

Standards Committee - 15th October 2008

Report of the Monitoring Officer

Annual Report : Members' Code of Conduct

Purpose of Report

1. To consider the Annual Report 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 fifth overview since the Code of Conduct was originally introduced.
3. In this report I will:-
 - summarise the work of the Committee since the last Annual Report in October 2007;
 - provide a brief summary of the complaints that have been referred to the Standards Board for England or the Standards Committee since the last Annual Report;
 - give details of training for members;
 - summarise a meeting between the Chairman of the Standards Committee and the three Group Leaders on the 25th February 2008;
 - review the action points from the 2007/8 Annual Report;
 - propose some action points for 2008/9.

Summary of the work of the Standards Committee since October 2007

4. To say the least the last twelve months has been a very hectic period.
5. The Standards Committee now has an agreed work programme and meetings' schedule for the year. Its programme has included the following issues:-
 - Amending the Members' Planning Code of Good Practice
 - Approving arrangements for the local initial assessment of complaints (see paragraph 6 below)
 - The appointment of a third independent member (see paragraph 8 below)

- Reviewing the Code of Corporate Governance
 - Reviewing the operation of the Confidential Reporting Policy (i.e. whistleblowing)
 - Considering the Annual Report of the Committee on Standards in Public Life 2007/8
6. The new arrangements for the local initial assessments of complaints came into force on the 8th May 2008. From that date all complaints of alleged breaches of the Code have to be referred to the local Standards Committee rather than to the Standards Board for England. At its meeting on the 10th June 2008 the Standards Committee set up all of the necessary arrangements for processing such complaints and has appointed three separate sub-committees for each potential stage of the process. A new complaint form and information pack for complainants are available either on request or on-line and the new arrangements have been publicised locally. A Monitoring Officer Protocol has also been approved.
7. To date the Referrals Sub-Committee has dealt with 1 complaint alleging that a member had shown a lack of respect and brought his office or the Council into disrepute as a result of comments made in a letter sent to the complainant's solicitors. The decision of the Sub-Committee was that no action be taken because:-
- (a) even if proved, the complaint would not amount to a breach of the Code
 - (b) the allegation was not sufficiently serious to warrant an investigation or further action, and
 - (c) in any event the complainant had not provided enough information to satisfy the Sub-Committee that the complaint should be referred for investigation or further action.
8. Earlier this year the Standards Committee embarked upon the appointment of a third independent member. Following advertisement and interviews the Standards Committee recommended the appointment of Mr John Beards and this recommendation was approved by the full Council at its meeting in April. Mr Beards has been appointed for a term of four years.

Brief Summary of Complaints to the Standards Board for England

9. Since October 2007 there have been four complaints referred to the Standards Board though two of these complaints are linked and are effectively one and the same complaint. This compares with four complaints between June 2006 and October 2007 and ten complaints between March 2005 and June 2006. These four complaints are summarised below:-

(a) Allegation – A member was provided with information about the suspension from employment by the complainant and the member disclosed that information to a third party outside the Council.

The complainant stated that in correspondence with a senior officer it had been confirmed that matters relating to her suspension from work was discussed with the member concerned who had then disclosed the information to a third party.

The view of the Standards Board was that the information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or not. The complainant had not provided details of the information allegedly disclosed by the member. Without such detail it was not possible for officers to take a view as to whether the information in question had the potential to be information of a confidential nature or information given in confidence.

The Standards Board went on to say that if additional information was provided they would consider the matter afresh.

In a subsequent separate complaint the complainant sought to provide the further information but the Standards Board determined that this was insufficient to support a decision to refer the matter for investigation.

The complainant then exercised her right to call for a review of this decision by the Standards Board but the review concluded that the complaint was handled correctly and the final decision not to investigate was reasonable.

(b) Allegation – A complaint by a member of the public that a member had acted as a character witness for a defendant charged with assaulting the complainant.

The complainant reported that he had been beaten up in a local park. The defendant was prosecuted and pleaded guilty but the member concerned had acted as a character witness. The complainant felt that the member was effectively condoning attacks on people in the park where the assault took place.

The decision of the Standards Board was that it appeared that the alleged incidents all related to the member's private capacity and were not related to his conduct as an elected member. Accordingly, they took the view that no potential breach of the Code was disclosed.

(c) Allegation – A complaint that a member has failed to treat people with respect, has engaged in bullying and intimidation and brought their office and the Authority into disrepute.

This complaint was submitted to the Standards Board before the new local initial assessment of complaints was introduced on the 8th May. At the time of writing this report it is still the subject of an investigation by an Ethical Standards Officer.

10. My only observation regarding the above complaints relates to the two linked complaints summarised in paragraph (a). For a complaint to be investigated it is essential for the complainant to provide sufficient detail to enable a decision maker to justify a decision to investigate. For example alleging that a member has breached confidentiality without giving precise details of the confidential information and the circumstances in which it was allegedly disclosed will almost always result in a decision not to investigate – at least until further information is provided.

Training for Members

11. All members have been trained on the new Code of Conduct introduced in July 2007. This training included viewing the DVD entitled "The Code Uncovered" produced by the Standards Board. In addition a number of members have attended a refresher training event on the Code earlier this year which included consideration of cases decided by the Adjudication Panel for England.
12. Members of the Standards Committee itself have also attended a training session on local initial assessments of complaints which included an examination of real life case studies in order to decide whether or not a particular complaint should be referred for investigation.

Meeting between the Chairman of the Standards Committee and the three Group Leaders

13. This meeting took place on the 25th February 2008 and it is proposed that it should be an annual event. In my capacity as Monitoring Officer I brought the Group Leaders up to date with regard to the training for all members on the new Code of Conduct in 2007 and the refresher training for members in early 2008. The Chairman and I also briefed the Group Leaders on the appointment of the third independent member and the proposed arrangements for the local initial assessment of complaints. The Group Leaders noted these issues and did not have any additional items that they wished to discuss with the Chairman or myself.

Review of Action Points for 2007/8

14. The main action points from last year were to:-
 - continue to embed the new Code of Conduct and,
 - introduce the arrangements for the local initial assessment of complaints
15. Internal and external awareness of the Code and the local initial assessment arrangements have been a priority. An article appeared in the our internal newsletter, Dudley Matters, and last Autumn I wrote to our key strategic partners via the Dudley Community Partnership to remind them of the existence of the Code. As previously stated in this report, the arrangements for local initial assessment have been well publicised.

Action Points for 2008/9

16. On the basis of recent experience we can continue to expect about four complaints per year of alleged breaches of the Code. As a decision on whether or not to investigate has to be taken within a strict time limit, we will continue to timetable monthly meetings of the Referrals Sub-Committee who will make the initial decision on whether or not to refer a complaint for investigation.
17. These new arrangements have the potential to become resource intensive but at this moment in time I believe that we can cope with the expected number of complaints within existing resources. However, if this situation alters, I will submit a report to the Standards Committee.
18. My main priorities for this year are to:-

- ensure that the Sub-Committees that we have appointed are well briefed and supported in reaching decisions which come within their terms of reference
- signposting potential complainants to enable them to use the appropriate complaints procedure (e.g. Code of Conduct, Ombudsman or Corporate Complaints Procedure)
- provide further training events for members to increase their awareness of the new Code.
- arrange the annual liaison meeting between the Chairman of the Standards Committee and the three Group Leaders

Conclusion

19. The year ahead will undoubtedly be a challenge for the Standards Committee and officers as we begin to deal with complaints at a local level.
20. However, overall it is clear to me that members have a healthy respect for complying with the Code. There is still an appetite for attending training events and my colleagues and myself are frequently asked for advice about declarations of interest and other issues associated with the Code.
21. The workload for members of the Standards Committee will obviously intensify this year but this should help the Committee to gain in confidence when it has to exercise its judgement on how to handle the local initial assessment and any subsequent review or investigation.

Finance

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

Law

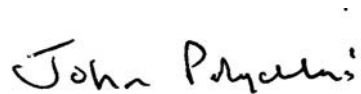
23. The relevant provisions regarding the Members' Code of Conduct are contained in Sections 49-52 of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008.

Equality Impact

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

Recommendation

26. It is recommended that this report and the action points set out in paragraphs 16-18 be considered by the Standards Committee and referred to the Council for approval.



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Monitoring Officer

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List of Background Papers

1. Correspondence with the Standards Board for England.
2. Decision Notice : DMBC/1/2008/31889