

Wolverhampton City Council

OPEN DECISION ITEM

Committee/ Panel	STANDARDS COMMITTEE	Date: 11 JUNE 2009
Originating Service Group(s)	CUSTOMER AND SHARED SERVICES	
Contact Officer(s)/	S KEMBREY/F DAVIS	
Telephone Number(s)	4910/4932	
Title/Subject Matter	<u>MONITORING OFFICER'S REPORT</u>	

1.0 **Recommendation**

- 1.1 Standards Committee is requested to note the contents of this report and indicate any areas in respect of which further information is requested.
- 1.2 Agree the attendance of the Independent Chair of the Standards Committee and Monitoring Officer at the Annual Assembly.
- 1.3 Agree payment of subscriptions and joining fee (where appropriate) for the Independent Members of the Committee for the Association of Independent Members of Standards Committees.

MONITORING OFFICER'S REPORT

1. Background

- 1.1 The joint meeting of the Audit and Standards Committee held on 16 April 2007 agreed that the Standards Committee receive regular reports from the Monitoring Officer. This is the first such report for 2009/10.

2. Local Assessment

- 2.1 No complaints alleging that Members have failed to comply with the Members Code of Conduct have been received since the last meeting of the Standards Committee on 27 April 2009.
- 2.2 Local assessment arrangements which came into force on 8 May 2008 have now been in place for 12 months. The Standards Board for England in its strategic role relating to the ethical framework regarding complaints that Members have not followed the Code of Conduct have required all local authorities to submit an annual return detailing local assessment activity and arrangements which have been put in place during the year. The Annual Return was required to be submitted to the Board by 15 May 2009 and was submitted. Details of the return and action arising from it are contained in a separate report before this Committee.
- 2.3 The Standards Board for England has issued a statement marking the first anniversary of the local ethical standards framework. Overall, the Board is complimentary about the way that authorities have taken ownership of local standards within their Councils. The latest information from authorities shows that local experience in dealing with cases is growing, and that, on the whole, the system is working well.
- 2.4 There were 2,863 complaints received at a local level nationally from 8 May 2008 to 31 March 2009. So far, just over 50% of all allegations received by local authorities have not been referred for investigation, with 29% being investigated locally and 12% being referred to monitoring officers for alternative action, such as training or mediation. In comparison, between 1 April 2007 and 31 March 2008, the Standards Board for England received 3,547 complaints and referred just 14% for investigation.
- 2.5 54% of the complaints made since May 2008 were from members of the public. Just 4% were made by Council officers and 36% were from elected members. The latest data received shows that there were far fewer complaints than might have been expected about town and parish councillors. Despite making up around 80% of all elected members, only 51% of complaints received were in connection with their conduct.
- 2.6 The most frequent potential breaches of the Code of Conduct the subject of investigation were failures to declare personal interests, failure to treat others with respect and bringing the authority into disrepute.
- 2.7 Over the past year the Standards Board for England has been working with authorities to ensure they handle complaints fairly and proportionately in the minority of Council's where teething problems have occurred. The Standards Board is exercising responsibility to step in to protect and restore standards where appropriate. The Standards Board for England will support authorities by investigating those complaints it would be inappropriate for them to handle

or by providing a vital impartial resource for those cases which are high profile. Also, it can support where local difficult conflicts of interest could potentially undermine confidence in the system.

- 2.8 As a national regulator the Standards Board for England will continue to advise Government on how to develop and improve the local standards framework, uphold high standards of behaviour and increase trust in local democracy.

3. **Publications**

- 3.1 SBE bulletin number 43 is available on the SBE website. A copy has been placed in the Members room and is appended to this report.

4. **Standards Board Annual Assembly**

- 4.1 This year's Annual Assembly will be held on 12 and 13 October 2009 at the International Convention Centre in Birmingham. In previous years this authority has been represented at the Annual Assembly. It is proposed this year's Assembly will be attended by the Independent Chair of this Committee and the Monitoring Officer.

5. **Association of Independent Members of Standards Committees in England**

- 5.1 Four of the Independent Members of the Standards Committee are members of the Association of Independent Members of Standards Committees in England. Their subscriptions are due for renewal. It is proposed that the Authority pay for the renewal of subscriptions on behalf of the Independent Members. The two newly appointed Independent Members, Professor Hurd and Mr A W Lees are asked to confirm whether they would also like to join the Association. In the event that they do, it is proposed that the Authority will pay the joining fee and Annual Subscription.

6. **Legal Implications**

- 6.1 This report details work undertaken to comply with the ethical framework relating to Local Government under Part III of the Local Government Act 2000.

7. **Financial Implications**

- 7.1 The Council is required to provide the Monitoring Officer with sufficient resources to undertake her responsibilities. Provision is made within the revenue budget.

8. **Equalities Implications**

- 8.1 The Members Code of Conduct contains specific obligations relating to equalities.

9. **Environmental Implications**

- 9.1 There are no direct environmental implications arising from this report.



Guidance on Other Action

We have received a number of enquiries highlighting several issues about 'other action' since local assessment began in May 2008.

Consequently, we have produced further guidance on the topic in order to clarify our position on when other action is appropriate and what other action might constitute.

We know this is an issue many monitoring officers feel strongly about and we hope our guidance clarifies our position further. The guidance has been developed with help from monitoring officers. We are grateful to all the monitoring officers who attended our recent seminar on other action – held in Camden Town Hall on 16 March 2009 – for their valuable contribution.

The guidance discusses what other action is, what it can involve, when it is appropriate, and what to do if it isn't successful. It also addresses the role of the monitoring officer, adjournment of assessment committee meetings, and explains why other action closes the opportunity to investigate. We intend to publish this guidance on our website in May and we will notify all monitoring officers when it is available.

Application of the Code to private capacity

We have recently received a number of queries on whether or not the application of the 2007 Code of Conduct is still affected by the decision of Collins J. in *Ken Livingstone v Adjudication Panel for England* [2006] EWHC 2533 (Admin).

The 2006 ruling decided that Section 52 of the Local Government Act 2000 required members to comply with the Code in their official capacity only, and that it did not extend to their private conduct.

In issuing his judgement in the Livingstone case, Collins J invited Parliament to be explicit about whether it wanted private conduct to be covered by the members' Code. Parliament took this opportunity and passed the Local Government and Public Involvement in Health Act 2007.

Section 183(4) of the 2007 Act, removes the words "in performing his functions" from Section 52(1)(a) of the 2000 Act, to enable the Code to cover some conduct in a private capacity.

At present, Section 183(4) of the 2007 Act is only in force in Wales; so in England, the Code still does not cover members at any time in their private capacity. We understand that the government's intention is that these amendments will become effective at the same time as the new Code becomes operative.

The Livingstone case is also still relevant to gaining an understanding of official capacity. When drafting the 2007 Code, Parliament incorporated some of the judge's reasoning in the Livingstone case. Official capacity in the Code is construed as

- conducting the business of your authority or office, or
- acting, claiming to act, or giving the impression that you are acting as a representative of your authority.

So, it is our view that the reasoning in Livingstone is still relevant to a proper interpretation and understanding of official capacity, because it helps to interpret what is meant by the two phrases above that define official capacity.

Review of online monitoring system – an update

In February 2009, we conducted the third part of the Standards Board's online monitoring system review, and we promised those that participated that we would let you know the results. The review forms part of a programme of work to assess how well the new system is working.

We conducted an online survey with a random sample of monitoring officers, or those nominated to make the online submission. Once again, comments from respondents were positive about the online form.

There were several helpful suggestions made about how the form could be improved further. There were also suggestions offered on how we could improve the form user guide. All suggestions have been fed back to our internal development team. We would like to thank all those who participated.

For the fourth phase of the review, we will again be emailing out surveys to 50 randomly selected authorities (excluding those that have already participated in previous questionnaires) to hear about their experiences of the Quarter 4 submission. In addition to this, we will be surveying another sample about their experiences in completing the Standards Board's annual return form.

If you have any questions about this review or future reviews of the system, please contact Cara Afzal, Deputy Research and Monitoring Manager on 0161 817 5414 or email cara.afzal@standardsboard.gov.uk

Annual return arrives!

On 20 April we launched our online **annual return questionnaire**.

While the focus of the quarterly return is to collect case related data, the annual return provides standards committees with the opportunity to tell us about their activities and arrangements for promoting and supporting high standards of ethical conduct.

Introduced via email to monitoring officers of principal authorities, it works in a similar way to the quarterly return. Monitoring officers log onto the form using a secure password and are then guided through a series of questions about the following topics:

- activities of standards committees
- the role of leaders in promoting high standards
- training
- communicating the complaints process and outcomes
- member-officer relations
- communicating the register of member interests
- officer conduct

The sections can be completed in any order and answers can be saved for editing at a later stage. We have built in this function as we appreciate that monitoring officers may not have all the required information to hand when they begin completing the return.

The information we collect from annual returns will be used to improve performance, champion the work of standards committees, and to ensure that we have an effective overview of local standards frameworks. In particular we will:

- Collect notable practice examples of standards committee activities which we can then disseminate. These activities and the local authorities that provide them will be showcased in our Annual Review document in a section about the local standards framework.
- Identify gaps in the local standards framework. An overview of the local standards framework will enable us to identify strengths and weaknesses of local arrangements. In turn, this will allow us to mitigate some risks by prompting where we should be producing guidance or seeking policy changes in response to emerging national trends. It will also help us to identify those authorities who could be experiencing difficulties and may require support and advice.

The annual return is a larger questionnaire than the quarterly, so we have allocated a four-week submission window during which standards committees can submit their return. Feedback from our pilot of the return indicates that it should take around two hours to complete in full. The deadline for submitting completed returns is Friday 15 May.

For more information about the annual return, please contact the monitoring team on 0161 817 5300 or email authorityreturns@standardsboard.gov.uk

Conservative local government conference

On 27 and 28 February, the Standards Board exhibited at the Conservative Councillors' Association Local Government Conference in Leeds. The conference was attended by council leaders, executive members, councillors and members of the shadow cabinet, as well as key stakeholders in local government, candidates and party activists.

The Conservative representative on our Board, Councillor Sir Ron Watson CBE, and policy advisers from the Standards Board were on hand to answer questions, and get feedback on our work and the work of local standards committees. Over 40 delegates visited our exhibition stand to ask questions, raise concerns, and to share information about how the assessment of complaints is working locally.

The Conservative Party published their Green Paper Control Shift shortly before the conference, so we were interested to hear delegates' views about the local standards framework. The vast majority of delegates who visited our exhibition stand supported the need for the Code of Conduct and for the Standards Board to continue to provide the national and independent oversight. We spoke to councillors and standards committee members from authorities across the country who told us that local arrangements were working well. Another popular comment made to us at the conference was support for an officers' code.

We will also be exhibiting at the Local Government Association (LGA) Annual Conference and Exhibition, 30 June – 2 July 2009, Liberal Democrats Annual Conference, 19 - 23 September 2009, Labour Annual Conference, 27 September – 1 October 2009 and the Conservative Annual Conference, 5 – 8 October 2009.


Rossendale council wins Standards and Ethics award

We are pleased to announce that Rossendale Borough Council won in the Standards and Ethics category at the LGC Awards 2009.

The Standards Board supports the award and we were impressed by the way Rossendale's standards agenda has made a real difference. A strong, visible standards campaign, with the strapline 'Serious About Standards', helped Rossendale to achieve a substantially improved rating in its corporate assessment. It has also seen resident satisfaction improve by 8% and an increased turn out at local elections.

Dr Robert Chilton, Chairman of the Standards Board, said: "We were very impressed with Rossendale Council's commitment to high ethical standards. The award gives credit to their hard work and innovation and for tackling some difficult challenges to strengthen public confidence in local democracy."

For examples of good practice and interviews from all six authorities, please click [here](#).

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