

<b>Subject:</b>	<b><i>Complaints Update</i></b>		
<b>Date of Meeting:</b>	<b>10 June 2008</b>		
<b>Report of:</b>	<b><i>Director of Strategy and Governance</i></b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b><i>Brian Foley</i></b>	<b>Tel:</b> <b>29-3109</b>
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<b>Key Decision:</b>	No	Forward Plan No. N/A	
<b>Wards Affected:</b>	All		

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 This paper gives summarised information on complaints about Member conduct administered under:
- A. New arrangements as defined by The Standards Committee (England) Regulations 2008 which came into effect on 08 May 2008.
  - B. Previous arrangements that existed prior to 08 May 2008.

#### 2. RECOMMENDATIONS:

- 2.1 The Standards Committee is asked to note the report.

#### 3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Standard Committee (England) Regulations 2008 are derived from the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007. The regulations set out a framework for the operation of a locally based system for assessment, referral, investigation and hearing of complaints of member misconduct.
- 3.2 This paper summarises complaints dealt with under the new regulations.
- 3.3 In addition this report summarises complaints concluded under previous arrangements in which the Standards Board for England had four options for dealing with complaints. The options available to the SBE were:

- (a) Decide to either not investigate or to refer for investigation by an Ethical Standards Officer.
  - (b) Refer a case to the Monitoring Officer under Local Determination Regulations.
  - (c) Refer to the Monitoring Officer for Local Investigation and Determination.
  - (d) Refer to the Adjudication Panel following investigation by an Ethical Standards Officer.
- 3.4 The Local Government Act 2000 requires the names of complainants and of Members about whom allegations have been made to be kept confidential.
- 3.5 There are no cases with the Standards Board awaiting a decision. All new complaints will be dealt with through the new Standards Committee (England) Regulations 2008.

#### 4. SUMMARY OF COMPLAINTS ABOUT MEMBER CONDUCT

- 4.1 There have been no complaints dealt with under the new Standard Committee (England) Regulations 2008.
- 4.2 The following are summaries of cases previously reported to the Standards Committee now been concluded, and new cases not previously reported.
- 4.3 Cases type (a) where the Standards Board have decided either not to investigate or to refer for investigation by an Ethical Standards Officer.
- 4.3.1 Case Number **SBE 15053.06**  
 Complainant: An elected member  
 Date of complaint: 05 June 2006  
 Date completed: 01 May 2008

The investigation concerning a remark made by a member while attending an official function was deferred while the matter was investigated by the police.

The member's trial and conviction were reported in local and national media and the member resigned on 14 December 2006. The conviction was quashed on appeal on 22 February 2008.

Paragraph 4 of the Code of Conduct (in place at that time) required a councillor not to bring their office or authority into disrepute. The Standards Board investigation concluded that the conduct of the member had brought the member as an individual into disrepute. It was also considered that the remarks made by the member were so unreasonable and offensive that the member's conduct was capable of diminishing public confidence in their

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office of councillor. The remarks were considered as capable of bringing the member's office into disrepute. It was therefore concluded the member had failed to comply with paragraph 4 of the Code of Conduct.

Paragraph 2(a) required members when acting in their official capacity to "promote equality by not discriminating unlawfully against any person". This paragraph is generally concerned with people's actions, or intended actions, not with opinions or beliefs. The SBE were satisfied that in this case paragraph 2(a) did not apply.

Paragraph 2(b) of the Code requires members to "treat others with respect" which the SBE considered could be defined as "unfair, unreasonable or demeaning behaviour directed by one person against another". The SBE considered that the member's remarks failed to treat people who heard his remarks with respect.

A finding available to the SBE would have been to refer the matter to the Adjudication Panel for England who have powers to disqualify an ex-councillor from future office for a defined period. However, the Ethical Standards Officer took into account that the member had been prosecuted, initially resulting in a criminal conviction, that there had been a public apology and that the member resigned. The ESO consider it would not be an appropriate use of public resources to take further action.

#### 4.3.2 Case Number **SBE 21661.08**

Complainant: Member of the public

Date of complaint: 04 April 2008

Date completed: 04 April 2008

##### **Allegation:**

The complainant allegedly listened in on a conversation through a letter box between a member and a neighbour during which allegedly racist statements were made by the member. It was alleged that the member was conspiring to get a relative of the neighbour 'moved up the transfer list' and have the complainant's dog destroyed.

##### **Decision:**

From the information provided it appeared the complaint concerned a private conversation. Having taken account of the available information the Standards Board concluded that a potential breach of the Code of Conduct had not occurred. The matter was not referred for investigation.

#### 4.3.3 Case Number **SBE 21914.08**

Complainant: An elected member

Date of complaint: 06 May 2006

Date completed: 06 May 2008

**Allegation:**

In a letter to a local newspaper a member strongly recommended to the public an environmental service available to local people and gave the contact details of a business where further information could be obtained. The complainant asked if there was a breach of the Code of Conduct in that the business mentioned had donated fundraising items to the member's party and had purchased advertising space in the party's election campaign material.

**Decision:**

It was not considered improper to mention the business in a letter to the newspaper. Neither was it considered unethical based on the claim that the business had in the past donated an item for fundraising and had purchased advertising space in the election leaflet. These were considered party matters and did not disclose a breach of the Code of Conduct.

- 4.4 There have been no cases dealt with under option (b). (Referral to the Monitoring Officer under Local Determination Regulations).
- 4.5 There have been no new cases dealt with under option (c). (Referral to the Monitoring Officer for Local Investigation and Determination). Any cases dealt with in this way have been previously reported.
- 4.6 There have been no cases dealt with under option (d). (Referral to the Adjudication Panel following investigation by the Ethical Standards Officer).

**5. FINANCIAL & OTHER IMPLICATIONS:**

5.1 Financial Implications:

There are no financial implications.

5.2 Legal Implications:

Identified within the body of the report.

5.3 Equalities Implications:

An Equalities Impact Assessment for complaints received under the new regulations is being carried out by the Standards and Complaints Manager to ensure members of the public are aware of the change in procedures and to make the service widely accessible.

5.4 Sustainability Implications:

There are no Sustainability Implications for this report.

5.5 Crime & Disorder Implications:

There are no Crime & Disorder implications for this report.

5.6 Risk and Opportunity Management Implications:

There are no issues that require immediate action. Two issues will require review:

- Training for members in operation of new assessment procedure (see report dated 10 June 2008)
- Ensuring disadvantaged communities have knowledge of and access to new complaint process (to be addressed in Equalities Impact Assessment)

5.7 Corporate / Citywide Implications:

This report is a measure of the quality of ethical governance for the City and openness of leadership within the Council

**6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

6.1 None required

**7. REASONS FOR REPORT RECOMMENDATION:**

7.1 To inform members of the Standards Committee of complaints made about alleged breaches of the members' Code of Conduct.

7.2 To ensure high quality ethical governance.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. None

**Documents In Members' Rooms**

1. None

**Background Documents**

1. None

