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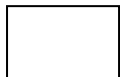
Report of the Assistant Chief Executive (Corporate Governance)

Standards Committee

Date: 17th February 2010

Subject: Outcome of an investigation into a Leeds City Council Member

Electoral Wards Affected:



Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The purpose of this report is to notify Members of the Standards Committee of the outcome of a recent investigation into the conduct of a Leeds City Councillor, which was carried out by an Ethical Standards Officer from Standards for England.
2. The Ethical Standards Officer has concluded that the Councillor did not breach the Code of Conduct as alleged by the complainants and therefore the case is now closed. Standards for England did publish a summary of the complaint and their findings on their website.
3. In addition, the Ethical Standards Officer has requested that a copy of her full investigation report is presented to the Standards Committee in order to consider whether there are any lessons to learn from the case. This report is attached as Appendix 1. The Ethical Standards Officer has recommended that the Standards Committee does not disclose this report outside of the Committee.
4. Members of the Standards Committee are asked to:
 - Receive the final report from the Ethical Standards Officer (attached as Appendix 1);
 - Adopt the actions listed in paragraphs 3.7 to 3.12 of this report; and
 - Note that the issues raised regarding the planning process have been considered and acted upon by the Chief Planning Officer, on behalf of the Director of City Development.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to notify Members of the Standards Committee of the outcome of a recent investigation into the conduct of a Leeds City Councillor, which was carried out by an Ethical Standards Officer from Standards for England.
- 1.2 The Ethical Standards Officer has recommended that the Standards Committee considers the final investigation report (attached as Appendix 1) in the absence of members of the public and the press. She also recommends that the provisions in Schedule 12A paragraphs 1, 2 and possibly 3, of the Local Government Act 1972 will be relevant to this. The Standards Committee will have to make a judgement as to whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information, with particular regard to the Data Protection Act and the data protection principles. Not only must the subject Member be considered, but also those other people referred to in the report. The Committee may also wish to consider whether it wishes to redact the report, and make only the redacted version public within the papers following the meeting. In reaching any decision to treat the final report as exempt, the Committee would also need to consider the Freedom of Information Act, particularly where there is press or other interest.

2.0 Background Information

- 2.1 The Assessment Sub-Committee considered the original complaint on 5th March 2009. The original complaint contained allegations against three separate Leeds City Councillors. The Assessment Sub-Committee decided to refer some of the allegations against the subject Member to Standards for England for investigation.
- 2.2 Standards for England accepted the Assessment Sub-Committee's referral on 2nd April 2009, and referred the case to an Ethical Standards Officer, Ms Jennifer Rogers, to investigate. Ms Rogers completed her final report and referred it to the Monitoring Officer on 22nd July 2009.
- 2.3 The Ethical Standards Officer has concluded that the subject Member did not breach the Code of Conduct as alleged by the complainants, therefore the investigation is now complete and the Standards Committee has no powers to investigate or make its own findings on the case.
- 2.4 However, the Ethical Standards Officer has decided to exercise her powers under Section 64(3)(A) Local Government Act 2000 to send the report to the Standards Committee. She is of the view that this will assist the Committee in the discharge of its functions, and has requested that the Monitoring Officer refer the full report to the Standards Committee for them to consider any lessons to learn from the investigation.

3.0 Main Issues

Case Summary

- 3.1 Standards for England have produced a case summary of the complaint and the results of the investigation. This summary was published on their website, in line with the objectives of Standards for England to promote confidence in local democracy and to provide guidance for Members on the Code of Conduct.

Final Report

- 3.2 As outlined above, the Ethical Standards Officer has decided to exercise her powers under Section 64(3)(A) Local Government Act 2000 to send a copy of her full report to the Standards Committee. The Ethical Standards Officer believes that it will assist the Committee in the discharge of its functions, including:
- Monitoring, advising, training or arranging to train Members on matters relating to the authority's Code of Conduct;
 - Assessing and reviewing other complaints;
 - Considering Monitoring Officer reports; and
 - Making determinations at hearings.
- 3.3 The Ethical Standards Officer is also of the view that her reasoning set out in the report as to whether or not the subject Member was acting in his official capacity and on the relationship between the right to freedom of expression and treating others with respect would be of interest to the Standards Committee in considering reports and making determinations at hearings in the future.
- 3.4 As part of her final report the Ethical Standards Officer has reported observations made by the subject Member regarding possible errors in the planning process on the part of the City Development Department which cannot be considered under the Standards Committee's Terms of Reference. However, the Monitoring Officer has certain powers conferred by Section 65A of the Local Government Act 2000 which allow her to refer part or all of an Ethical Standards Officer's final report to any relevant person if she believes it will assist in promoting high standards of conduct. Therefore the Monitoring Officer has referred the relevant sections of the Ethical Standards Officer's report to the Director of City Development for her consideration and to ensure that there will be no repetition of such errors in future.
- 3.5 The Chief Planning Officer, on behalf of the Director of City Development and after considering the report has accepted that there were errors in parts of the process in this particular case, and advises that errors were remedied at the time and in the contents of the final report on the applications to Plans Panel. Lessons have also been learned more generally and procedures amended.

Possible lessons to learn

- 3.6 After consideration of the final report and the Ethical Standards Officer's reasoning, the Monitoring Officer has identified the following potential lessons for the Standards Committee.

Members acting as objectors to planning applications

- 3.7 The report raises the issue of how Members should conduct themselves when objecting to planning applications in their private capacity. The Ethical Standards Officer expresses the view that "should a Member want to involve themselves in objecting to a planning application in their personal capacity they have to make that clear to all parties at all times and show a consistency of approach".
- 3.8 In particular the Ethical Standards Officer noted that the subject Member had corresponded with others regarding the application on Council headed paper and using his Council email address. In addition, the Ethical Standards Officer noted that the subject Member stated that he had not given any thought to the capacity in which he was involving himself at first.

- 3.9 In order to address these issues the Standards Committee may wish to consider whether training should be provided for all Members on the planning process and how to conduct themselves when objecting to an application as a ward Councillor, or as a member of the public. This could be offered as part of the annual induction programme, in addition to the specific training provided to Members of the Plans Panels. This may also be supplemented with a guidance note for Members.

Interactions between Members and officers

- 3.10 The Ethical Standards Officer expressed concern that the subject Member felt that he could “avoid having his criticisms of the planning department considered under the Code simply by stating that he was making them in his private capacity”.
- 3.11 In future training to all Members provided on the Members’ Code of Conduct, the Monitoring Officer will ensure that the definition of acting, claiming to act, or giving the impression of acting in official capacity is further emphasised to Members.

Definition of disrespect

- 3.12 Finally, the Monitoring Officer considers it useful for the Standards Committee to note the interaction between the Members’ right to freedom of expression and paragraph 3(1) of the Code of Conduct which requires that Members must treat others with respect. In particular the Ethical Standards Officer concluded that as the subject Member’s comments were part of an expression of argument against the planning application, rather than an insult aimed at the complainants or their personal characteristics, it would be a disproportionate restriction on the Councillor’s freedom of expression to find a breach of paragraph 3(1) of the Code.

4.0 Implications For Council Policy And Governance

- 4.1 Considering the Ethical Standards Officer’s findings in this case should assist the Standards Committee in the future discharge of its functions, including promoting and assisting Members in complying with the Code of Conduct.
- 4.2 Good conduct and behaviour is one of the six principles of the Council’s Code of Corporate Governance, which sets out how the Council will meet its commitment to good corporate governance.

5.0 Legal And Resource Implications

- 5.1 There are no legal or resource implications to this report.

6.0 Conclusions

- 6.1 The Ethical Standards Officer has found that there is no evidence of any failure to comply with the Code of Conduct in this case. Therefore the case is now complete, and a summary of the findings was published on the Standards for England website.
- 6.2 In addition, the Ethical Standards Officer has decided to exercise her powers under Section 64(3)(A) Local Government Act 2000 to send a copy of her full report to the Standards Committee. The Ethical Standards Officer believes that it will assist the Committee in the discharge of its functions, including:
- Monitoring, advising, training or arranging to train Members on matters relating to the authority’s Code of Conduct;
 - Assessing and reviewing other complaints;

- Considering Monitoring Officer reports; and
- Making determinations at hearings.

6.3 The Ethical Standards Officer is also of the view that her reasoning set out in the report as to whether or not the subject Member was acting in his official capacity and on the relationship between the right to freedom of expression and treating others with respect would be of interest to the Standards Committee in considering reports and making determinations at hearings in the future.

6.4 The potential lessons to learn identified by the Monitoring Officer are listed in paragraphs 3.7 to 3.12 above.

6.5 Members of the Standards Committee are also asked to note that the issues raised regarding the planning process have been considered and acted upon by the Chief Planning Officer on behalf of the Director of City Development.

7.0 Recommendations

7.1 Members of the Standards Committee are asked to:

- Receive the final report from the Ethical Standards Officer (attached as Appendix 1);
- Adopt the actions listed in paragraphs 3.7 to 3.12 of this report; and
- Note that the issues raised regarding the planning process have been considered and acted upon by the Chief Planning Officer, on behalf of the Director of City Development.

Background Documents

None.