

CARLISLE CITY COUNCIL

Report to:- **STANDARDS COMMITTEE**

Date of Meeting:- **4 DECEMBER 2006**

Agenda Item No:-

Public

Operational

Delegated Yes

Accompanying Comments and Statements

	Required	Included
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
Financial Comments:	No	No
Legal Comments:	Yes	Included
Personnel Comments:	No	No
Impact on Customers:	No	No

Title:- **REVIEW OF STANDARDS BOARD INVESTIGATIONS AND ACTIONS TAKEN**

Report of:- **DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES**

Report reference:- **LDS.94/06**

Summary:-

The attached report sets out details of actions which Officers have taken and which are proposed on the implementation of and provision of training for the Code of Conduct for both the Council and Parishes. It also sets out details of the outcome of complaints regarding members of the City and Parish Councillors within the City Council area, which have been investigated by the Standards Board for England.

Recommendation:-

1. That the report and actions taken/proposed by Officers with regard to the Code of Conduct/Ethical Standards issues, be noted.
2. That members identify any issues arising from consideration of the outcome of complaints where matters relating to Ethical Standards may be improved.

Contact Officer: Ian Dixon

Ext: 7033

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None

STANDARDS COMMITTEE
AUDIT OF COMPLAINTS AND CURRENT ACTION

1. As mentioned earlier in the Agenda, the City Council adopted the model Code of Conduct for Members on 5 March 2002. Immediately prior to the adoption of the Code, a series of training events for Members of the City Council and for Parish Clerks and Parish Council Chairmen were provided to advise them on the procedures for adopting the Code and the implications for all Councillors in adhering to the Code.
2. Since that time, training has been provided for Members of the City Council each year as part of the Members' Induction Programme as well as invitations to attend refresher sessions.
3. Immediately following the adoption of the Code, all Members of the City Council completed the necessary forms to give an undertaking to abide by the Code and to register their financial and other interests. Since that time, I have written to Members on two occasions per year to advise them that it is a requirement under the Code that they keep their entries under the Register of Financial and Other Interests and the Register of Gifts and Hospitality up to date.
4. I have also produced, for City Councillors and Parish Councils, a series of Standards Newsletters which update Councillors on recent cases and points of interest on the Code and, in order that Councillors should be kept as up to date as possible on matters relating to the Code, have also circulated various notes which have been published by the Standards Board for England giving detailed guidance of different aspects of the Code.
5. As mentioned earlier in the Agenda, Officers are also proposing to undertake a survey of Members to gauge the level of understanding which City Councillors have on matters relating to ethical standards and compliance with the Council's Code of Conduct, so as to identify any areas where additional training/support on matters relating to ethical standards might be improved.

6. With regard to Parish Councils, in addition to the initial training provided on the Code, and the circulation of advice notes and standards newsletters, reminders are sent to Parish Clerks on two occasions per year of the need to ensure that the Register of Financial and Other Interests of Parish Councillors and the Register of Gifts and Hospitality is kept up to date.
7. The Council also remind Parish Clerks well before an election of the actions which will be required from them and the timescales for completing/returning forms after the Parish Elections and have supplied Parish Clerks with the necessary forms tailored to their individual parishes.
8. The forms relating to the Code of Conduct which are returned from Parish Clerks are checked to ensure their proper completion and advice is provided to Parish Clerks on matters relating to the Code as and when required.
9. In response to comments received with regard to the level of turnover of Parish Clerks and Parish Councillors, I have written to all Parish Clerks in the City Council's area to offer repeat training sessions on the various aspects of the Code. I have received a number of responses where additional training/support has been required and there is now in place a programme for delivering the refresher/additional training to those Parishes who have requested training.
10. There is a recommendation from the Audit Commission that the Standards Committee of each authority should receive an audit of complaints received about Members detailing the types of complaint and lessons to be learned. I have therefore attached appendices to this report, which set out details of complaints regarding the City and Parish Council Members which have been received since 2002, with details as to the outcome of the investigations into these complaints. It is hoped that members might find these details useful in assessing any lessons to be learned from those complaints.

Standards Board Complaints

City Councillors

Report showing all City Councillor complaints for the year **2004**

Year: 2004

Type of Complaint: Inaccuracy in political leaflet

Outcome: Decision of the Standards Board not to investigate as the Councillor was not considered to have failed to comply with the Code nor was there any information to substantiate that the Member had disclosed confidential information.

Year: 2004

Type of Complaint: Failed to declare a personal interest in meeting

Outcome: Decision of the Standard Board that the allegation should be investigated. The Ethical Standards Officer found that the Councillor did have a personal interest in the matter and concluded that the Member had breached the Code by failing to declare the existence and nature of the interest. However, as the interest was not so significant that it was likely to prejudice his judgement of the public interest, the Ethical Standards Officer found that no action needed to be taken.

Year: 2004

Type of Complaint: Misused position in order to influence the decision making process

Outcome: Decision of the Standards Board not to investigate as the complainant had provided no evidence to suggest the Councillor had a personal interest in the matter and the alleged conduct (even if it had been found to have occurred) would not have involved a failure to comply with the Code.

Standards Board Complaints

City Councillors

Report showing all City Councillor complaints for the year **2005**

Year: 2005

Type of Complaint: Misuse of position

Outcome: Decision of the Standards Board not to investigate as the procedure for selection of candidate for Civic awards is not a matter for the Standards Board and the alleged conduct (even if it had been found to have occurred) would not have involved a failure to comply with the Code.

Year: 2005

Type of Complaint: Failed to respond to correspondence from a member of the public

Outcome: Decision of the Standards Board not to investigate as the allegation, whilst it disclosed a potential breach of paragraph 2b of the Code of Conduct (failure to treat others with respect), is considered (even if it were found to have occurred) to not be of such significance of itself to justify investigation and any consequent actions.

Year: 2005

Type of Complaint: Failed to respond to correspondence from member of public & misuse of position

Outcome: Decision of the Standards Board not to investigate as the procedures and policies of the Carlisle Housing Association are not a matter for the Standards Board for England. The tone of the replies to the complainant's correspondence with the Councillor, the housing association and the City Council is considered to be proportionate to the language used and the implications made in the complainants letter. It was considered that the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the authority's Code of Conduct.

Year: 2005

Type of Complaint: Failed to respond to correspondence from a member of the public

Outcome: Decision of the Standards Board not to investigate as the Standards Board for England do not have jurisdiction over procedures and policies of the Carlisle Housing Association. It was considered that the Member, having received a copy of the Managing Directors response to the complainant, was satisfied that officers had provided a corporate response. It was considered that the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the authority's Code of Conduct.

Year: 2005

Type of Complaint: Failed to declare a personal interest in meeting

Outcome: Decision of the Standards Board not to investigate as the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the authority's Code of Conduct.

Year: 2005

Type of Complaint: Failed to respond to correspondence from a member of the public

Outcome: Decision of the Standards Board not to investigate as the allegation, whilst it disclosed a potential breach of paragraph 2b of the Code of Conduct (failure to treat others with respect), is considered (even if it were found to have occurred) to not be of such significance of itself to justify investigation and any consequent actions.

Year: 2005

Type of Complaint: Failed to respond to correspondence from a member of the public

Outcome: Decision of the Standards Board not to investigate as the Standards Board for England do not have jurisdiction over procedures and policies of the Carlisle Housing Association. It was considered that the Member, having received a copy of the Managing Director's response to the complainant, was satisfied that officers had provided a corporate response. It was considered that the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the authority's Code of Conduct.

Standards Board Complaints City Councillors

Report showing all City Councillor complaints for the year **2006**

Year: 2006

Type of Complaint: Failed to declare a personal interest at meeting & breach of confidentiality

Outcome: Decision of the Standards Board not to investigate as the allegation related primarily to predetermination and as the Standards Board take the view that, in most cases, it does not have jurisdiction to consider the issue of predetermination as it is a matter for the Courts to determine whether a decision is flawed because a member was not open to persuasion as to the merits of a case. The Standards Board did not consider the alleged conduct disclosed a potential failure to comply with the Code, nor did the Standards Board consider that there had been a breach of confidentiality in this instance. It was considered that the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the authority's Code of Conduct.

Year: 2006

Type of Complaint: Breach of confidentiality, failing to treat member of public with respect, misuse of position and failed to declare personal interest at meeting

Outcome: Decision of the Standards Board not to investigate as there was no information to suggest the Councillor had used his position improperly to the advantage or disadvantage of someone else and, even if the alleged conduct were to have occurred, it was not considered sufficiently serious to warrant an investigation. There was no information to support the allegation that the Councillor disclosed confidential information. Whilst there may have been a potential breach, it was considered that the alleged conduct (even if it were found to have occurred) was not of such significance of itself to justify investigation and any consequent action. The meeting to which the complainant refers was not a formal meeting of the Authority and it was questionable as to whether the Councillor would have been required to disclose an interest. The Standards Board did not consider the context of the Councillor's letters to be disrespectful in nature and it was considered that the alleged conduct (even if it were found to have occurred) would not have involved any failure to comply with the authority's Code of Conduct.

Year: 2006

Type of Complaint: Brought authority into disrepute

Outcome: Decision of the Standards Board not to investigate as generally they do not have jurisdiction over the rules for the conduct of local authority meetings and it was noted that chairs have substantial discretion over the way those rules are applied and interpreted, although there is an expectation that in doing so, they will treat others with respect. The Standards Board only investigate complaints against Councillors ethical conduct rather than inaccuracy or incompetence. It was considered that the Councillor's alleged conduct disclosed a potential failure to treat others with respect and could bring his office into disrepute but there was no information provided to suggest that the Councillor purposefully intended to mislead the public. It was considered that the alleged conduct (even if it were found to have occurred) is not of such significance of itself to justify investigation and consequent action.

Standards Board Complaints

Parish Councillors

2002

Date: 2002 **Parish:** Arthuret

Type of Complaint: Failed to complete the register of interests within timescale

Full outcome:

The Councillor failed to complete a register of interest form by the deadline. The Councillor did complete the register of interests after the deadline and submitted a letter of apology. From the deadline date until the date he completed the register the Councillor was in breach of the Code of Conduct. The Ethical Standards Officer considered it a serious matter for members to wilfully ignore their legal obligations. However, after taking into account the fact that the Councillor had completed the register of interests the Ethical Standards Officer found that no action needed to be taken under Section 59(4)(b) of the Local Government Act 2000.

Date: 2002 **Parish:** Kingwater

Type of Complaint: Failed to complete the register of interests within timescale

Full outcome:

The Ethical Standards Officer considered that the Councillor had tendered his resignation to the Chairman in accordance with Section 84(1)(c) of the Local Government Act 1972 before the deadline to register his financial interests had expired. In these circumstances the Ethical Standards Officer found no failure to comply with the Code of Conduct under Section 59(4)(a) of the Local Government Act 2000.

Date: 2002

Parish: Farlam

Type of Complaint: Failed to disclose a personal interest at a meeting and failed to withdraw from a meeting when a matter in which he had a prejudicial interest was discussed.

Full outcome:

The Ethical Standards Officer considered that the Councillor had a personal interest in the matter because it could have affected his well being and financial position to a greater extent than others in the Parish. The Ethical Standards Officer therefore concluded that the Councillor breached the Code of Conduct by failing to disclose his personal interest at the meeting in accordance with Paragraph 8. The Ethical Standards Officer also considered that the Councillors interest was so significant that it was likely to prejudice his judgement of the public interest and that the Councillor therefore also failed to comply with Paragraph 10(a) of the Code. The Ethical Standards Officer noted the discussion of the matter was limited and that whilst the Councillor participated in the discussion no observations were made and the Ethical Standards officer noted that the Planning Application was withdrawn after the meeting. In these circumstances, the Ethical Standards Officer found that no action needed to be taken.

Date: 2002

Parish: Farlam

Type of Complaint: Failed to treat others with respect and brought his office or authority into disrepute

Full outcome:

The Ethical Standards Officer considered that the Councillor was not acting in an official capacity at the time of the incident. The obligation to "treat others with respect" in the Code of Conduct only applies when members are acting in an official capacity therefore the Ethical Standards Officer concluded that the Councillor did not breach the Code of Conduct by failing to treat others with respect. The Ethical Standards Officer considered that whilst the incident took place on private property the abusive language was heard by members of the public but concluded that the incident was in the nature of a neighbourhood dispute and, in the absence of conclusive evidence of violence, the Ethical Standards Officer concluded that the Councillor did not bring his office or authority into disrepute. The Ethical Standards Officer found that no action needs to be taken in relation to these matters.

Date: 2002

Parish: Rockcliffe

Type of Complaint: Failed to complete register of interests/undertaking to observe the Code

Full outcome:

The Councillor failed to give a written undertaking to observe the Code of Conduct within two months of it being adopted by the Parish. As a result, the legislation provides that the Councillor automatically ceased to be a member of the Parish Council. The Councillor was also required under the Code of Conduct to complete the register of interests but failed to do this.

Standards Board Complaints

Parish Councillors

2003

Date: 2003 **Parish:** Brampton

Type of Complaint: Failed to declare a personal interest at a meeting and took part in the meeting in which he had a prejudicial interest

Full outcome:

The Ethical Standards officer noted that the Councillor had not resigned as a School Governor in writing as required by the school regulations, and so was still a school governor when the meeting took place. The Ethical Standards Officer considered that the Councillor had failed to declare a personal interest and therefore failed to comply with Paragraph 8 of the Code. However, the Ethical Standards Officer considered that the Councillors interest was not so significant that a member of the public would have concluded that it could have prejudiced his judgement of the public interest. The Ethical Standards Officer also noted that the Councillor was no longer a member of the Council. In these circumstances the Ethical Standards Officer found that no further action needed to be taken.

Date: 2003 **Parish:** Brampton

Type of Complaint: Dealings with other Parish Councillors

Full outcome:

The Standards Board considered the allegation and decided not to refer it to an Ethical Standards Officer for investigation. There was insufficient evidence presented in the allegation to support the claim that there has been a potential breach of the Code of Conduct or to elaborate on the allegation that the Councillor had an attitude problem towards two other Parish Councillors or offer any supporting evidence for the allegation. The Board therefore decided not to take any further action in relation to the allegation.

Date: 2003 **Parish:** Arthuret

Type of Complaint: Failed to complete the register of interests within timescale

Full outcome:

The Ethical Standards Officer did not consider it necessary to carry out a formal investigation.

Date: 2003 **Parish:** Arthuret

Type of Complaint: Failed to complete the register of interests within timescale

Full outcome:

The Standards Board considered that as the Councillors seat had been declared vacant, the matter was not, despite the possibility of a breach, sufficiently serious nor in the public interest to warrant investigation. There was also a possibility that the matter was outside the Board's jurisdiction in that the declaration of office must be signed before an individual can act as a member of an authority, and in this case that declaration had not been signed. The Standards Board decided not to take any further action in relation to this allegation.

Standards Board Complaints

Parish Councillors

2004

Date: 2004 **Parish:** Farlam

Type of Complaint: Abusive towards members of public

Full outcome:

The complaint appeared to relate to a private capacity neighbour dispute. In all the circumstances, it was considered that, although the alleged conduct (even if it were found to have occurred) could potentially be viewed as bringing the authority into disrepute, it was not of such significance of itself, to justify a publicly funded investigation by an Ethical Standards Officer, and any consequent action. Accordingly the decision was that the allegation should not be investigated.

Date: 2004 **Parish:** Farlam

Type of Complaint: Failed to declare an interest at a Council meeting

Full outcome:

The allegation of failure to declare an interest if provided to be true would show a failure to comply with the Code. However the Ethical Standards Officer did not consider it serious enough to justify investigation. The allegation that the Councillor lied or misrepresented the situation was also considered to be insufficiently serious to warrant an investigation. The Ethical Standards Officer therefore decided that the allegation should not be investigated.

Standards Board Complaints

Parish Councillors

2006

Date: 2006 **Parish:** Irthington

Type of Complaint: Inappropriate behaviour at Parish Council meeting

Full outcome:

The Standards Board did not consider that the Councillors alleged comments disclosed a potential breach of the Code of Conduct, as he was entitled to express his view on matters raised at Council. The manner in which the Councillor is alleged to have expressed his views could potentially be viewed as disrespectful. However it is considered that any potential breach of the Code of Conduct disclosed by his behaviour would not be of sufficient seriousness to warrant further investigation. With regard to the Councillors allegedly inaccurate comments at the meeting, it is considered that whilst the comments may have been inaccurate, this did not relate to the member's ethical conduct. As such, it is considered that no potential breach of the Code of Conduct is disclosed in this instance. Accordingly, the decision was that the allegation should not be investigated.

Date: 2006 **Parish:** Wetheral

Type of Complaint: Unlawfully discriminated against member of public, failed to treat member of public with respect and failed to register an interest, brought his office and authority into disrepute and used his position to confer an advantage for himself and others.

Full outcome:

The Standards Board considered the allegation and whether it should be referred for investigation. The Board took the view that the information provided was insufficient to make a decision as to whether it should be referred and until further information is received the Board will take no further action on the allegation.

Date: 2006

Parish: Stanwix Rural

Type of Complaint: Failed to treat others with respect

Full outcome:

While the alleged remarks could potentially be perceived as disrespectful, it was noted that no excessively abusive or intemperate language was used, and it appeared from the allegation that it was an isolated incident rather than part of a pattern of disreputable behaviour. The Standards Board therefore considered that the alleged conduct (even if it were found to have occurred) was not of such significance as to justify investigation and any consequent action. Accordingly the decision was that the allegation should not be investigated.
