member has failed to comply with the Code of Conduct, the Assessment Sub-Committee will meet to consider the allegation and decide whether to:

- Refer the allegation to the Monitoring Officer (for investigation or to attempt local resolution)
- Refer the allegation to the Standards Board for England (in the case of serious or extremely contentious or sensitive matters)
- Decide that no action be taken in respect of the allegation.

The Standards Board guidance states that this decision should be made within 20 working days of receipt.

- 6.7 In the event that the decision is that no action be taken, the complainant will then have 30 days in which to consider whether to request a review of this decision. The Review Sub-Committee will then consider the allegation afresh and decide a course of action as in 6.6 above. The Review Sub-Committee must comprise different members to those who initially assessed the allegation. The review should be completed within 20 working days.
- 6.8 Should the matter proceed to an investigation and, ultimately, a hearing, this may be heard by either the full Standards Committee or a sub-committee. There is no requirement that a member who participated in either the initial assessment or a review may not take part in the hearing.
- 6.9 Each sub-committee must comprise at least three members, one of whom must be an independent member (who must act as chair) and one of whom must be a member of the District Council. Where the subject of the complaint is a Parish Council member, a Parish Council representative must be on the sub-committee.
- 6.10 Members are asked to consider how they wish local assessment to be organised. In considering this, members should consider the following:
- As the quorum for a sub-committee is three, should they comprise more than three members? (An argument against this is that to provide cover for the independent member and the District Council member and, if necessary, the Parish Council member, the sub-committee could comprise six members, which is too large, and would also require there to be four independent members and four Parish Council members on the Standards Committee.)
  - Should any hearing be by the full Standards Committee or a sub-committee (of how many)?
  - Should sub-committees be appointed now or would you prefer to authorise the Monitoring Officer to appoint sub-committees as and when necessary? (Obviously the workload cannot, at this stage, be determined.)
- 6.11 In the attached procedure (**Appendix C**), it is envisaged that the Monitoring Officer will undertake the role of adviser and reporter to the

Standards Committee and its sub-committees and that any investigation will be carried out by an independent person. References in the procedure to the Chief Executive (notices of meetings, liaison with involved parties and witnesses) may be replaced by the Chief Governance Officer unless he is conflicted out due to his dual role as Monitoring Officer.

- 6.12 The Regulations require the Council to publish details of the address to which written allegations should be sent and to take reasonable steps to ensure that details of the process and the procedure which will be followed in dealing with allegations is brought to the attention of the public. A leaflet and complaint form are being drawn up and will be available at the meeting. In addition, details will be available on the Council's website together with a link from the Council's corporate complaints procedure which will need to be slightly amended to accommodate the new procedure.

## **7.0 ANNUAL REPORT**

- 7.1 The Committee has previously agreed that an Annual Report on the work of the Standards Committee should be produced so that its work should be more visible to both the Council and the wider public. A report is currently being drafted which will be available for consideration at the meeting where members will also be able to consider what arrangements be made for reporting and circulation of the report.

## **8.0 STANDARDS BOARD FACTSHEETS**

- 8.1 The following factsheets produced by the Standards Board are attached for information:
- The ethical framework for local government
  - Disclosing confidential information
  - Personal and prejudicial interests
  - Lobby groups and declarations of interest under the code of conduct
  - Gifts and hospitality
  - Bullying

## **9.0 STATUTORY CONSIDERATIONS**

- 9.1 Financial Implications: The revisions to the ethical framework, bringing in Local Assessment, may have resource implications, in terms of the cost of investigations, which cannot yet be quantified, as costs will be dependant on the level of complaints.

9.2 Risk:

<b>Risk</b>	<b>Category</b>	<b>Implications</b>
Council does not commit to, or enforce, high standards of member conduct	Reputation Legal	Poor standards of conduct, and morale, possibility of challenge to Council decisions, complaints made against members.
The Standards Committee does not have sufficient members, suitably trained, to undertake this function effectively		Failure to establish an efficient regime for dealing with the local management of complaints.

9.3 Equality and Diversity: High standards of conduct are necessary to ensure that the Council complies with equalities legislation.

9.4 Human Resources: There are likely to be significant workload implications for the Monitoring Officer and Standards Committee members when dealing with complaints.

9.5 Community Safety: No significant crime and disorder implications.

9.6 Legal Issues: Compliance with the Code of Conduct is a requirement of the Local Government Act 2000. The Local Government and Public Involvement in Health Act 2007 provides for the introduction of local assessment, which has now been implemented by the Standards Committee (England) Regulations 2008.

**Background papers:** Referred to in report

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