

# **STANDARDS COMMITTEE AGENDA**



**Tuesday 9<sup>th</sup> August 2011**

**at 4.00 p.m.**

**in Committee Room C**

**MEMBERS: STANDARDS COMMITTEE:**

Councillors Barclay, Fleet, Griffin, Morris, Preece, Shaw and Sutheran.

Co-opted Members: B Footitt, B Gray and T Jackson

Parish Councillors: A Bell, Hart Parish Council and 2 vacancies

**1. APOLOGIES FOR ABSENCE**

**2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

**3. MINUTES**

3.1 To confirm the minutes of the meeting held on 28<sup>th</sup> June 2011 *(to follow)*

**4. ITEM FOR DECISION / INFORMATION**

4.1 Business Paper – *Chief Solicitor (to follow)*

**5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

# **STANDARDS COMMITTEE**

## **MINUTES AND DECISION RECORD**

28<sup>th</sup> June 2011

The meeting commenced at 4.00 pm in the Civic Centre, Hartlepool

### **Present:**

Mr B Gray (In the Chair)

Councillors Barclay, Fleet, Griffin, Preece and Shaw  
Parish Councillor Bell (Hart Parish Council)

In accordance with Rule 4.2 (ii) of the Constitution, Councillor Wells attended as a substitute for Councillor Morris.

Officers – Alyson Carman, Legal Services Manager  
Amanda Whitaker, Democratic Services Team Manager

### **1. Apologies for Absence**

Councillors Morris and Sutheran, Professor Footitt and Mr Jackson.

### **2. Declarations of interest by members**

None

### **3. Minutes**

The minutes of the meeting held on 12<sup>th</sup> April 2011 were confirmed.

### **4. Business Paper (*Chief Solicitor*)**

#### **(i) The Localism Bill – Update**

Members were reminded that the Localism Bill proposed abolishing the Standards Board regime and the model code of conduct and introduces local accountability and a criminal offence of deliberate failure to declare a personal interest in a matter. The Bill had made its passage through the House of Commons without any major changes to these proposals and was at committee stage in the House of Lords until 7 July 2011.

At the meeting of the Standards Committee held on 14 April 2011, it had been proposed that a submission from the Committee should be made to Parliament setting out the Committee's concerns at the proposed changes to the Standards regime. Appended to the report was a proposed response based on the Committee's previous suggestions.

RESOLVED – That the report be noted, the proposed submission be approved and that the Chairman be authorised to sign the submission.

(ii) Assessment Sub-Committees – Progress Report

Further to minute 40 of the meeting held on 12<sup>th</sup> April 2011, it was reported that eight complaints had been considered by the Assessment Sub-Committees and in the main had indicated a breach of the general obligations of the code namely paragraph 3, failure to treat others with respect. The result in all cases but one was to refer the matter to the Monitoring Officer for investigation and these were ongoing. The eighth case was referred to the Standards for England, due to its potential seriousness, complexity and sensitivity. A decision notice had been received from Standards for England, who had decided that no action needed to be taken in this case. However, the general issues that arose from the case were relevant and of interest to the Committee. The general issues arising from this case were set out in the report including the distinction between Members acting in their official and unofficial capacities. Case APE 421 was appended to the report. The issues arising from the case were reiterated by Members at the meeting. It was considered that it would be appropriate for all Members of the Council to be made aware of the potential implications of their actions particularly in respect of social networking.

Resolved - That the report be noted.

(iii) Bribery Act 2010

Members were reminded that the Standards Committee function as set out in Part 3 of the Council's constitution was to promote and maintain high standards of conduct by members and inter alia to monitor the operation of the Council's Anti-Fraud and Corruption Policy so far as it related to the actions of members of the Council.

It was noted that the Bribery Act 2010 came into force on 1<sup>st</sup> July 2011. There were 4 key offences under the Act as set out in the report. The offences carried criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for organisations an unlimited fine could be imposed.

In terms of risk to the Authority, the Authority's existing procedures and implications of the Act had been considered by the Corporate Management Team and relevant departments and examples of the possible risks had been identified in relation to procurement and gifts and hospitality. The contract procedure rules were being re-examined in light of this legislation. However, it

was noted that the Council already had in place robust anti-corruption policies and clauses within Contract Procedure Rules which would need very little by way of change. Of relevance to the Standards Committee was the Council's policy on gifts and hospitality and officers and members requirement to register any gifts and hospitality. The legislation did not require a change to the Council's position on gifts and hospitality but did reinforce its provisions in that it was unacceptable to give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received. Also that no gift or hospitality was to be offered or accepted; nominal gifts and hospitality up to £25 were acceptable and that reasonable, proportionate gifts and hospitality made in good faith and that were not lavish were acceptable.

Appended to the report was an extract from the Council's Financial Procedure rules and from the members Register of Interests on gifts and hospitality. The Council's current procedures and practices seemed to be in accordance with the requirements of the Act and required little by way of update. It was highlighted that it was important that the Council ensured staff and members were aware of the Act and the implications by reinforcement of its anti-corruption procedures and rules of gifts and hospitality and to ensure that staff and members are vigilant and report any suspected bribery and other forms of corruption.

RESOLVED – That the report be noted.

(iv) Role of Standards Committee in respect of Appeals by Post holders who are Politically Restricted

Members were reminded that the Standards Committee has responsibility for dealing with the grant and supervision of exemptions from political restrictions in respect of all relevant Council posts..

The Local Democracy, Economic Development and Construction Act 2009 had received royal assent on 12 November 2009. S.30 had made amendments to the Local Government and Housing Act 1989 (LGHA 1989) in respect of the approach to identifying posts which were politically restricted by removing the duty to maintain a list of posts earning above a nominated salary. This had taken effect from 12 January 2010 with the result that Authorities needed to review the posts previously considered to be politically restricted by virtue of salary level to assess whether they should be genuinely politically restricted by virtue of the duties they actually perform. A review had been undertaken and a report had been submitted to the relevant Portfolio Holder, a copy of which was appended to the Committee's report together with a list of posts that are politically restricted with Hartlepool Borough Council. All relevant employees had been informed.

RESOLVED – That the report be noted.

**5. Any Other Items which the Chairman Considers are Urgent**

None

The meeting concluded at 4.30 p.m.

CHAIR

## STANDARDS COMMITTEE

9 August 2011



**Report of:** The Chief Solicitor

**Subject:** BUSINESS PAPER

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### 1. THE LOCALISM BILL - STANDARDS COMMITTEE LETTER TO HOUSE OF LORDS

- 1.1 At its meeting of 28 June 2011, the Committee were informed that the Localism Bill was currently being examined line by line by the House of Lords during its Committee Stage and amendments made as considered appropriate. A letter was approved by the Committee setting out its concerns at the proposed changes set out in the Bill to the Standards regime (**attached as Appendix 1**).
- 1.2 On 19 July 2011, a telephone message was left for the Legal Services Manager, from Lord Jenkins of Roding, one of the Lords currently re-examining the Bill acknowledging receipt of the letter and advising that a meeting had taken place on 18 July to consider the issues and view the table amendments to the Bill ready for its report stage in September. A contact telephone number and email address were left to enable further information or contact if required.

#### **Recommendation**

For noting.

### 2. ANNUAL REPORT 2010/2011

- 2.1 Attached as **Appendix 2** is the third Annual Report of the Standards Committee of Hartlepool Borough Council. This report covers the period 1<sup>st</sup> January, 2010 – 30th June, 2011. This draft report upon which Members comments are required, is set very much against a background of some uncertainty, following the publication of the Localism Bill, which is presently before Parliament. Therefore, the attached draft report highlights the provisions contained within the Localism Bill and the likely impact upon the operation of Standards Committee and the ethical framework operating

within local authorities. The report extends beyond 2010 and covers those complaints received during 2011 up to 30th June, of this year.

- 2.2 Standards for England (formerly the Standards Board for England) did previously indicate that some 59% of authorities had produced an annual report. The compilation and publication of such a report follows good practice in instilling public understanding and confidence within Standards Committees and their role within relevant local authorities. However, Members will need to reflect upon the use of such documentation in future, once the position in relation to standards has been clarified with the enactment of the localism provisions. It had been a requirement through Standards for England that there be annual returns from local authorities and also an obligation upon Monitoring Officers to compile a “quarterly” based return. Such obligations are now no longer required and the localism provisions will see the demise of the “Standards Board regime”.
- 2.3 Members will be aware that it is only since May, 2008, that the responsibility of considering all complaints that a Member or a Co-opted Member of an authority may have breached the Code of Conduction was entrusted in the local Standards Committees. Such changes derived from the Standards Committee (England) Regulations, 2008, which in turn derived from the provisions of the Local Government Act, 2000, as amended by the Local Government and Public Involvement in Health Act, 2007. The Council has accordingly adopted a framework for the operation of locally based Standards Committees to deal with the assessment, referral, investigation and hearing of complaints of alleged Member misconduct. This has also been extended to collaborative arrangements with the other Tees Valley authorities, which also incorporated, a training and development programme, but which has been somewhat curtailed, owing to the impending legislative changes. Those changes presently suggest, the operation of a voluntary Code of Conduct which is underpinned by a duty placed upon local authorities to ensure and promote high standards of ethical conduct. This would allow the maintenance of a Standards Committee at the discretion of a local authority and there is also the heavy emphasis upon Members to make declarations of relevant interests and for a specific criminal sanction to be introduced, whereby a Member may have breached those provisions. The attached report is therefore provided against a changing legislative background. Whilst there is this uncertainty surrounding the ethical governance arrangements of local authorities, the Committee is still required to fulfil the statutory obligations imposed upon local authorities by virtue of the existing statutory provisions.

### **Recommendation**

To note and discuss the appended Annual Report 2010/11.

### 3. STANDARDS FOR ENGLAND – CASE INFORMATION AND REPORTING

Attached as **Appendix 3** for the information of the Committee are two connected case reports under references SFE-000188 and 000189 relating to Councillors George Dunning and Sheelagh Clarke of Redcar and Cleveland Borough Council. It had been alleged that both Councillors had “lied” at a ward meeting about the decision making role of the respective Councillors in the closure of a local school. Members will see from the attached report the Ethical Standards Officer found that the Members concerned did not breach the Code of Conduct. These cases centre around paragraph 5 of the Code of Conduct wherein it had been alleged that the said Councillors had conducted themselves in a manner which could reasonably be regarded as bringing their office or the authority into disrepute. The cases concerned the possible amalgamation of two schools and who effectively was the decision maker, in that regard. The Ethical Standards Office found that the representations made by both Councillors confirmed that they had not misrepresented the position within the confines of the public meetings that they had attended and from which these complaints arose. Therefore they had not contravened paragraph 5 of the Code of Conduct.

#### **Recommendation**

For noting.



**APPENDIX 1**

Dear

**LOCALISM BILL  
HOUSE OF LORDS - COMMITTEE STAGE**

The Standards Committee of Hartlepool Borough Council was established further to the Local Government Act 2000 and has delegated responsibility for 17 functions relating to the promotion and maintenance of not only the high standards of conduct by its 47 members, through its Code of Conduct but also for the promotion and maintenance of high ethical standards within the Authority including its officers.

The Committee unanimously resolved to write to Parliament, through its MP and set out its grave concern at the proposed changes relating to the abolition of the Standards for England and to the Standards Committee framework in particular the provisions relating to the revocation of the model code of conduct adopted by the Authority and the removal of the requirement for an Authority to have a Standards Committee.

The Standards Committee of Hartlepool Borough Council, believe the proposed changes to be a retrograde step and contrary to the localism agenda the government is promoting.

The view of the Committee are as follows:-

- The mandatory Code of Practice should remain in place as a 'voluntary code' would have little effect and one of the main reasons for the mandatory Code was to give the General Principles set out in the Relevant Authorities (General Principles) Order 2001 some teeth to ensure that members would be subject to sanction should they not observe them.
- That it was ironic that in his letter to Standard Committees Chairs, the CLG Minister, Bob O'Neill refers to 'empowering communities' when in effect the changes would effectively deter local residents from making a complaint, in the knowledge that Standards Committees could only 'censure' their members and not have any power to sanction members further.
- That it seemed a huge loss to the authority, if a Standards Committee ceased operation, due to the training and knowledge of the members on ethical governance issues; the role of independent members and the overall standing of the Standards Committee has within the Authority (see attached functions delegated to the Standards Committee taken from the Council's constitution). It was considered that a voluntary committee would cease to function as it would not have the legislative backing and authority it once had.
- The imposition of a criminal sanction for the failure to register interests was an extreme measure and somewhat draconian and might deter people from becoming councillors.

The Standards Committee of Hartlepool Borough Council would be grateful if the House of Lords at its Committee Stage consider these representations when examining the provisions of the Localism Bill in respect of the changes to the Standards regime.

Yours etc

**HARTLEPOOL BOROUGH COUNCIL  
STANDARDS COMMITTEE**

**Annual Report 2010/11**

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**FORWARD BY THE CHAIRMAN OF THE STANDARDS COMMITTEE**

This is the Committee's third annual report, which is published at a time of some uncertainty surrounding the ethical framework provisions as they exist in relation to public authorities. As mentioned in earlier reports, the Local Government Act, 2000, as amended, requires relevant local authorities to adopt a Code of Conduct and consequently, one of the primary roles of the Standards Committee is to monitor and enforce the operation of the Code.

This annual report covers the work of the Committee during 2010 and the period up to 30th June, 2011.

The Localism Bill which was introduced into Parliament in December, 2010, has the potential for a radical impact upon 'standards' and which is "policed" by the Standards Committee. Across the Tees Valley area, there have been meetings amongst the Independent Members of the Committees and a Town/Parish Council Forum. Such collaborative working and the sharing of good practice thereby, has effectively been put "on hold" as authorities await the legislative changes which will undoubtedly come about once the Localism Bill receives Royal Assent. Nevertheless, the Committee will continue to promote principles of good and effective ethical principles and values within public authorities which has been a trade mark of it's work and which has been a sentiment expressed in my previous introductions to the Committee's Annual Report.

I therefore again sincerely hope that this annual report provides an insight, as well as some reflection, upon the work of the Committee and it's aims and objectives.

Barry Gray  
Independent Chairman of the Standards Committee

## **INTRODUCTION**

This third annual report of the Hartlepool Borough Council Standards Committee covers the period 1st January, 2010 – 30th June, 2011. On 8th May, 2008, responsibility for considering all complaints that a Member or a co-opted Member of an authority may have breached the Code of Conduct was entrusted in local Standards Committees. Such changes reflected the Standards Committee (England) Regulations, 2008, which in turn derive from the provisions of the Local Government Act, 2000, as amended by the Local Government Public Involvement in Health Act, 2007. Accordingly, the Regulations establish a framework for the operation of a “locally based” Standards Committee to deal with the assessment, referral, investigation and hearing of complaints where Members misconduct is alleged. The Members Code of Conduct was initially introduced and adopted by the Borough Council in 2002, with revisions in 2007 through the Local Authorities (Model Code of Conduct) Order 2007. In addition, Members are obligated to complete entries on their Register of Interests and in relation to registration of “gifts and hospitality”, which are also held electronically and available through the Council’s website [www.hartlepool.gov.uk](http://www.hartlepool.gov.uk).

On 25th May, 2010, the Decentralisation and Localism Bill was included in the Queen’s speech, with the main purpose of the Bill stated as follows;

*“To return power to local authorities and communities...”*

It was also a stated purpose of the Bill to “abolish the Standards Board regime”. The Chair and Chief Executive of Standards for England (formerly the Standards Board for England) has issued a statement in the following terms;

*“We are very disappointed at the Government’s decision to abolish the local government standards regime”.*

*“Since 2007, Standards for England have dealt only with those matters which local authorities could not deal with themselves. A recent review of this devolved local framework found that it is delivering increased confidence in the accountability of local politicians, improved Member behaviour and contributing to better governance”.*

*“We do not have clear details as yet of what is proposed for the future but for now the local standards framework remains, pending legislative change. Our priorities are to assist to fulfill our statutory duties, to support local authorities in maintaining high standards and to assist the Government in developing and implementing any new arrangements”.*

On 13th December, 2010, the Localism Bill was formally published and it is presently anticipated that Royal Assent will be forthcoming in late 2011, with anticipated changes to standards in early 2012. Presently, the Bill proposes the following amendments of existing provisions;

- The abolition of the Standards Board regime, which consists of Standards for England, Standards Committees of local authorities, and the jurisdiction of the

First Tier Tribunal (In relation to local government standards in England) and a Code of Conduct for Councillors.

- A duty will be placed on relevant authorities to ensure that Members and co-opted Members maintain high standards of conduct.
- A provision whereby a relevant authority may adopt a voluntary Code of Conduct. If an allegation of a breach of the Code is made in writing, the authority must take a decision on whether or not to investigate the allegation and, if it is considered that an investigation is warranted, investigate in any way the authority sees fit.
- The establishment and maintenance of a register of Members and co-opted Members interests. Regulations may also make provisions for restrictions on taking part in the business of the Council to be imposed on a Member or co-opted Member with a registered or declared interest. The Regulations may also require the registration to be made available to the public and may make provisions about exempting sensitive information from it.
- The creation of a criminal offence to fail, without reasonable excuse, to comply with obligations imposed by Regulations to register or declare personal interests, or to take part in Council business when prevented from doing so by such Regulations. A penalty that a Magistrates Court may impose upon conviction to be a fine of up to £5,000 and an Order disqualifying the person from being a Member of a relevant authority for up to five years. A prosecution for such an offence may be brought within twelve months of the prosecuting authorities having evidence to warrant prosecution, but only by or on behalf of the Director of Public Prosecutions.
- Transitional provisions, leading up to the formal abolition of the Standards Board regime, will allow allegations of misconduct to be brought against a Member up to the date when Section 57A of the Local Government Act, 2000, as amended, is repealed. These transitional provisions will make provision for any such allegations to be transferred from the Standards Board for England to local Standards Committee who may make provision for the penalties which can be imposed by those Committees, with rights of appeal to be modified.

### **THE REMIT OF THE COMMITTEE**

The remit of the Standards Committee under Article 9 of the Council's Constitution is as follows:-

#### **9.01 Standards Committee**

*The Annual Council meeting will establish a Standards Committee.*

#### **9.02 Composition**

##### **(a) Membership**

*The Standards Committee will be composed of the following:*

- *seven Councillors (other than the Mayor);*
- *four persons who are not Councillors or officers of the Council or any other body having a standards committee (known as “the independent members”); and*
- *three members of a parish council wholly or mainly in the Council’s area.*

**(b) Independent members**

*Independent members will be entitled to vote at meetings;*

**(c) Parish members**

*The parish members will be entitled to vote at meetings. They must be present when matters relating to parish councils or their members are being considered.*

**(d) Parish Councils sub-committee**

*The Standards Committee may appoint a sub-committee to exercise the function set out in Article 9.03 (viii) below. Such a sub-committee will include the Chair of the Committee (who will Chair the Sub-Committee) and one parish member. However the Standards Committee may decide to exercise those functions itself.*

**(e) Chairing the Committee**

*The Chair and Vice-Chair of the committee will be independent members of the committee.*

**9.03 Role and Function**

*The Standards Committee will have the following roles and functions:*

- i) *promoting and maintaining high standards of conduct by the Mayor, Councillors, co-opted members and church and parent governor representatives;*
- ii) *assisting the Mayor, Councillors, co-opted members and church and parent governor representatives to observe the Members’ Code of Conduct;*
- iii) *advising the Council on the adoption or revision of the Members’ Code of Conduct;*
- iv) *monitoring the operation of the Members’ Code of Conduct;*



- v) *advising, training or arranging to train the Mayor, Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;*
- vi) *granting dispensations to the Mayor, Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;*
- vii) *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; and*
- viii) *the exercise of (i) to (vii) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.*

#### **9.04 Quorum**

*The quorum shall be four, which shall include three Councillors and one independent member. Where the committee is dealing with parish/town council issues the quorum shall be 5, which shall include three Councillors, one independent member and a parish/town council representative.*

#### **9.05 Appointment of independent and parish members**

##### ***Independent members***

*Independent members of the Committee will serve for four years. At the end of each term the selection process will be determined by that Committee in accordance with regulations, however Council must approve the nominations of the Committee.*

##### ***Parish members***

*The parish members will be nominated annually by the Parish Councils on a rota basis.*

Of note, the Committee's remit was extended, following reports to the Council's Constitution Working Group and Constitution Committee, together with reference to the Council's Audit Committee, as follows

- *To recommend changes to full Council in relation to the promotion and maintenance of high ethical standards within the Authority;*
- *Promoting and maintaining high standards of conduct by officers;*
- *Assisting officers to observe a Code of Conduct for Employees and advising the Council on the adoption or revision of such a Code of Conduct for Employees;*
- *Monitoring the operation of a Code of Conduct for Employees;*

- *Dealing with the grant and supervision of exemptions from political restrictions in respect of all relevant Council posts;*
- *To receive and make recommendations to the Audit Committee as may be required in relation to the better governance of the Council*
- *To consider complaints relating to the conduct of Members of the Council under the Member/Employee Protocol and the Planning Code of Practice;*
- *To monitor the operation of the Council's Anti-Fraud and Corruption Policy so far as it relates to the actions of Members of the Council;*
- *And to report on such matters to Council with recommendations thereon and that the Council may from time to time arrange for other functions to be discharged by the Standards Committee;*

In accordance with the requirement that not more than 25% of the membership of the Committee should comprise Independent Members, there are four positions upon the Committee wherein these Independent Members will serve for a period of four years. Pursuant to The Standards Committee (England) Regulations 2008, the following criteria apply to those individuals who would seek appointment as Independent Members;

- Approved by the majority of Members of the authority;
- Advertised in one or more newspapers circulating in the area of the authority, and in such other publications or websites as the authority considers appropriate;
- Of a person who submitted an application to the authority;
- Has within a period of five years immediately proceeding the date of appointment has not been a Member or officer of the authority, or
- Is a relative or close friend of a Member or Officer of the authority.

Although, a statutory requirement under the 2008 Regulations to have at least two Parish Council Members, the Standards Committee have acknowledged and followed the guidance issued through Standards for England and have incorporated into the composition of the Committee three positions relating to Parish Council representation. Following the introduction of local assessment of complaints the Standards Committee has formed two distinct Sub-Committees to deal with the initial assessment of a complaint and a Sub-Committee to review an initial assessment decision where “no action” was deemed to be appropriate. Where a matter relates to a complaint against a Member of a Parish Council, a Parish Council representative is required to be a Member of the relevant Sub-Committee. For the avoidance of doubt, all proceedings of the Standards Committee and its Sub-Committees are Chaired by an Independent Member.

#### **COMPOSITION OF THE COMMITTEE**

The Standards Committee for 2010 comprised the following Members;

Independent Members

Mr J B Gray – Chairman (reappointed May, 2008)

Mr T Jackson – Vice-Chairman (appointed February, 2009)

Professor B Footit – Independent Member (appointment ratified by Council February 2010)

Vacancy

7 Council Members

Councillors A Barclay, M Fleet, A Preece, J Shaw, S Griffin, G Morris, L Sutheran (appointed from the Annual Meeting of Council in May, 2011)

Councillors M Fleet, S Griffin, G Morris, A Preece, J Shaw, C Simmons, L Sutheran (were appointed following the Annual Meeting of Council in May, 2010)

3 Parish Council Members

Mr R Gilbert (Elwick Parish Council) – (resigned October 2009) replaced by Mr M Dickinson (Elwick Parish Council – resigned May, 2010)

Mr A Bell (Hart Parish Council)

\* A Parish Liaison Officer has been appointed to provide for Parish Council representation.

The quorum for the meetings of the Standards Committee is ordinarily prescribed as four (three Councillors and 1 Independent Member). The Assessment Sub-Committee and the Assessment Review Sub-Committee have a quorum of three and will comprise one Independent Member and two Members including one Parish Council representative where matters relate to a Parish Council matter. The Sub Committees meet with reference to any complaints that have been received. The Council's Monitoring Officer, Peter Devlin, acts in the capacity as Chief Solicitor to the Council with Alyson Carman, Legal Services Manager/Solicitor acting in the role of Deputy Monitoring Officer pursuant to Section 5(7) of the Local Government and Housing Act, 1989.

**COMPLAINTS**

In the period covered by this Annual Report twelve complaints were received by the Council in relation to the local assessment and determination process, relating to Members of the Authority and the Parish Councils within the Borough of Hartlepool. Of these matters, one case was referred to Standards for England, due to its potential seriousness, complexity and sensitivity. A decision notice has been received from Standards for England, who have decided no action needs to be taken in that particular case. However, the general issues that arise from this case are relevant and of interest and are accordingly set out below;

The Standards for England referral reference number SFE000239

In summary this case related to comments made on a social networking site and whether or not these were in an official capacity as a Councillor and as such would amount to a breach of the Code of Conduct. In the case of APE 421 a First Tier Tribunal (Local Government Standards in England) stated that even if it became clear that an individual who was posting on a forum was a Councillor the Code of Conduct would not automatically be engaged. The question was whether in the posting on the forum the Councillor was deemed to be, or gave the impression that he or she was acting in the role of Councillor. The Tribunal said this would very much depend on the contents of the postings. In this case it was deemed that none of the examples referred to by the complainant demonstrated that the Councillor was acting in his official capacity as a Councillor or conducting the business of the authority and many of the entries made had no connection at all to either the Council or other Councillors.

However, the Standards for England official notice sets out their position in relation to such matters.

*“The organisation will expect a Member to at least aspire to act with decorum and does not condone the use of gratuitous insults even where these occur in their private capacity. We would advise Members to consider the fragmented nature of the forum and similar website postings and warn that even where clarification in terms of private v official capacity occurs, during a series of postings, damage can have been done or harm caused both to individuals and/or the reputation of you and your authority”.*

## **WHISTLEBLOWING**

On the 15<sup>th</sup> September, 2008, the Standards Committee considered revisions to the Corporate Whistleblowing Procedure document, which document had been initially adopted by the Council in 2005. The amended procedure is intended to assist employees who have major concerns of any wrong doings within the Borough Council with specific reference to unlawful conduct, alleged financial malpractice or dangers to the public or to the environment. The overall aims of the Whistleblowing procedure is as follows:

- To encourage employees to feel confident in raising serious concerns and to question and act upon those concerns;
- To provide ways for employees to raise those concerns and get feedback on any action taken as a result;
- To ensure that employees get a response to their concerns and that they are aware of how to pursue them if they know what to do if they are not satisfied with any actions;
- To reassure employees if they raise any concerns in good faith and reasonably believe them to be true, they will be protected from possible reprisals of victimisation.

During the period covered by this report, there were two referrals to the Monitoring Officer pursuant to the Council's Whistleblowing procedures. Of those matters, one

was from an anonymous source, and was subsequently withdrawn. The remaining matter is being investigated with the assistance of the Council's Internal Audit. The Whistleblowing procedure is an important mechanism of the good governance arrangements operating within any authority and various communications for example emails to all Council staff and references within the Council's "Newslines" magazine have highlighted the amended policy and that Council employees should seek reliance upon the same, if circumstances require such action. Again, it is pivotal that Council employees feel confident in utilising such procedures without fear, on the basis of a disclosure in good faith, of any form of victimisation or harassment. Awareness raising within the Council is therefore vitally important in order to ensure that employees are sufficiently confident to rely upon this procedure if the same becomes necessary.

### **2010/11 REVIEW**

The following items were considered by the Standards Committee over the period covered within this annual report;

**i) The Impacts and Effectiveness of the Ethical Framework for Local Government in England – Centre for Local and Regional Government Research (Cardiff University)**

Standards for England had commissioned the Centre for Local and Regional Government Research to investigate the impacts and effectiveness of the ethical framework, primarily upon Local Government processes, culture and values. This research is a five year analysis, collecting data in 2008, 2010 and 2012 across nine different local authority case studies. The research is based on a "multi-method" approach, including interviews (with Monitoring Officers, Council Leaders, Chief Executives, Party Group Leaders, Partner Bodies etc.), document and media analysis and public surveys. Overall, it appears that many interviewees felt that the conduct of Councillors had improved in recent years and that ethical issues were being treated more seriously than they had been in the past. In those Councils which generally displayed good conduct, with few complaints, a number of "mutually reinforcing ingredients" were in place. The report highlighted some of the initial findings of the report.

Members commented on the issue of meetings of Standards Committee with group leaders and the attendance of the Chief Executive at meetings. It was suggested that the Chief Executive and group leaders be invited to attend meetings of the committee. It was noted the initial findings of this research;

- The requirement for the Standards Committee to be proactive working with Council leaders, brokering conversations with political parties/groups in dealing more swiftly with trivial complaints;
- The importance of seeing the Ethical Framework and good conduct generally as being integral to a wider process of governance;

- Ensuring political parties/groups locally take full responsibility for the conduct of Members, including considering ethical risks when recruiting new Members, being one example;
- To identify the Ethical Framework not just as a set of standards to be met but part of an ongoing process of improving conduct.”

**ii) The Standards for England – “Online Guide/Case Summaries”**

The Chief Solicitor reported that Standards for England had produced a range of Code of Conduct ‘On Line Guides’ which related to those matters most frequently encountered through telephone enquiries by Standards for England personnel. One of the key functions of Standards for England is to provide guidance for authorities in relation to the Code of Conduct. Such guidance is primarily intended to aid the interpretation of the provisions of the Code of Conduct and builds upon the ‘Code of Conduct: Guide for Members’, as issued in May, 2007. Consideration was given to those guides set out below;

- Bullying and the Code of Conduct;
- Lobbying;
- Personal and prejudicial interests;
- Disclosing confidential information;
- Gifts and hospitality;
- Pre-disposition, predetermination or bias and the code.

The Committee also considered recent Case Summaries publicised by the Standards for England. The Case Summaries related to case no: SBE06045 relating to Essex County Council and an allegation that a Member failed to withdraw from a meeting in which he had a prejudicial interest and failed to complete his Register of Interests. The second reported case under case references: SBE06680 and 06681 related to Plymouth City Council and an allegation that a Member failed to treat others with respect, brought their office or authority into disrepute and misused the authority’s resources.

The Committee viewed such documents to be of great interest and it was suggested that they be circulated to all Members of the Council as reference material.

**iii) Transfer of the Adjudication Panel for England into the Unified Tribunal Structure**

The Adjudication Panel for England, established by the Local Government Act, 2000, is a disciplinary body to hear and determine references concerning the conduct of local authority Councillors. Furthermore, regulations allowed the Adjudication Panel to act as an appellate body to determine appeals against the decisions of Local Standards Committees. The 2000 Act also established an ethical governance framework designed to maintain high standards of behaviour for Members of local authorities and associated bodies. Accordingly, all relevant authorities are required to act in accordance with a Code of Conduct, wherein a failure to comply with the Code can lead to a Member being suspended from office or disqualified from being a Member.

On the 1st September, 2009, the General Regulatory Chamber (GRC) was launched as part of the First-tier Tribunal. At that time, the work of four jurisdictions transferred into the GRC, namely: Charity, Estate Agents, Consumer Credit, and some functions of the Transport Tribunal. The work of the Adjudication Panel for England was transferred in to the GRC in 2010. Further, the Claims Management Services Tribunal, Gambling Appeals Tribunal, the Immigration Services Tribunal and the remaining part of the Information Tribunal, was similarly transferred into the GRC at this time. A “Transfer of Tribunal Functions Order” allowing for the above, was placed before Parliament, for consideration. The effects of the Order is to abolish the Adjudication Panel for England. Its functions would, thereafter, be undertaken by the First-tier Tribunal. The jurisdiction is now known as the First-tier Tribunal (Local Government Standards, England). It should be noted that since being established, the Adjudication Panel has operated without any formal Rules. That situation will change as a result on the transfer of work into the First-tier Tribunal. The Procedure Rules provide more explicit powers of direction to the First-tier Tribunal than were available to the Adjudication Panel, including the power to summon witnesses. All proceedings taking place after the Transfer Order comes into effect will be conducted in accordance with the Rules applicable to the First-tier Tribunal. However, in regard to those cases of which proceedings have already started prior to this formal Transfer, would proceed and be in accord with the procedures operated by the Adjudication Panel.

#### **iv) Standards for England – A Review of the Local Standards Framework**

##### **1. BACKGROUND**

- 1.1 Standards for England have produced the results of their recent review of the Local Standards Framework “Local Standards 2.0 – The Proportionality Upgrade”. The report covers the operation of the local assessment and determination process which has been operative since 8th May, 2008. This allows a more “localised” assessment and review process into allegations that a Member/Co-opted Member has failed to accord with the Code of Conduct. This review provides some 17 recommendations as detailed below;
- 1.2 These recommendations also encompass the following key findings;
  - The need for a more streamlined local assessment process.
  - An enhanced role for Independent Chairs and Vice-Chairs.
  - A new power for Standards Committees to be able to halt investigations, if they have good reason.
  - A commitment to greater transparency for Members who are the subject of complaints.
  - The need to develop an approach which allows a special understanding and management of costs associated with the operation of the framework.
- 1.3 This review by Standards for England will now proceed to the Department for Communities and Local Government for their consideration.

## 2. SCOPE AND METHODOLOGY OF THE REVIEW

- 2.1 The remit of the review by Standards for England was to consider the proportionality and effectiveness of the Local Standards Framework and to make recommendations for the consideration of the Department for Communities and Local Government. The review was carried out in the following three stages.

### **Stage 1: Wherein the following key questions were identified;**

- What has been the impact on public trust in Politicians?
- What has been the impact on confidence in accountability mechanisms?
- What has been the impact on Member behaviour?
- What are the key design principles of a Standards Framework?
- What aspects of the framework work well?
- What are the problems with the Standards Framework?
- What are the solutions/alternatives?
- What is the cost of the Standards Framework?

**Stage 2:** Consultation was initiated with a number of organisations, for example, the Department for Communities and Local Government, the Audit Commission, Local Government Association, Local Government Ombudsman, the Society of Local Council Clerks.

**Stage 3:** Finally, the review made recommendations for improvement as outlined herein.

## 3. CONTEXT TO THE REVIEW

- 3.1 It is an expectation of the public that elected Politicians maintain high standards of conduct (BMG research – 2009). Further, that research shows the confidence and the integrity of Politicians is valued by the public. Consequently, confidence in political systems is also vitally important. A BBC and Ipsos Mori (2009) poll, found that 80% of people did not just blame MPs for the current problems but also the parliamentary system. Although it seems that there was overall support for a Standards Framework;

*“...although there are problems within the existing framework, removal of the framework (is) simply not a viable alternative. It is considered to have provided tangible benefits and to perform an extremely valuable role in local democracy”.*

(Reference – MacAulay (2010) Comparing Standards Frameworks, prepared for Standards for England, Manchester).

By 2009, research indicates that 94% of Members and Officers agreed that all Members should sign up to a Code of Conduct, compared to 84% in 2004. Notably, in 2008-09, 2,863 complaints about the behaviour of local authority



Members were made across England, over half of which were made by members of the public. However, within local authorities, there is the perception that Members behaviour is improved through the framework, but that this is not translated into public perception. However, research through Standards for England suggests that there is improved behaviour which is due to a combination of raised awareness of the Code of Conduct and rules of behaviour. This is enhanced through the support the framework provides to the sanctioning, demotion and resignation of Councillors and the threat of sanctions. There is a high level of confidence within local government that local authorities will uncover breaches of the Code of Conduct and deal with such breaches appropriately. Although, again, this is not evident through public confidence in this position. Whilst research indicates 74% of Members and Officers were “quite confident/very confident” of the ability of a local assessments procedure to cover a breach, only 25% were similarly “quite confident/very confident” when translated to members of the public.

3.2 It was recognised through Standards for England that there had been innovations within the local assessment and determination process, as follows;

- Communicating standards issues both within authorities and to the public.
- The training of Members.
- Engaging leaders to ensure that Standards become part of the culture of an organisation.
- Promoting local democracy.
- Ensuring good governance across partnership arrangements.

#### **4. A STANDARDS FRAMEWORK BUILT ON PRINCIPLES**

4.1 Overall, Standards for England, recommend “eight design principles”;

- The framework should be fair.
- The framework should be swift.
- The framework should be local.
- The framework should be free from political bias.
- The framework should be clear and transparent.
- The framework should strike a balance between the twin tasks of promoting principles through enforcing rules.
- The framework should give the public confidence that poor behaviour will be uncovered and dealt with appropriately.
- The framework should be cost effective.

#### **5. THE CASE FOR A LOCAL FRAMEWORK**

5.1 During the course of the review, Standards for England also explored arguments around a “centralised versus local” system in England. It was perceived, the following key advantages of a centralised system were;

- A central body dealing with all allegations is more likely to achieve consistency of process and outcome.
  - A central body removes the resource burden on local authorities.
  - A central, independent body will be expected to give the public a greater degree of confidence in the impartiality of the framework.
- 5.2 On balance Standards for England believe that the local system should be supported through the following principles;
- Enables local people to be involved in managing ethical standards issues and encourages them to be aware of issues going on in their authority.
  - Allows the use of local information which may influence decisions about the seriousness or validity of a complaint.
  - Provides an opportunity for the Monitoring Officer of the Standards Committee to deal with some issues by a more informal and proportionate method.

It was also notable, that within their review, Standards for England indicated the role that leaders and Chief Executives can play as well as political parties in ensuring the discipline of their Members. Further, in a regulatory sense, it was stressed the importance of encouraging the dissemination of notable and innovative practice in local government.

## 6. FINDINGS AND RECOMMENDATIONS

- (i) Improving the local handling of complaints.

It was felt that the current process which starts with the assessment of complaints and then essentially leads to an investigation and resolution, can be somewhat cumbersome. It was also perceived to provide a system which was difficult to understand, resource intensive and slow. It was therefore considered, whether the current investigation arrangements should be replaced with an open hearing system or alternatively through streamlining and simplifying the process. It was considered, simplifying the local filter, would be beneficial. It was felt that current arrangements were unnecessarily resource intensive and slowed down the process. In the first instance, it is recommended that a much clearer system, wherein the Monitoring Officer acts as the initial filter, seeing which allegations fall within the remit of the Code and which do not.

### Recommendation 1

- (i) **The law should say that Monitoring Officers, rather than Standards Committee should receive all allegations and make a decision about whether or not they are within the remit of the Code of Conduct.**
- (ii) Swift assessment by the Independent Chair

Building upon the above recommendation, two alternatives were considered for dealing with those allegations which the Monitoring Officer

had deemed had been within the remit of the Code of Conduct. Namely, whether the Monitoring Officer should be the person who decides what should happen next to those allegations and whether that assessment should be made by the Independent Chair, with advice from the Monitoring Officer. The review, commends the following recommendation;

**Recommendation 2**

**For allegations within the remit of the Code the Independent Chair of the Standards Committee, acting with the advice of the Monitoring Officer, should determine what happens to an allegation.**

**The Chair, would have a choice of five options;**

- **To take no further action.**
- **To refer for a local investigation.**
- **To refer to SfE for investigation.**
- **To refer to the Monitoring Officer for other action.**
- **To refer to the Standards Committee to seek their advice in choosing one of the previous four options.**

It was also considered that a Standards Committee Chair should provide written reasons for each decision. The following recommendations (3-5) were also made;

**Recommendation 3**

**The Vice-Chair of the Standards Committee should be an independent person.**

**Recommendation 4**

**If the Chair is unavailable or has a conflict of interest in relation to an allegation then the Independent Vice-Chair should deputise. Standards Committees should be able to develop reciprocal arrangements so that their Chairs can assess each others allegations.**

### **Recommendation 5**

**Standards Committees should undertake retrospective periodic reviews of these decisions to ensure consistency and quality. The national body should also provide oversight via its regulatory role.**

#### **(iii) Removing the Right to Review**

It was noted, that the process of “review” could be time consuming with consequent, cost implications. Further, only around one review in twenty leads to a reversal of the original decision to take no further action. That said, it was the recommendation, that there should be an automatic right of review.

### **Recommendation 6**

**The current statutory review arrangements should be removed but the authority should be given a discretionary power to allow for the review of particular decisions. This review could be undertaken by the Standards Committee or a Sub-Committee of it, by an Independent Member of the Standards Committee not involved in the initial decision or by any of these from another principle authority.**

#### **(iv) Removing the need for a Consideration Committee**

A Consideration Committee or a Sub-Committee, currently, must be convened following an investigation, to decide whether or not to accept the finding made by the Monitoring Officer following an investigation. Again, Standards for England were conscious of the costs and time involved in convening such a Committee/Sub-Committee. It was therefore considered, the following recommendations (7-8) as follows;

### **Recommendation 7**

**After completion of a local investigation the Chair of the Standards Committee should decide whether to accept a finding of no breach, and were a breach is found, whether the case should go to a local hearing or to the first-tier tribunal. Vice-Chairs should be able to deputise in this role.**

**Standards Committees should be able to develop a wide range of reciprocal arrangements with other Standards Committees so that their Chairs can assess each others investigations in this way.**

### **Recommendation 8**

**The Chair or the Vice-Chair should have a greater role in case management, making the pre-hearing decisions (for example, setting deadlines for responses to documents, deciding which witnesses should be called to give evidence and dealing with applications for an adjournment) with advice from the Monitoring Officer.**

(v) Deterring Trivial Complaints

It was considered by Standards for England, whether there should be “sanctions” against trivial complaints and whether there are issues of any cost implications which should be met by a complainant or by the “loser” in relation to a matter of complaint. However, it was a consideration, that it could deter justified complaints and even “serial trivial complainants” may still, on occasion, have justifiable complaints. It is the intention, for local authorities and Standards Committees to be more robust and public in discouraging trivial complaints. It was therefore recommended;

**Recommendation 9**

**Standards for England should produce guidance that urges Chairs to be more robust in their decision letter and highlight when they believe that allegation to have been trivial.**

(vi) Closing down an investigation

A criticism of the Standards Framework is it is very difficult to stop an investigation even when there may be little or no benefit in continuing such a process. It was therefore recommended;

**Recommendation 10**

**The Monitoring Officer should be able to recommend to the Standards Committee – at any stage and for any reason – that an investigation be stopped. Standards Committees should decide whether or not to accept such recommendations by considering how the public interest is best served.**

(vii) Enhancing Members “Right to Know”

A criticism of the current assessment process is that Members who are subject of a complaint only find out that they have been subject to such a complaint only after an initial decision has been made on whether or not the allegation merits an investigation. Guidance issued through Standards for England indicates that a Member should be told as quickly as possible, but it is recognised that the law needs clarification, in this area. For the avoidance of doubt, the Monitoring Officer of Hartlepool Borough Council proceeds upon the guidance issued through Standards for England and does provide notification to the subject Member that a complaint has been received. This is in order to allow some degree of transparency as recognised within the guidance issued through Standards for England.

### **Recommendation 11**

**On receipt of an allegation the Monitoring Officer should inform a Member that they have been the subject of a complaint unless there are compelling circumstances not to (for example a risk of prejudicing an investigation by intimidation of witnesses or destroying or compromising evidence).**

#### **(viii) Publicising Decision Notices**

Presently, a Notice of Decision about the outcome of such investigations have to be publicised in a local newspaper. It is recognised the cost impact for local authorities in meeting such publicity requirements. It is therefore recommended;

### **Recommendation 12**

**Local authorities should no longer be required to public Decision Notices in the local newspaper. Instead they should be publicised on the local authority's website.**

#### **(ix) Composition of Standards Committees**

In consideration of whether or not the mandatory number of Independent Members (currently a minimum requirement of 25% of the overall membership) should be increased to incorporate a Standards Committee composed entirely of Independent Members, was viewed as potentially having a “negative consequence”. On balance it is believed that the current approach is correct.

It is a strong contention of Standards for England and the Committee on Standards and Public Life that Parish and Town Councils should be included within the Standards Framework. This is also supported through the National Association of Local Councils. Parish Councils currently make up around three quarters of all Members covered by the Code of Conduct. They also account for just under half of all complaints ie 2,557 between 8th May, 2008 – 31st December, 2009.

#### **(x) The Cost of the Local Framework**

It is recognised that Standards for England need to do more work to be able to offer better information on the reasonable costs incurred by local authorities in complying with the local assessment and determination process. Although mindful of actual/potential costs to local government the overall recommendations contained in this present review, may result in reduced costs to local government.

### **Recommendation 13**

**Standards for England should assist local government by development a clear and consistent understanding of the costs of the**

**Local Standards Framework and, through working with local authorities, identify and promote ways of ensuring those costs are reasonable and that excessive and wasteful expenditure can be avoided.**

(xi) Local Framework and Promoting High Standards

It is recognised that Standards Committees have a statutory role to promote high standards of behaviour and that there are many ways in which local government can engage to demonstrate such high standards.

**Recommendation 14**

**Local authorities should be encouraged to develop local solutions. Good practice with local solutions should be shared so that local authorities can benefit from each others experiences.**

(xii) The Members Code of Conduct

Standards for England, believe that the Code is the correct way to regulate the behaviour of Members of local authorities. It is therefore recommended;

**Recommendation 15**

**The next review should look for opportunities to simplify the Code and ensure that it is readily understood by Members, and remains fit for purpose.**

(xiii) The Role of a National Regulator

It is considered that a national body should via training, advice and guidance, as well as through oversight, should ensure a greater degree of consistency than would be the case, if each local authority were left to its own devices.

**Recommendation 16**

**Standards for England should develop a training role. In particular it should respond to the increased responsibility given to Independent Standards Committee Chairs by ensuring basic training is provided to enable them to fulfil this role.**

**Recommendation 17**

**The national regulator should have power to investigate allegations that the Chair/Vice-Chair of a Standards Committee was not acting impartially, or performing poorly. If there is sufficient evidence that this is the case then the national regulator should be able to remove the Chair/Vice-Chair of the Standards Committee.**

**v) Notification to Parish and Town Councils concerning Complaints about their Members and the Standards Committee (England) Regulations 2008**

There is an explicit requirement within the 2008 Regulations that Parish/Town Councils must be given notification that a complaint concerning one of their Members had been assessed. Unless the initial Assessment Sub-Committee decides to take no action on a complaint, the Parish/Town Council must then be informed of certain significant subsequent steps taken in dealing with that complaint.

Where a Sub-Committee of a Standards Committee meets to assess an allegation or to review a decision it must send in writing to the Parish/Town Council concerned, main points considered, its conclusions, the reasons for its decision and may name the Member unless to do so is not in the public interest or would prejudice an investigation. Further, a Parish/Town Council should also receive notification after a Standards Committee meets to consider the report into an investigation and whether to accept a finding about whether a Councillor has breached the Code of Conduct or not. They should also receive notification on the outcome of the hearing and reasons for it, if one is held. As indicated through the Standards Board for England “the rationale of the notification is to facilitate the Standards Committees action, not to start new action within the Parish or Town Council”.

It was also recommended by Standards for England, that Parish/Town Councils should consider putting in place protocols to deal with access to information, the sharing of information and how various legal obligations are met including those under the General Law of Confidentiality, the Freedom of Information Act and the Data Protection Act. Standards for England also indicated that Parish/Town Councils should adopt procedures about how to deal with notifications. Guidance from Standards for England in order to achieve such compliance had been produced.

**vi) Visit by Independent Members from Doncaster Metropolitan Borough Council**

The Committee had welcomed Mr Kevin Lincoln and Mr Philip Beavers, two Independent Members of Doncaster MBC Standards Committee. Messrs Lincoln and Beavers were visiting a number of Standards Committees in order to view the different working practices in other authorities. A presentation of the work of the Hartlepool Standards Committee together with a consideration of the Committees Annual Report, 2009 was the feature of this visit by colleagues from Doncaster MBC.

**vii) The Local Government Ombudsman’s Review 2009/10 – Hartlepool Borough Council**

The Committee received a report which included background information to the establishment of the Local Government Ombudsman and the role of the Ombudsman. The Committee considered the Local Government Ombudsman’s



Annual Review for the year ended 31 March 2010 which summarised the complaints relating to Hartlepool Borough Council.

It was noted that for the period ending 31 March 2010, the Ombudsman's Office received a total of 17 enquiries and complaints. Three matters were judged to be premature with 11 complaints being referred for consideration. In total, 10 complaints were determined during the year as outlined in the Annual Review. Of those complaints, one was "closed" as it was not considered to be within the jurisdiction of the Ombudsman's Office whilst 5 further complaints were not taken further as part of the general discretion available to the Ombudsman not to pursue such matters. In 2 of the remaining cases, there was no evidence of maladministration and the Council agreed to settle 2 remaining complaints in that it was appropriate to offer some form of remedy to the complainant's satisfaction.

**vii) Role of Standards Committee in respect of Appeals by Postholders who are Politically Restricted**

Members were reminded that the Standards Committee has responsibility for dealing with the grant and supervision of exemptions from political restrictions in respect of all relevant Council posts, which had been incorporated into the Committee's remit.

The Local Democracy, Economic Development and Construction Act 2009 had received royal assent on 12 November 2009. S.30 had made amendments to the Local Government and Housing Act 1989 (LGHA 1989) in respect of the approach to identifying posts which were politically restricted by removing the duty to maintain a list of posts earning above a nominated salary. This had taken effect from 12 January 2010 with the result that Authorities needed to review the posts previously considered to be politically restricted by virtue of salary level to assess whether they should be genuinely politically restricted by virtue of the duties they actually perform. A review had been undertaken and a report had been submitted to the relevant Portfolio Holder. All relevant employees had been informed.

**viii) Bribery Act, 2010**

Members were reminded that the Standards Committee function as set out in Part 3 of the Council's constitution was to promote and maintain high standards of conduct by members and inter alia to monitor the operation of the Council's Anti-Fraud and Corruption Policy so far as it related to the actions of members of the Council.

It was noted that the Bribery Act 2010 came into force on 1<sup>st</sup> July 2011. There were 4 key offences under the Act. The offences carried criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for organisations an unlimited fine could be imposed.

In terms of risk to the Authority, the Authority's existing procedures and implications of the Act had been considered by the Corporate Management

Team and relevant departments and examples of the possible risks had been identified in relation to procurement and gifts and hospitality. The contract procedure rules were being re-examined in light of this legislation. However, it was noted that the Council already had in place robust anti-corruption policies and clauses within Contract Procedure Rules which would need very little by way of change. Of relevance to the Standards Committee was the Council's policy on gifts and hospitality and officers and members requirement to register any gifts and hospitality. The legislation did not require a change to the Council's position on gifts and hospitality but did reinforce its provisions in that it was unacceptable to give, promise to give, or offer a payment, gift or hospitality with the expectation or hope that a business advantage will be received. Also that no gift or hospitality was to be offered or accepted; nominal gifts and hospitality up to £25 were acceptable and that reasonable, proportionate gifts and hospitality made in good faith and that were not lavish were acceptable.

It was highlighted that it was important that the Council ensured staff and members were aware of the Act and the implications by reinforcement of its anti-corruption procedures and rules of gifts and hospitality and to ensure that staff and members are vigilant and report any suspected bribery and other forms of corruption.

#### **ix) Tees Valley Ethical Government Standards Training**

Owing to the ongoing uncertainty as the operation of the “standards regime” collaborative arrangements amongst the Tees Valley authorities has been put “on hold” as local authorities await the outcome of legislative changes. An independent Members Forum was held on 22nd April, 2010 and a Town/Parish Council Forum on 5th November, 2010. There are also two existing protocols, mentioned within previous annual reports, which operate amongst the Tees Valley authorities, namely;

- Ethical Framework: Members Code of Conduct – “alleged breaches” – legal advice
- Ethical Framework: Members Code of Conduct – “alleged breaches” – Monitoring Officer

These protocols provide form reciprocal legal advice and the provision of Monitoring Officer support, particularly where there may be a conflict of interest arising in a particular case scenario.

#### **x) Dispersations**

There were no applications received to seek “dispersations” under the relevant Authorities (Standards Committee) Dispersations Regulations, 2007.

#### **xi) Politically Restricted Posts**

There were no applications for a review of such posts, as documented within the confines of this report. It is however to be noted, that the Localism Bill, as presently drafted, passes this responsibility to the Head of Paid Service of a

local authority, as appointed under Section 4 of the Local Government and Housing Act, 1989.

## **CONCLUSION**

This report provides an overview of the work the Committee has undertaken over the period of 1<sup>st</sup> January 2010 – 30th June 2011. Members of the Committee recognise their role in ensuring and maintaining proper ethical governance arrangements within the Borough Council and Parish Councils within the Borough. This also has resonance to maintaining confidence of the community served by these public bodies and it is the overall intention of the Committee to be as proactive as possible in ensuring that there are effective lines of communication including the circulation of this Annual Report, to enhance a better understanding of the work of the Committee. It is also the Committees objective that it is actively involved in the operation and maintenance of good governance within public authorities. It is also recognised that this can only be achieved through engagement with a variety of stakeholders and it will endeavour to achieve this objective with its continuing work in promoting and maintaining high ethical standards in local government.



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## Case Summary - Redcar and Cleveland

**Case no.** SFE-000189  
**Member(s):** Councillor Sheelagh Clarke  
**Date received:** 17 Mar 2011  
**Date completed:** 07 Jun 2011

### Allegation:

That Councillor Clarke lied at a ward meeting about his decision making role in the closure of a local school.

### Standards Board outcome:

The ethical standards officer found that the member did not breach the Code of Conduct.

## Case Summary

At a ward meeting that was held to discuss the proposed amalgamation of two local schools, Councillor Clarke stated that the decision as to whether the schools would be amalgamated or not was a decision for the Secretary of State for Education to make and not hers.

It was alleged that this was a lie. Councillor Clarke was Deputy Leader of the Council and the decision whether to amalgamate the two schools was for her and the Council's cabinet to make. It was also alleged that she did not tell the truth at the meeting because it was a heated meeting and she did not want to have the discussion with the people who were in attendance.

The Ethical Standards Officer found that, at the time of the ward meeting, Redcar and Cleveland Council had begun a consultation on the proposed amalgamation. At the same time the Council had applied to the Secretary of State for the two schools to merge to become one academy. One of the two schools had applied in its own right to become an academy without the other school. Consequently, while the decision to press ahead with the proposal to merge the two schools would be taken by the cabinet, the final decision on whether the two schools would merge would be a matter for the Secretary of State. If the Secretary of State approved the school's solo application, then the Council would not be able to merge the two schools as a joint academy.

The Ethical Standards Officer found that Councillor Clarke had not lied at the ward meeting when she said the decision to merge the schools rested with the Secretary of State. Consequently, as Councillor Clarke had not lied, she had not contravened Paragraph 5 of the Code of Conduct, which states that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute. Councillor Clarke, therefore, did not breach Redcar and Cleveland's Code of Conduct.

## Relevant paragraphs of the Code of Conduct

Paragraph 5

09 June 2011

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## Case Summary - Redcar and Cleveland

**Case no.** SFE-000188  
**Member(s):** Councillor George Dunning  
**Date received:** 17 Mar 2011  
**Date completed:** 07 Jun 2011

### Allegation:

That Councillor Dunning lied at a ward meeting about his decision making role in the closure of a local school.

### Standards Board outcome:

The ethical standards officer found that the member did not breach the Code of Conduct.



## Case Summary

At a ward meeting that was held to discuss the proposed amalgamation of two local schools, Councillor Dunning stated that the decision as to whether the schools would be amalgamated or not was a decision for the Secretary of State for Education to make and not him.

It was alleged that this was a lie. Councillor Dunning was Leader of the Council and the decision whether to amalgamate the two schools was for him and the Council's cabinet to make. It was also alleged that he did not tell the truth at the meeting because it was a heated meeting and he did not want to have the discussion with the people who were in attendance.

The Ethical Standards Officer found that, at the time of the ward meeting, Redcar and Cleveland Council had begun a consultation on the proposed amalgamation. At the same time the Council had applied to the Secretary of State for the two schools to merge to become one academy. One of the two schools had applied in its own right to become an academy without the other school. Consequently, while the decision to press ahead with the proposal to merge the two schools would be taken by the cabinet, the final decision on whether the two schools would merge, would be a matter for the Secretary of State. If the Secretary of State approved the school's solo application, then the Council would not be able to merge the two schools as a joint academy.

The Ethical Standards Officer found that Councillor Dunning had not lied at the ward meeting when he said the decision to merge the schools rested with the Secretary of State. Consequently, as Councillor Dunning had not lied, he had not contravened Paragraph 5 of the Code of Conduct, which states that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute. Councillor Dunning, therefore, did not breach Redcar and Cleveland's Code of Conduct.

## Relevant paragraphs of the Code of Conduct

Paragraph 5 of the Code of Conduct, which states that members must not conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute

09 June 2011

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