

BABERGH DISTRICT COUNCIL

FROM: Acting Head of Legal and Administrative
Services

REPORT NUMBER **E260**

TO: STANDARDS COMMITTEE

DATE OF MEETING 3 February 2006

ANNUAL REPORT OF THE STANDARDS COMMITTEE

1. **SUMMARY**

This report reviews the work of the Standard Committee throughout 2005.

2. **RECOMMENDATIONS**

- 2.1 That the content of this report be noted.
- 2.2 That full Council be asked to note the content of the annual report.

The Committee is able to resolve this matter.

3. **FINANCIAL IMPLICATIONS**

- 3.1 None.

4. **KEY INFORMATION**

- 4.1 2005 saw the Committee undertake its first hearing following a referral by the Standards Board for England of a complaint against a Parish Councillor for local determination.
- 4.2 Following its review of the Council's ethical framework, the Committee received a report from the Audit Commission. It was noted that the Standards Committee was praised for operating proactively and carrying out a number of initiatives to help ensure that high standards are achieved and maintained. The Committee subsequently undertook an ethical audit of the Councils policies and protocols in accordance with a recommendation from the Audit Commission and this resulted in the updating of such documents.
- 4.3 During 2005, the Government instigated a review of the Members Code of Conduct. The Committee conducted detailed analysis of the Code to identify problem areas and possible solutions. Recommendations on its findings were made to the Standards Board. Following this consultation exercise, the Standards Board itself made recommendations to the Government for amendment of the Code and changes are expected to be enacted in 2006 with implementation in 2008.
- 4.4 The Committee continued to monitor the declaration of interests by Members with a view to identifying any potential breaches of the Code of Conduct.
- 4.5 A further role for the Committee has been to explore the training needs of Members at District and Parish Council level which has led to a training programme being scheduled for 2006.

- 4.6 Other work undertaken by the Committee has involved identifying ways of securing easier access to Standards information on the Councils website together with consideration of whether the Register of Members Interests should be available on the Council's website.
- 4.7 As in previous years, the Chair of Standards Committee and the Monitoring Officer attended the Annual Standards Conference in Birmingham. The two day event featured lectures from Phil Woolas, Minister for Local Government, David Prince, Chief Executive of the Standards Board and Sir Alistair Graham, Chair of the Select Committee on Standards in Public Life (and author of the report 'Getting the Balance Right- Implementing Standards in Public Life' which recommended reform of the Code of Conduct). These lectures principally focused on aims to attain the highest standards in public life and proposals for change. The Conference also contained a number of workshops to address issues such as handling of local investigations and conduct of hearings along with building public confidence and trust in local democracy.

5. **CODE OF CONDUCT – LOCAL HEARING**

5.1 On 15 July 2005 a Sub-Committee of the Standards Committee, chaired by an Independent Member of the Committee, met to determine a complaint referred to the Monitoring Officer by the Standards Board against Mr C Jowett, a former Councillor with East Bergholt Parish Council. The complaint against Mr Jowett contained 7 separate allegations of which the Ethical Standards Officer at the Standards Board had, after investigation, found that Mr Jowett had been in breach of the Code of Conduct on 4 of the 7 allegations. The Sub-Committee considered all 7 allegations and accepted the finding of the Standards Board that Mr Jowett's conduct had breached the Parish Councils Code of Conduct in the following respects:-

- That Mr Jowett had failed to register his occupancy of his residence in the Register of Members Interests.
- That Mr Jowett failed to disclose a personal interest arising from his occupancy of his residence at a meeting of the Parish Council when considering parking restrictions in the road in which he lived.
- That Mr Jowett failed to withdraw from the meeting on account of his prejudicial interest in consideration of the parking restrictions.
- That Mr Jowett sought improperly to influence the decision of the Parish Council in respect of the parking restrictions.

5.2 The Sub-Committee acknowledged that Mr Jowett had not deliberately failed to observe the Parish Councillors Code of Conduct. Mr Jowett had already resigned as a Parish Councillor and the Sub-Committee concluded that no action need be taken in respect of the breaches. The Sub-Committee recommended to the East Bergholt Parish Council that Members of the Parish Council should receive training on the Parish Council's Code of Conduct.

6. **ETHICAL AUDIT – REVIEW OF PROTOCOLS AND POLICIES**

6.1 During the course of 2005 and in accordance with the Audit Commission recommendations, the Committee identified all protocols that should be reviewed being, the Planning Protocol, the Member and Officer Protocol, the Members Computer Usage Agreement and the Anti-fraud and Corruption Policy.

- 6.2 It was noted that the local protocols have not been adopted as part of the Councils Code of Conduct, as per national guidance. Whilst this means that breaches of the protocols would not necessarily involve a breach of the Code of Conduct itself, it would still be possible for the Committee to recommend limited procedures and sanctions to be applied in the event of a breach.
- 6.3 In reviewing the protocols, the Committee particularly sought to ensure compatibility with the Code of Conduct. Following review of the protocols, all Members were asked to sign the updated documentation.

7. **REVIEW OF THE CODE OF CONDUCT**

- 7.1 The Standards Board for England issued a consultation document on the review of the Code of Conduct for Members in May 2005. At this time, the Code of Conduct had been in force for 3 years. The Minister of State for Local and Regional Development had requested that the Standards Board conduct a review of the model Code of Conduct to ascertain its effectiveness and to explore ways in which it could be improved or clarified.
- 7.2 The Committee undertook a detailed analysis of the Code and discussed ways in which it could be improved. Recommendations made to the Standards Board included:-
- Inclusion of an additional general principle that Members have a personal responsibility to undertake training on the Code and training generally as may be required to fulfil their duties as Members.
 - The Code should include specific provision of bullying.
 - The Code should only cover confidential information which is “exempt” or “confidential” in law to make it clear that it would not be a breach to disclose information that the Council has withheld unlawfully.
 - The duty not to bring the Council into disrepute should continue to apply to certain activities in a Members private life and assessed against whether the conduct is likely to compromise the reputation of the Council.
 - Mis-use of resources should be a matter for local protocols. The duty to report breaches of the Code by fellow Members should be retained but with added provision that it is a breach to make false, malicious or politically motivated allegations.
 - The meaning of the term “friend” for the purposes of ascertaining the existence of a personal interest should be defined in the Code.
 - A new category of “public services interest” should be included. Once declared in the Register of Members Interests, the interest should be regarded as automatically declared (provided it is not a prejudicial interest) without the need for it to be declared at each and every meeting.
 - Where a personal interest arises from Membership of charities, lobby groups and public service interests, it should only be prejudicial where a matter has a direct impact on the body concerned or the Member is involved in regulatory matters in a decision making capacity (e.g. planning and licensing).

- The Code should distinguish between Parish/Town Council and District Council meetings in respect of prejudicial interests. Parish/Town Councillors should be allowed to address the meeting before withdrawing from the debate and vote, whereas District Councillors should continue to withdraw from the room for the entire item.
- Members employed in 'sensitive employment' (which would require definition) should not need to declare their occupation in the Register of Interests.
- The Register of Gifts and Hospitality should be made publicly available and offers of gifts or hospitality that are declined should not need to be declared.
- The appropriate threshold for declaration of gifts and hospitality should be raised from £25 to £50.

7.3 The Standards Board has now made recommendations to the Government which has recently published proposals for reform. It is anticipated that changes to the Code will be implemented in 2008.

7.4 The Government has recognised that the Code needs to be clearer, simpler and more positive and that the regime on declaring interests needs to be addressed. Further, how the Code is enforced, nationally and locally, is as important as its content. Significant changes proposed by the Government include:-

- Narrowing the definition of a 'personal interest' which members are required to declare and for the interest to be declared at the point that he or she speaks on the relevant issue. A member with a prejudicial interest will be able to speak at the meeting, but withdraw before the vote although it is unclear at this stage if this will be restricted to certain prejudicial interests e.g. where the interest arises from membership of a group or campaign.
- The Code should include a new provision to address bullying
- The duty to report potential misconduct should be removed.
- The Code should be clearer in ensuring that, the duty not to bring the Council into disrepute will not apply to matters in a Member's private life unless it involves unlawful activities.
- In light of the Freedom of Information Act 2000, the public interest defence should be explicitly included in the Code so that it will not be a breach of the Code to disclose confidential information that the Council is unlawfully withholding.
- Initial assessment of all misconduct allegations will be undertaken by standards committees, rather than the Standards Board. The powers of standards committees to impose sanctions will be increased to reflect the extra responsibility and with scope to require mediation. There will also be emphasis on standards committees cooperating and possibly working together jointly. The Committee must have an independent chair.
- The Monitoring Officer will undertake the investigation of cases and standards committees will make determinations. It will be the responsibility of councils to ensure that the Monitoring Officer and Standards Committee are appropriately supported. The Standards Board will however provide support by way of training.

- Only the most serious of allegations will be investigated by the Standards Board which will have power to decline to accept a case if they believe that it can be better handled locally.
- The Standards Board will take on a more strategic, advisory and monitoring role. In particular it will be tasked with setting targets for Monitoring Officers and standards committees and ensuring compliance. Each committee will need to file an annual report with the Standards Board.
- The role of Independent Adjudicator will be delegated to standards committees to determine applications for exemption from political restriction.
- Introduction of a Code of Conduct for employees

7.5 It will be noted from the proposals that the role of the Standards Committee and Monitoring Officer will be dramatically increased to accommodate the move to a more locally based decision-making process. Whilst support in the form of advice, guidance and training will be provided by the Standards Board, there are no published proposals at this stage for financial support to authorities.

8. **TRAINING OF PARISH COUNCILS**

8.1 The Committee recognised that the training of Parish Council Members and Clerks on the Code of Conduct to be key to securing high standards at Parish Council level. Training may also reduce the potential for complaints to the Standards Board against Parish Council Members. The Committee invited the Suffolk Association of Local Councils to attend one of its meetings to discuss its perspective on the training of Parish Councillors. This has resulted in Babergh and SALC uniting to provide training for Parish Councillors and Parish Clerks in 2006. The training will also be open to Babergh Members. The date and venue of training is to be confirmed.

8.2 Furthermore, SALC has welcomed the Committee's suggestion that it produce a guidance pack on the Code for parish clerks to include an easy reference leaflet on 'Standards Made Simple' which should be made available in 2006. The Committee emphasised the need for clerks to have a high level of familiarity with the Code and for it to be embedded as an intrinsic part of local culture. It is hoped that a publication of this kind will assist parish councils in achieving the high ethical standards expected at local level.

9. **APPENDICES**

None.

10. **BACKGROUND PAPERS**

None

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