



**Committee:** STANDARDS COMMITTEE

**Date:** THURSDAY, 9 APRIL 2009

**Venue:** LANCASTER TOWN HALL

**Time:** 10.00 A.M.

**A G E N D A**

1. **Apologies for Absence**

2. **Minutes**

Minutes of meeting held on (previously circulated).

3. **Items of Urgent Business authorised by the Chairman**

4. **Declarations of Interest**

5. **Work Programme (Pages 1 - 4)**

Report of the Monitoring Officer

6. **Overview of Complaints and review of procedure for reporting the outcome of (Pages 5 - 8)**

Report of the Monitoring Officer

7. **Protocol for Press Enquiries about Complaints to the Standards Committee (Pages 9 - 13)**

Report of the Monitoring Officer

8. **Dates of Future Meetings**

The following dates have been agreed for meetings of the Standards Committee for 2009/10:

18<sup>th</sup> June, 2009;

1<sup>st</sup> October, 2009;

21<sup>st</sup> January, 2010;

22<sup>nd</sup> April, 2010.

## **ADMINISTRATIVE ARRANGEMENTS**

### **(i) Membership**

#### Councillors

Councillors Roger Dennison, Sheila Denwood, Sarah Fishwick, Janie Kirkman, Ian McCulloch, Roger Sherlock and Joyce Taylor

#### Independent Members

Stephen Lamley (Chairman), Tony James, David Jordison and Sue McIntyre

#### Parish Council Representatives

Margaret Davy, Paul Gardner, Susan O'Brien and Frank Senior

### **(ii) Substitute Membership**

#### Councillors

Councillors Keith Budden, John Gilbert, Roger Plumb, Ron Sands and Jude Towers

### **(iii) Queries regarding this Agenda**

Please contact Ron Matthews, Democratic Services – telephone (01524 582074 Or e-mail [rmatthews@lancaster.gov.uk](mailto:rmatthews@lancaster.gov.uk)

### **(iv) Changes to Membership, substitutions or apologies**

Please contact Members' Secretary, telephone (01524) 582170, or alternatively email [memberservices@lancaster.gov.uk](mailto:memberservices@lancaster.gov.uk).

MARK CULLINAN,  
CHIEF EXECUTIVE,  
TOWN HALL,  
DALTON SQUARE,  
LANCASTER LA1 1PJ

Published on 1<sup>ST</sup> April, 2009

**STANDARDS COMMITTEE****WORK PROGRAMME  
9th April 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider progress with the current work programme.

**This report is public**

**RECOMMENDATIONS**

**(1) That the report be noted**

**1.0 Introduction**

1.1 A work programme for the forthcoming year was approved by the Committee in January 2009.

**2.0 Proposal Details**

2.1 The approved work programme is attached to this report, and the progress made has been added in the final column..

2.2 Members will note that at the time of writing this report the government has not issued any further consultation on or information about the proposed revised Code of Conduct which it was understood was intended to be implemented in June 2009. Members will also note that the proposed internal ethical governance survey has not yet been undertaken. The other items due for consideration at this meeting appear elsewhere on the agenda.

2.3 The work programme is a living document and can be updated as and when required.

**3.0 Details of Consultation**

3.1 There has been no consultation.

**4.0 Options and Options Analysis (including risk assessment)**

4.1 The report is for noting, although It is open to the Committee to make amendments to the work programme.

**CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None arising from this report.

**FINANCIAL IMPLICATIONS**

None directly arising from this report.

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no further comments.

**LEGAL IMPLICATIONS**

None directly arising from this report.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

**BACKGROUND PAPERS**

None

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**Ref:**

**STANDARDS COMMITTEE – WORK PROGRAMME 2009**

NO	ACTION	MEETING DATE	PROGRESS
1.	Consider any further government consultation on proposed revised Code of Conduct	9th April 2009 (or special meeting to coincide with consultation)	At the time of writing this report, no further consultation had been issued.
2.	Consider revised Code of Conduct and arrangements for implementation	9th April 2009 or June 2009, or special meeting depending on timing	At the time of writing this report, no further information is available about the proposed revised Code of Conduct.
3.	Consider training requirements on new Code of Conduct for city and parish councillors	June 2009 or special meeting depending on timing	
4.	Receive information about number of Code of Conduct complaints received and action taken	April and September 2009	Report on this agenda.
5.	Annual review of registration of interests	June 2009	
6.	Consider Protocol for dealing with press inquiries about Code of Conduct complaints	April 2009	Report on this agenda
7.	Review complaint form and information for complainants	22nd January 2009 and June 2009	Minor amendments to the complaint form were approved on the 22nd January 2009
8.	Review local assessment criteria, pre-hearing, hearing and investigation procedures	June 2009	
9.	Review procedure for considering allegations of breach of Protocols	June 2009	
10.	Receive report on previous Annual Assembly and consider future attendance	January 2009 and annually	Committee on the 22nd January 2009 decided not to send a member delegate to the 2009 Assembly

NO	ACTION	MEETING DATE	PROGRESS
11.	Consider any consultation on new Regulations relating to Joint Committees and Dispensations and/or contents of new Regulations	As required	
12..	Dealing with requests for dispensations	As and when required	
13.	Dealing with Code of Conduct complaints	Sub-Committees as and when required	
14.	Review Whistleblowing Policy and its operation	January 2009 and annually	Revised policy approved January 2009
15.	Review Planning Protocol	September 2009	
16	Review result of ethical governance survey	April 2009	Survey to be undertaken by Internal Audit in conjunction with the Monitoring Officer. Preparatory work is still being undertaken to ensure maximum benefit from the survey

**STANDARDS COMMITTEE****OVERVIEW OF COMPLAINTS AND REVIEW OF  
PROCEDURE FOR REPORTING THE OUTCOME OF  
“OTHER ACTION”****9th April 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To provide the Committee with a summary of complaints of alleged breach of the Code of Conduct received since May 2008 and the outcome of those complaints, and to confirm the procedure for the consideration of the outcome of complaints referred to the Monitoring Officer for “other action”.

**This report is public**

**RECOMMENDATIONS**

- (1) That the report be noted
- (2) That the Committee confirm that when a complaint is referred by an Assessment Sub-Committee to the Monitoring Officer for “other action”, the written report required by Regulation 13(4)(c) of the Standards Committee (England) Regulations 2008 giving details of the action taken, be submitted to the original Assessment Sub-Committee for confirmation that it is satisfied with the action.

**1.0 Introduction**

- 1.1 Since May 2008, complaints of alleged breach of the Code of Conduct have been made locally to the Standards Committee rather than to the Standards Board for England as previously. The Committee’s work programme provides for the Committee to receive information about the number of complaints received and their outcome.

**2.0 Details**

- 2.1 The attached table summarises the five complaints that have been received since May 2008.
- 2.2 As Members will be aware, when a complaint is considered by the Assessment Sub-Committee, the options available are to refer the matter to the Monitoring Officer for

investigation or other action, to refer the matter to the Standards Board for England, or to decide that no action should be taken.

- 2.3 In respect of four of the five complaints, the decision of the Assessment Sub-Committee was that no action be taken. In one of those four cases, the complainant exercised the right to request a review of the Assessment Sub-Committee's decision, and the Review Sub-Committee upheld the previous decision.
- 2.4 The most recent complaint was referred to the Monitoring Officer for the Monitoring Officer to provide training for the Member on the declaration of interests and the action to be taken when a prejudicial interest arises. That training has now been carried out, and the Monitoring Officer is required by Regulation 13(4)(c) of the Standards Committee (England) Regulations 2008 within three months to submit to the standards committee a report giving details of the action taken, and the committee is required to indicate whether it is satisfied with this action. It is not entirely clear from the Regulations whether the reference to the standards committee is intended to mean the full committee or the Assessment Sub-Committee. Most Councils have taken the view that it is the latter, and this would certainly seem to be the most logical interpretation, as it is the Assessment Sub-Committee that considered the details of the complaint and requested the action, and is therefore able to confirm whether or not it is satisfied with the action.
- 2.5 On that basis the Committee is recommended to confirm that the original Sub-Committee is in each case authorised to receive and consider the report referred to in Regulation 13(4)(c).

### **3.0 Details of Consultation**

- 3.1 There has been no consultation.

### **4.0 Options and Options Analysis (including risk assessment)**

- 4.1 The overview of complaints is for noting. The Committee is recommended to confirm that the Assessment Sub-Committee is authorised to receive and consider the report referred to in Regulation 13(4)(c). It would be open to the full Committee to reserve this to itself, although this is not an approach that would be recommended by the Monitoring Officer.

<b>CONCLUSION OF IMPACT ASSESSMENT</b>
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<b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>
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None arising from this report.
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<b>FINANCIAL IMPLICATIONS</b>
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None directly arising from this report.
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<b>SECTION 151 OFFICER'S COMMENTS</b>
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The Section 151 Officer has been consulted and has no further comments.
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**LEGAL IMPLICATIONS**

None directly arising from this report.

**MONITORING OFFICER'S COMMENTS**

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

**BACKGROUND PAPERS**

None

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STANDARDS COMMITTEE 9TH APRIL 2009 – SUMMARY OF COMPLAINTS

REF	SUBJECT MEMBER	COMPLAINANT	DATE OF COMPLAINT	DATE OF ASSESSMENT SUB-COMMITTEE	SUMMARY OF COMPLAINT	OUTCOME
1/08.	City Councillor	Member of the public	18/7/08	28/7/08	Failure to declare prejudicial interest and participation in meeting	No action. Complaint if proven would not constitute breach of the Code of Conduct, as there was no prejudicial interest, and Monitoring Officer advice to that effect had been given in advance of the meeting from which the complaint arose
2/08	City Councillor	Member of the public	20/10/08	28/10/08	Failure to deal with an issue, failure to treat with respect	No action. Insufficient information to determine whether the complaint, if proven, would constitute breach of the Code of Conduct. No further information provided within 30 days, and complaint was therefore closed.
3/08	City Councillor	Member of the public	15/12/08	23/12/08	Failure to declare prejudicial interest and participation in meeting, and bias.	No action. Complaint if proven would not constitute breach of the Code of Conduct
1/09	City Councillor	Member of the public	5/1/09	14/1/09 Review Sub-Committee: 9/2/09	Failure to deal with an issue, failure to treat with respect	No action. Complaint if proven would not constitute breach of Code of Conduct.  Note: This complaint was the same as 2/08, but with additional information. It was submitted as a new complaint after the original complaint had been closed
2/09	City Councillor	City Councillors	2/3/09	11/3/09	Failure to declare prejudicial interest at start of item of business, and participation in part of the item of business	Referred to the Monitoring Officer for "other action" (training)

**STANDARDS COMMITTEE****PROTOCOL FOR PRESS ENQUIRIES ABOUT  
COMPLAINTS TO THE STANDARDS COMMITTEE  
9th April 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider a draft Protocol for dealing with press enquiries about complaints.

**This report is public**

**RECOMMENDATIONS**

- (1) That the Committee consider the attached draft Protocol and approve it with or without amendments.**

**1.0 Introduction**

- 1.1 As Members are aware, the new regime of local assessment of complaints has been in place since May 2008, and experience from the first year's complaints is useful in enabling the Committee to consider and review its procedures and protocols. Following a press enquiry in December 2008 about a complaint which had not yet been considered by the Assessment Sub-Committee, the Monitoring Officer and the Communications Manager felt that it would be helpful to develop a Protocol for dealing with press enquiries about complaints to the Standards Committee, and this was included in the Committee's work programme for the current year.

**2.0 Proposal Details**

- 2.1 A draft Protocol is appended to this report for the Committee's consideration.
- 2.2 The Protocol attempts to deal with all the possible stages of a complaint, and to ensure consistency with the legal requirements of the Standards Committee (England) Regulations 2008. As yet, however, the Assessment Sub-Committees of this Committee have not referred any complaints for investigation, and it may be that the Protocol will need to be amended in the light of any future experience in this respect.
- 2.3 Members will note that the Protocol authorises the Monitoring Officer to inform a subject member about a complaint prior to the meeting of the Assessment Sub-

Committee if it is clear that the press are aware of the complaint and the identity of the subject member. If the Committee is content with this approach, the procedure for the initial assessment of complaints will be amended to reflect this, and to ensure consistency with the Protocol.

**3.0 Details of Consultation**

3.1 The Protocol has been prepared by the Monitoring Officer and the Council's Communications Officer, and has drawn on guidance issued by the Standards Board for England to council press officers..

**4.0 Options and Options Analysis (including risk assessment)**

4.1 The options open to the Committee are to approve the draft Protocol with or without amendments, or to decide that a Protocol is not necessary.

<p><b>CONCLUSION OF IMPACT ASSESSMENT</b> (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>None arising from this report.</p>	
<p><b>FINANCIAL IMPLICATIONS</b></p> <p>None directly arising from this report.</p>	
<p><b>SECTION 151 OFFICER'S COMMENTS</b></p> <p>The Section 151 Officer has been consulted and has no further comments.</p>	
<p><b>LEGAL IMPLICATIONS</b></p> <p>None directly arising from this report.</p>	
<p><b>MONITORING OFFICER'S COMMENTS</b></p> <p>The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.</p>	
<p><b>BACKGROUND PAPERS</b></p> <p>None</p>	<p><b>Contact Officer:</b> Mrs S Taylor  <b>Telephone:</b> 01524 582025  <b>E-mail:</b> STaylor@lancaster.gov.uk  <b>Ref:</b></p>

**PROTOCOL FOR DEALING WITH PRESS ENQUIRIES ABOUT  
COMPLAINTS TO THE STANDARDS COMMITTEE**

1. In 2008 the responsibility for investigating breaches of the Council's Code of Conduct was transferred from the Standards Board for England (SBE) to local standards committees. Previously the SBE had its own protocol for when information could be released to the media regarding the investigation of complaints. Whilst the SBE has produced guidance for local standards committees on how to handle publicity, it also suggests that it is good practice for them to have their own protocols.
2. Lancaster City Council has within its Constitution a "Protocol on Publicity for Complaints of Breach of the Code of Conduct made to the Standards Committee". This provides that Members should not make any public or press comment about any complaint which they have made, are aware of, or are the subject of, until the complaint has been resolved. The Protocol acknowledges, however, that it cannot bind members of the public, and that where a complaint is made by a member of the public, the complaint may become known to the public through the press or some other medium. In these circumstances, the Protocol does not preclude the Member who is the subject of the complaint from making a press comment, although the Member should carefully consider the appropriateness of so doing.
3. In accordance with the Standards Committee (England) Regulations 2008, the Standards Committee's procedures for dealing with complaints provide that a Member who is the subject of a complaint will not be informed of the complaint until after the Assessment Sub-Committee has met to consider the complaint.
4. However, if a situation arises whereby a press enquiry is received about a complaint which has not yet been considered by the Assessment Sub-Committee, and it is clear that the press are aware of the identity of the subject of the complaint, the Monitoring Officer is authorised to inform the subject Member of the complaint immediately.
5. Should the Council be approached by the press to confirm the details of a complaint before the Assessment Sub-Committee has met, such confirmation will be given only after the subject Member has been informed. This is in accordance with the SBE's recommended good practice. In the event that the subject Member cannot be contacted, no comment will be made to the press.
6. At this stage, the Council will only confirm the details of the complaint, as follows:
  - The name of the subject Member and the name of the authority to which they are elected (City or Parish Council)
  - The date the complaint was received
  - The type of person who complained (eg whether they are a member of the public, a council Member) but not their name
  - The part of the Code the potential breach refers to
  - The date the Assessment Sub-Committee will meet to consider the complaint
7. After the Assessment Sub-Committee has met, the Standards Committee (England) Regulations 2008 require that a written summary must be made available for inspection by members of the public. This must record the main

points considered and the Sub-Committee's conclusion as regards the complaint and the reasons for that conclusion. The summary may give the name of the subject of the complaint unless the Assessment Sub-Committee has concluded that such disclosure is not in the public interest or would prejudice any investigation.

8. Accordingly, after the Assessment Sub-Committee has met, the following may be confirmed should an enquiry be received from the media:
  - The name of the subject member (provided that the Sub-Committee has not taken the view that such disclosure is not in the public interest or would prejudice any investigation)
  - The date the complaint was received and the date of the Assessment Sub-Committee meeting
  - The type of person who complained (eg whether they are a member of the public, a council Member) but not their name
  - A brief outline of the complaint as set out in the written summary referred to above
  - The decision of the Sub-Committee (that is, to refer the allegation to the Monitoring Officer for investigation or for other action, to refer the allegation to the SBE, or to take no action)

Specifics of the allegation will not be entered into. A report providing an overview of complaints received will be regularly presented to the full Standards Committee, and the above information will be provided in response to any enquiries received following publication of such an overview report.

9. If the decision of the Assessment Sub-Committee is that no action should be taken, the complainant has the right to request a review, and this is undertaken by a Review Sub-Committee. The provisions of paragraphs 5-8 above will apply also to press enquiries received in relation to a request for a review.
10. If the decision of the Assessment (or Review) Sub-Committee is to refer a complaint to the Monitoring Officer for "other action", the information set out in paragraph 8 will be provided in response to enquiries after the first Assessment Sub-Committee meeting. Once the Assessment Sub-Committee has considered the Monitoring Officer's report after the action has been completed, a summary of that action will be provided in response to any enquiry. It will also be made clear in response to any enquiry about "other action" that referral for other action does not indicate that the Sub-Committee has made any finding of fact about the member's conduct, or that the member has or has not breached the Code.
11. If the decision of the Assessment Sub-Committee or the Review Sub-Committee is to refer a complaint to the Monitoring Officer for investigation, only the information set out in paragraph 8 above will be confirmed during the period of the investigation.
12. Once the investigation has been completed, the Assessment Sub-Committee will reconvene to consider the investigation report, and to consider whether a hearing is required. The normal access to information provisions contained in the Local Government Act 1972 will apply to that meeting, and it is likely that the report and the Sub-Committee's deliberations at that stage will be exempt by virtue of Paragraph 7C of Schedule 12A to the Local Government Act 1972 (information presented to a standards committee or sub-committee set up to consider any

matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008).

13. If the outcome at this stage is that the Sub-Committee accepts a finding in the investigation report that there has been no breach of the Code of Conduct, any subsequent press enquiry will be dealt with in consultation with the subject Member and the Monitoring Officer.
14. If the outcome at this stage is that there is to be a hearing of the matter before a Hearing Sub-Committee, this will be confirmed in response to any press enquiry, and the date of the hearing, once arranged, will be provided.
15. The hearing is likely to be held in public, although the press and public may be excluded if any exempt or confidential information would be disclosed. The press and public will also be excluded during the Sub-Committee's deliberations.
16. The Standards Committee has a duty to publicise the outcome of the hearing. In addition to placing a public notice in a local newspaper, a case summary will be produced along with a press release. The press release may contain a quote from the chairman of the Sub-Committee, in line with the Council's media guidelines.
17. Currently all news releases are included on the Council's website, and there is no expiry date for releases and they are all archived onto the website system. However, it is possible for an expiry date to be set. The Standards Board for England has the following guidelines for the length of time case summaries appear on its website. These are:
  - if there is no evidence of a breach, the summary is removed six months after the case is closed
  - If the Code has been breached, but no further action needs to be taken, the summary is removed two years after the case is closed
  - If the case is referred to the Adjudication Panel for England or a local standards committee, the summary is removed two years after the case is closed, or two years after the end of any sanction if one is imposed

These guidelines will be adopted for press releases regarding the outcome of hearings.

18. Where the subject Member is a member of a parish council, the City Council will inform the clerk to the relevant parish council of any press enquiry received at any stage of the procedure and how it is being dealt with.
19. The foregoing is a general summary of how the Council will deal with press enquiries relating to complaints received by the Standards Committee. It should be noted that the Standards Committee (England) Regulations 2008 contain detailed provisions concerning the publication of summaries and notices and these will be complied with. Any information that may be provided to the press may depend on the particular circumstances of a complaint. The Council will seek to balance the public interest in openness and transparency with the need to uphold natural justice and human rights, to protect confidential information and safeguard the integrity of any investigation