

Meeting of the Council - 3rd December 2007

Report of the Standards Committee

Annual Report : Members' Code of Conduct

Purpose of Report

1. To consider the Annual Report of the Standards Committee on the operation of the Members' Code of Conduct.

Background

2. Within its Terms of Reference the Standards Committee is obliged to monitor the operation of the Members' Code of Conduct and this report is the fourth overview since the Code of Conduct was introduced.
3. This report, which was approved by the Standards Committee on the 18th October 2007:-
 - refers to the new Members' Code of Conduct approved by the Council in July 2007;
 - summarises the work of the Committee since the last Annual Report in June 2006;
 - provides a brief summary of the complaints that have been referred to the Standards Board for England since the last Annual Report;
 - gives details of training for members;
 - proposes some action points for 2007/8.

New Members' Code of Conduct

4. After a lengthy gestation period the government issued a revised model Code of Conduct which came into force on the 3rd May 2007. Following a recommendation from the Standards Committee the model Code was endorsed by the Council without amendment on the 16th July 2007 though, on the advice of the Standards Board for England, a preamble to the Code was included in order to make reference to the 10 general principles governing the conduct of members.
5. The changes in the Code have previously been explained in reports to the Standards Committee and the Council and have been the subject of a number of training sessions for members.

6. Interpretation of the new Code continues to identify various problems and anomalies which will probably require a further revision of the Code in due course.
7. In the meantime the Standards Board for England have issued a new DVD entitled "The Code Uncovered" which will be the basis for further training events for members this year.

Summary of the Work of the Standards Committee since June 2006

8. Since June 2006 the Standards Committee have dealt with the following issues:-
 - The introduction of the new Members' Planning Code of Good Practice
 - Reviews of the Confidential Reporting Policy (i.e. whistleblowing) in 2006 and 2007
 - Considering the report of the Committee on Standards in Public Life on public attitudes towards conduct in public life
 - The findings of the Audit Commission with regard to ethical governance within the Council contained in the Corporate Assessment Report in February 2007
 - A review of the Members' Allowances Scheme.
9. The Corporate Assessment report stated that ethical standards in the Council are good and that ethical governance is managed well. The Audit Commission also reported that the work of the Standards Committee is well regarded. However, it was recommended that we should have programmed rather than ad hoc meetings and that we should develop a work programme. As a result quarterly meetings of the Standards Committee were approved by the Council at its annual meeting in May 2007 and the Committee approved a work programme for 2007/8 at its meeting on the 28th June 2007.
10. With regard to public attitude towards conduct in public life, in May 2007, the Council signed up to the Reputation Project organised by the Local Government Association and IDeA who have launched a five year strategy for improving the reputation of local government. Initially the strategy and its action plan concentrate on steps to improve the environment and to focus on more effective communications. There will be regular progress reports which will be brought to the attention of the Standards Committee.
11. In addition in March 2008 there will be a number of questions on the theme of Standards in Public Life in the questionnaire for the Citizens Panel the outcome of which will be reported to the Standards Committee.

Brief Summary of Complaints to the Standards Board for England

12. Since June 2006 there have been 4 complaints referred to the Standards Board compared with a total of 10 complaints between March 2005 and June 2006. These 4 complaints are summarised below:-

(a) – A member made disrespectful comments about another member in the presence of other Councillors, officers, members of the public and the press

The complainant alleged that a member accused him of “lying” and made other disrespectful comments in the presence of other Councillors, officers, members of the public and the press. Allegedly at a subsequent meeting the member was invited to apologise but refused to do so.

The decision of the Standards Board for England was that this allegation should not be investigated. They recognised that in the course of their duties members are likely to encounter occasional ill-considered or rude comments and during the course of a heated debate they can sometimes get carried away and resort to other disruptive or disrespectful behaviour. However, members have a public platform from which to defend themselves and have the opportunity to respond in appropriate forums, including the media. Allegations to the Standards Board for England about disrespectful comments made in the course of political debate are only likely to be referred for investigation where there is clear and excessive abuse of people. Allegations of political point-scoring or mild rude and inappropriate language are not considered of such significance of themselves to justify investigation and any consequent action.

(b) Allegation – A complaint by a member of the public that he was abused in a telephone call by an elected member

The complainant stated that he had displayed a party political poster in his window at the time of the local elections in May 2006. He alleged that an elected member from a different political party gave him abuse over the telephone, “ranting and raving and swearing” at him. Subsequently it is alleged that the elected member mounted a vociferous campaign to have the complainant’s caravan removed from a cul-de-sac outside his house where he says it was legally parked. The complainant was subsequently served with a notice to have the caravan removed but he complained that this was as a result of misinformation and distortion of the facts by the member.

The view of the Standards Board for England was that the information provided was insufficient to make a decision as to whether it should be referred for investigation. The alleged abuse of the complainant over the telephone would amount to a potential breach of the Code of Conduct, but not one which of itself would be serious enough to warrant an investigation. It was not clear from the information provided the extent to which the decision of the Council to serve a notice on the complainant was due to the complaint of residents or to the actions of the member concerned. If the two matters were linked, this could be a potentially serious allegation and the complainant was invited to submit evidence in support of his claim which would then be considered by the Standards Board for England.

So far as the Council is aware no further information has been submitted to the Standards Board for England and, therefore, the matter has not been referred for investigation.

(c) Allegation – A complaint from a member of the public regarding the conduct of an elected member

The complainant alleged that, following his defeat in the local elections in May 2007, he was approached by a member. He alleged that the member began criticising the complainant's political party and the local party chairman and that his manner was arrogant and hostile. The complainant further alleged that on informing the member that he was an elected member of the area housing panel, the member replied "Yes, and we will soon get you removed from that.". The complainant alleged that this comment was made in public and caused both him and others present obvious embarrassment. He also alleged that the manner in which it was said was threatening.

The Standards Board for England recognised that elected members and those who enter the political arena will at times subject each other to public criticism and this is part of the cut and thrust of local politics. It is also recognised that feelings and emotions will run high on election night. On the basis of the information provided the Standards Board for England considered that the alleged comment and the manner in which the member allegedly spoke to the complainant had the potential to disclose a failure to comply with the Code of Conduct. However, the Standards Board for England decided that the allegation should not be referred for investigation. Having taken account of the available information they did not believe that the alleged conduct was serious enough to justify an investigation. They made no finding of fact and no judgement was made about whether the alleged events actually occurred in the way stated by the complainant.

(d) Allegation – A member had breached confidentiality by disclosing personal information to a third party

The complainant was a member of the public who stated that she had contacted a member about school uniform matters by e-mail and had received an e-mail in response. The complainant alleged that she later had a telephone call from another individual advising her that a group of which she was a member had met the elected member to discuss the uniform matters. It was alleged that at this meeting the member had said that the complainant was not going to be "very happy" and asked for a message to be passed on to the complainant that she would not be getting her money back.

The complainant alleged that this was a breach of confidentiality and that the member should not have disclosed personal information or discussed other people in this way.

Whilst it was acknowledged that the complainant considered that the comments allegedly made by the member disclosed personal information about her and breached her confidentiality, the Standards Board for England did not consider that the comments and information shared by the member would be deemed confidential under the Code of Conduct. It appeared, on the basis of the information provided, that those present at the meeting were aware of the complainant's interest in this matter and, whilst the complainant may have preferred for her name not to be mentioned in her absence, this would not make the information confidential. It was also noted that the member had subsequently

sought to explain to the complainant the reasons behind her comments. It was not considered that the reasons given disclosed a potential failure to comply with the Code. Accordingly the Standards Board for England decided that the allegation should not be investigated.

13. The Standards Committee endorsed the following two observations of the Monitoring Officer regarding the above complaints. First, it is interesting to note that there has been a significant reduction in the number of complaints which may be explained by the fact that members are increasingly more conscious of the Code and the need to comply with it at all times. Secondly, there seems to be a growing recognition that the Standards Board for England are accepting that comments made in the heat of the moment or in the rough and tumble of political life should not normally be regarded as a breach of the Code. This has not always been the case and in earlier years the threshold for launching an investigation into isolated injudicious comments was much lower.

Training for Members

14. In July 2006 a number of members attended a training session to view the Standards Board for England's DVD on local investigations and local determinations. This DVD had earlier been seen by the Standards Committee.
15. Since the launch of the new model Code there have been 5 separate training sessions which have been attended by almost all members.
16. A further training seminar will be convened to view the new DVD on the revised Code of Conduct.

Action Points for 2007/8

17. An important focal point will continue to be the embedding of the new Code of Conduct. This will be assisted by the further training event previously referred to and the constant requests for guidance that are received from members on an individual basis.
18. The work programme of the Standards Committee will continue to develop particularly as we become more aware of the issues raised by the new Code both locally and nationally and, as planned, the Monitoring Officer will produce a summary of decisions by the Adjudication Panel for England at the January 2008 meeting.
19. Internal and external awareness of the new Code will continue to be a priority. A statutory public notice regarding the new Code has already been published in the Express and Star and the Code appears on the Council's web-site. An article has recently appeared in our internal newsletter, Dudley Matters, and the Monitoring Officer has written to our key strategic partners in the Dudley Community Partnership to make them aware of the existence of the Code.
20. However, the main focus of attention within the next 12 months will be the changes to the handling of complaints of alleged breaches of the Code. It is expected that, following the enactment of the Local Government and Public Involvement in Health Bill this autumn, the new arrangements for the ethical

framework will be introduced in April 2008. This means that all complaints will initially be reported direct to a Sub-Committee of the Standards Committee rather than the Standards Board for England. The Sub-Committee will then determine whether or not the complaint should be investigated and, if so, whether the investigation should be local or whether it is of sufficient seriousness to be referred to the Standards Board for England. If heard locally a differently constituted Sub-Committee will have to be convened.

21. The Standards Board for England will be issuing guidance on this in the next few months and this will be reported to the Standards Committee probably at its meeting in January 2008. However, it is clear at this stage that these changes will have an impact on the workload of the Standards Committee, the Monitoring Officer and the Deputy Monitoring Officer, and will almost certainly require a number of Sub-Committee meetings to process each complaint within the statutory timescales.
22. In view of the extra workload the Standards Committee recommend to the Council that arrangements be put in hand for the appointment by the Standards Committee of a third independent member.

Conclusion

23. Whilst the Standards Committee would never want to be complacent, I think that there is some reassurance in the lower number of complaints and the fact that none of them were investigated.
24. All members have now signed their declaration of acceptance of the new Code and have completed their new register of interests.
25. Training events continue to be well attended and often stimulate lively and interesting exchanges of views and experiences.
26. The workload of the Committee will change significantly in 2008 when the new arrangements for local handling of complaints are introduced, but we should be able to accommodate this within existing resources, provided an additional independent member is appointed.

Finance

27. Any financial implications arising from the promotion and maintenance of high ethical standards are met from within existing budgets.

Law

28. The relevant provisions regarding the Members' Code of Conduct are contained in Sections 49-52 of the Local Government Act 2000 and Regulations made by the Secretary of State.
29. The Monitoring Officer is satisfied that both he and the Standards Committee have sufficient resources to undertake their statutory functions.

Equality Impact

30. This report complies fully with the Council's policies on equality and diversity. It is a significant requirement of the Code of Conduct that members do not discriminate against people on the grounds of race, gender, disability, religion of belief, sexual orientation and age.
31. There are no particular issues arising from this report with regard to children and young persons.

Recommendation

32. It is recommended that:-
 1. this Annual Report of the Standards Committee on the operation of the Members' Code of Conduct be approved,
 2. the Monitoring Officer be authorised to place an advertisement for a third independent member of the Standards Committee, and
 3. the Standards Committee be authorised to interview appropriate candidates and to make an appointment.



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Bishop of Dudley

Independent Chairman of the Standards Committee