



TO THE CHAIR AND MEMBERS
OF THE STANDARDS COMMITTEE
HELD 8TH MAY 2006

**Director of Legal & Democratic Services/Monitoring Officer
BUSINESS REPORT**

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A1 COUNCILLOR MCTIGUE – STANDARDS BOARD

- 1.1 In 2005 a complaint was made to the Standards Board for England that Councillor McTigue had failed to comply with the Council's Code of Conduct in relation to the decision to construct a BMX track within Beechwood.
- 1.2 In particular, it was alleged:-
- (i) that a Planning and Development Committee held on 1st April 2005, Councillor McTigue failed to declare a personal and prejudicial interest and failed to withdraw from the meeting, improperly seeking to influence the decision,
 - (ii) that a meeting of Overview and Scrutiny Committee on 5th January 2005 Councillor McTigue failed to declare a personal and prejudicial interest and failed to withdraw from the meeting, improperly seeking the influence the decision,
 - (iii) that as a result of the above two complaints and by reason of her comments, regarding the planning process, reported to the Evening Gazette, Councillor McTigue had failed to comply with the Code of Conduct and had brought her office or the authority into disrepute.
- 1.3 Following investigation by an Ethical Standards Officer the matter was referred to the Adjudication Panel for England for a full hearing. The Adjudication Panel met on the 31st January at the Highfield Hotel in Middlesbrough.

ADJUDICATION PANEL DECISION

- 1.4 The decision of the Panel was that Councillor McTigue had failed to comply with the Code of Conduct. The failure to comply with the Code was that Councillor McTigue did not declare a personal interest at the Overview and Scrutiny Committee at its meeting on the 5th January 2005 and at the Planning and Development Committee on the 1st April 2005, and further that Councillor McTigue did not declare a prejudicial interest at the meeting of the Overview and Scrutiny Committee on the 5th January 2005.
- 1.5 The Panel decided that Councillor McTigue had not failed to comply with the Code of Conduct in that she did not conduct herself in a manner which would reasonably be regarded as bringing her office or authority into disrepute.
- 1.6 Although the Tribunal depreciated Councillor McTigues behaviour it considered it unnecessary, in the circumstances of the case, to suspend, partially suspend or disqualify Councillor McTigue.

TRIBUNALS OTHER RECOMMENDATIONS

- 1.7 At the hearing Councillor McTigue stated that she had received no training from the Council in respect of the Code of Conduct, and as a result the Tribunal recommended to the Council that training on the Code of Conduct be offered to all members.
- 1.8 Following the elections in 2003 specific training as identified by the Tribunal was offered to all Councillors. The Council's records show that Councillor McTigue accepted that offer.

RECOMMENDATION

- 1.9 That Members are asked to note the report.

1.10 **A2 STANDARDS BOARD BULLETINS**

2.1 The Standards Board for England issues regular bulletins and newsletters highlighting guidance and news on standards and ethical issues relevant to the work of Standards Committees and town and Parish Councils. The bulletins and newsletters have not routinely been circulated to Committee members but they are available on the Standards Board website. Copies of "The Case Review" are also published. They provide summaries of cases referred for investigation and act as practical advice kits on the interpretation of the Code of Conduct are also published.

2.2 Copies of the latest publications listed below are attached. If you would like to view earlier versions they can be accessed via the following link <http://www.standardsboard.co.uk>

Bulletin No. 28 issued April 2006 (Appendix 1)

Standards Committee News No. 04 issued November 2005 (Appendix 2)

Town and Parish Standard No. 06 issued March 2006 (Appendix 3)

2.3 Members are asked to indicate whether you wish to receive copies of the publications as part of the Committee agenda or whether all Members should have copies circulated via e-mail whenever published by the Standards Board.

2.4 Copies of the publications mentioned in paragraph 2 above and The Case Reviews are also deposited in the Members' Resource Centre.

RECOMMENDATION

2.5 That Members views are requested.

A3 FIFTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEE

3.1 Next year's annual assembly will take place on 16th/17th October 2006 at the International Convention Centre in Birmingham.

3.2 The focus of the conference – Bridging the gap: towards effective local regulations will be looking at:-

How well is your authority meeting the challenges of the ethical framework?

Building on the foundations laid by last year's conference, the Fifth Annual Assembly of Standards Committees will encourage delegates to assess where their authority is now in terms of delivering on the criteria that the ethical framework, their communities, and others within the local government family expect of them, and provide ideas and best practice for driving change and improvement.

3.3 Details of the conference are (Appendix 4)

3.4 If any Member wishes to attend the conference they are asked to contact the Members' Office Manager or Senior Governance Officer.

RECOMMENDATION

3.5 Members are asked to note the report

A4 PLANNING PROTOCOL – LICENSING PROTOCOL

- 4.1 One of the most difficult areas for Members in knowing whether they have acted improperly is in relation to those Committees of the Council dealing with quasi-judicial functions. The two Committees are the Planning and Development Committee and the Licensing Committee.
- 4.2 As the business or financial impact of a decision to grant or refuse a planning or licensing application could be substantial, it is essential that at all times Members who sit on such Committees must be beyond reproach. Not only must Members act appropriately but there should be no perception by the public that a Member or Members have acted improperly. It is in fact the case, following the Richardson judgement that a member who sits on such a Committee has even less rights than a general member of the public.
- 4.3 Over the years, many local authorities have developed protocols to supplement the Code of Conduct. These protocols deal with issues such as lobbying by members of the public, or applicants; give guidance to members in respect of their own personal circumstances and generally advise on the overall conduct of planning and licensing applications.
- 4.4 Appended to this report (As Appendices 5 and 6) are copies of Protocols drafted in respect of Middlesbrough Planning and Development Committee and Licensing Committees.

RECOMMENDATION

- 4.5 Members are requested to comment on, or endorse the two Protocols.

A5 ACCESS TO INFORMATION REGULATIONS

- 5.1 In 1985 the rules relating to the holding of Council meetings in public was radically changed Schedule 12A was added to the Local Government 1972 specifying numerous grounds upon which the Council, or a Committee of the Council, could exclude the press or public when dealing with certain reports. These reports became known as “grey paper” reports.
- 5.2 Following the coming into force of the Freedom of Information Act, the Government issued its intention to revise Schedule 12A to provide consistency between the two pieces of legislation. In March 2006 the Government introduced three new sets of regulations dealing with the Council and its Committees, the Executive and its Committees and the Standards Committee. A copy of the revised Schedule 12A is attached as Appendix 7.
- 5.3 The big change in the Regulations is that the Council etc. must apply with the public interest test when deciding whether or not to exclude the press and public. Basically the test requires the Council to decide whether the greater public interest is served by disclosing the information rather than by withholding it.

RECOMMENDATION

- 5.4 That the changes to the Access to Information provisions be noted.

Richard Long
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BACKGROUND INFORMATION

File Reference: SBE12302.05

Council Constitution

Local Government Act 1972

Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000

Relevant Authorities (Standards Committee) Regulations 2001

Local Authorities (Executive Arrangements) (Access to Information) (England) (Amendment) Regulations 2006

Relevant Authorities (Standards Committee) (Amendment) Regulations 2006 Local Government (Access to Information) (Variation) Order 2006