

Standards Committee

Agenda

Date: Monday, 13th July, 2009
Time: 10.30 am
Venue: Council Chamber, Municipal Buildings, Earle Street, Crewe
CW1 2BJ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos. 11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

Note: In order for Officers to undertake any background research it would be helpful if questions were submitted at least one working day before the meeting.

4. **Minutes of Previous Meeting** (Pages 1 - 6)

To approve the Minutes of the meeting held on 18th May 2009.

Please contact Carol Jones on 01270 529952
E-Mail: carol.jones@cheshireeast.gov.uk with any apologies or requests for further information or to give notice of a question to be asked by a member of the public

5. **Minutes of Sub-Committee Meetings** (Pages 7 - 12)

To approve as correct records the Minutes of the following Sub-Committees –

- 12th May 2009 – Local Assessment Sub-Committee
- 12th May 2009 – Hearings Sub-Committee
- 17th June 2009 – Hearings Sub-Committee

6. **Standards Committee Determinations** (Pages 13 - 48)

To receive for information, the Standards Board for England Guidance on Determinations. This guidance will assist Members when they become involved in the determination of complaints.

7. **Publicity Working Group** (Pages 49 - 60)

To receive the Vice-Chairman's report of a meeting of the Publicity Working Group held on 23rd June 2009.

Members' attention is drawn to the following -

(1) Draft Publicity Leaflet (Making a Complaint)

At the meeting held on 18th May 2009, it was reported that the Publicity Sub-Committee had developed a leaflet intended to explain, in a user-friendly manner, the role and work of the Standards Committee.

At that meeting, a draft document was considered and a number of suggested amendments were made. These have been incorporated into a revised document which is now attached for approval, in principle, subject to a number of editorial amendments which are required.

(2) Guidance on Personal and Prejudicial Interests

A guidance note on declaration of personal and prejudicial interests has been prepared by the Publicity Sub-Committee and submitted to the Standards Board for England for confirmation. A draft is attached and Members' comments are invited.

(3) Council's Website

In due course, the publicity leaflet will be added to the Council's website, together with links to the Standards Board for England and the Adjudication Panel.

8. **Complaints Form** (Pages 61 - 70)

The attached draft Complaints Form is submitted for consideration and is based on Guidance issued by the Standards Board for England.

The Committee's comments are invited, following which, a revised form will be submitted for adoption at the September meeting.

9. **Pilot Compact**

At its meeting held on 18th May 2009, the Committee agreed to support the Code of Conduct Compact for use within Cheshire East.

The Monitoring Officer, together with the Chairman, Vice-Chairman and Mr K Edwards, met with the Chief Officer of the Cheshire Association of Local Councils on 8th July 2009. A verbal report will be presented to the Committee. A written report will be submitted to the Committee on 21st September.

10. **Terms of Reference - Assessment Sub-Committee and Hearings Sub-Committee** (Pages 71 - 76)

At its meeting held on 18th May 2009, the Committee received a verbal report from the Monitoring Officer in respect of practical difficulties encountered with the Terms of Reference for both the Assessment Sub-Committee and the Hearings Sub-Committee.

Members agreed to revisions to the Terms of Reference, and delegated authority to the Monitoring Officer to make any consequential amendments.

A copy of the revised Terms of Reference is enclosed, together with the Monitoring Officer's covering report. Members will note that no changes have been made to the Review Sub-Committee.

The Committee is asked to confirm the changes made.

11. **Standards Board for England - Bulletin 44** (Pages 77 - 84)

To receive for information Issue No. 44 (June 2009) of The Bulletin published by the Standards Board for England.

12. **Training Needs for Members**

The Committee is invited to consider future training needs for Members of the Committee and elected Members in general.

PART 2 – THERE ARE NO PART 2 ITEMS

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Standards Committee**
held on Monday, 18th May, 2009 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Mr N Briers (Chairman)

Councillors Rhoda Bailey, B H Dykes, J Goddard, J Hammond, M A Hollins,
M A Martin, M Parsons and L Smetham

Independent Members: Mr M Garrett, Mr R Pomlett and Mr D Sayer

Parish Council representatives: Mrs P Barnett, Mrs T Eatough and
Mr K Edwards

28 APOLOGIES FOR ABSENCE

Mr I Clark.

29 DECLARATIONS OF INTEREST

Councillor J Hammond declared a personal interest in agenda item 11 (Up-date on Complaints Received under the Code of Conduct), on the basis that he was a colleague Ward Councillor of one of the subject Members referred to under the item.

No other Member made any declaration of interest at this point in the proceedings.

30 PUBLIC SPEAKING TIME/OPEN SESSION

In accordance with Procedure Rules Nos. 11 and 35, members of the public were entitled to address the Committee on any matter relevant to its work.

There were no members of the public present and the Committee proceeded to its next business.

31 MINUTES OF PREVIOUS MEETING

RESOLVED: That the Minutes of the meeting held on Tuesday, 10th March 2009, be approved as a correct record, subject to the following –

- Delete “Councillor” preceding the names of Mr Briers and Mr Sayer in the list of those present; and
- Add the names of Mr I Clark, Mr M Garratt and Mr R Pomlett in the list of those present.

32 PUBLICITY WORKING GROUP

The Committee considered the report of two meetings of the Publicity Sub-Committee (formerly known as “Working/Discussion Group”) held on 10th March 2009 and 28th April 2009 respectively.

It was noted that the Group had focused its attention on the production of a publicity leaflet which would explain, in a user-friendly manner, the role and work of the Committee, its terms of reference and how to make a complaint. The Chairman, together with other Members of the Committee, had recently met with the Leader of the Council who had not only endorsed the principle but had prepared the Foreword for the leaflet.

Members were invited to comment on proposed revisions which were tabled at the meeting. Suggestions included –

- Changes to reflect the nature of the targeted “audiences”; for example, Parish Councils.
- Make-up of the Standards Committee: Revise the order of the text, listing the categories of Independent Members and Town and Parish Councillors representatives first, followed by reference to elected Members.

RESOLVED: (a) That the reports of the Publicity Sub-Committee meetings held on 10th March and 28th April be noted;

(b) That suggested amendments made at the meeting be included in a revised document for submission to a future Publicity Sub-Committee meeting; and

(c) That a draft of the revised document be submitted to the July meeting of this Committee.

33 NORTH-WEST INDEPENDENT MEMBERS FORUM

The Committee received the report of Mr D Sayer, the Vice-Chairman, following attendance at a meeting of the North-West Independent Members Forum held at Preston on 21st April 2009.

It was noted that the guest speaker had been Freda Sharkey, Acting Head of Legal Services at the Standards Board for England. The Forum had discussed, *inter alia*, practical issues surrounding receipt of complaints, the appropriate level of detail of a complaint to be disclosed to the subject Member at the initial stages, and the new Model Code of Conduct.

The Members who had attended considered it to be worthwhile and asked the Committee to support their continued representation.

RESOLVED: That the Committee endorse the continued representation of Independent Members of the Committee on this Forum as an approved duty under the Scheme of Members Allowances 2009/2010.

34 PILOT COMPACT (MACCLESFIELD BOROUGH COUNCIL/CHESHIRE ASSOCIATION OF LOCAL COUNCILS)

The Committee received a report which had been considered by the Macclesfield Standards Committee at a meeting held on 16th March 2009.

The report gave details of progress in respect of a Pilot compact which had been developed in partnership with Standards Committees of Chester, Macclesfield and Vale Royal. Its aim was to reflect the working arrangements between the parties and seek to promote best practice in the support of, and engagement with, the Town and Parish Councils in Cheshire.

The Standards Committee (Macclesfield) had approved 13 recommendations. but acknowledged that a decision on the future of the project would need to be made by Cheshire East.

The Committee was now invited to consider continuation of the project. There was general support and it was suggested that to make progress, the Monitoring Officer and a small group of members of the Committee meet with Jackie Weaver (Chief Officer of the Cheshire Association of Local Councils in the next few weeks, with a view to a further report being submitted to this Committee.

RESOLVED: (a) That the Committee support the Code of Conduct Compact for Cheshire Councils, for use within Cheshire East;

(b) That the Monitoring Officer, together with Mr N Briers, Mr D Sayer and Mr K Edwards, meet with the Cheshire Association of Local Councils (ChALC) to discuss the project; and

(c) That the Committee be informed of the outcome at the July or September meeting.

35 TRAINING NEEDS FOR MEMBERS

The Committee was invited to identify any training needs for Members in general and specifically for Standards Committee Members. None were identified, but it was agreed that this should remain as a standing agenda item.

During discussion, reference was made to declaration of interests. Members commented that when to declare, and when not to declare, remained confusing, and official guidance from the Standards Board for England failed to clarify the situation. The Chairman undertook to raise this with the Publicity Sub-Committee.

36 TERMS OF REFERENCE - ASSESSMENT SUB-COMMITTEE AND HEARINGS SUB-COMMITTEE

The Committee was informed of recent difficulties which had been encountered in respect of the Terms of Reference adopted on 10th March 2009, for the three Sub-Committees, namely Assessment Sub-Committee, Review Sub-Committee and Hearings Sub-Committee. A number of anomalies had been identified which were at variance with guidance issued by the Standards Board for England.

The Monitoring Officer outlined proposed revisions, to the effect that the Assessment Sub-Committee would continue to act as a “filter” to make an initial assessment of an allegation and decide whether to refer it on for investigation/other action, as appropriate, or take no further action.

The Terms of Reference for the Review Sub-Committee would remain as adopted on 10th March 2009.

The Terms of Reference for the Hearings Sub-Committee would require revision to reflect its two-fold role, viz. (1) It would act in a “determining” capacity to receive an Investigator’s Report, for the purpose of deciding, based on the facts as set out in the report, whether or not to accept the findings of the Investigator. (2) Dependent on the outcome of that meeting, a separate Sub-Committee would be convened in its “hearings” capacity.

If the Investigator’s conclusion was that there had been no breach of the Code and the Sub-Committee agreed, no further action would be taken. If the Sub-Committee disagreed that there had been no breach of the Code, it must hold a Hearing to consider the matter in full.

If the Investigator concluded that there had been a breach of the Code a Hearings meeting must be arranged.

RESOLVED: (a) That the Terms of Reference for the three Sub-Committees, namely, Assessment, Review and Hearings, be revised, as outlined at the meeting, with the Monitoring Officer being authorised to make any consequential amendments; and

(b) That the Monitoring Officer e-mail the revised Terms of Reference to Committee Members, for information.

37 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED: That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)(4) of the Local Government Act 1972 on the grounds that it involved the likely disclosure of exempt information as defined in paragraphs 1, 2, 7C and 10 of Part 1 of Schedule 12A of the Act.

38 UP-DATE ON COMPLAINTS RECEIVED UNDER THE CODE OF CONDUCT

(Note: At this point in the proceedings, Councillors B H Dykes, M A Hollins and M A Martin each declared a personal interest in the item on the basis that they were colleagues of one of the subject Members referred to in the Minutes of the Sub-Committees.)

The Committee considered the report of the Monitoring Officer which outlined the up-to-date situation in respect of complaints made under the Code of Conduct, prior to 31st March 2009, which had now transferred to Cheshire East Council for completion.

The Committee also received for information (a) the Minutes of an Assessment Sub-Committee meeting, and (b) the Minutes of a Hearings Sub-Committee meeting, both of which had been held on 12th May 2009.

The meeting commenced at 10.30 am and concluded at 11.45 am

Mr Nigel Briers (Chairman)

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Standards Local Assessment Sub-Committee**
held on Tuesday, 12th May, 2009 at Room F1 - Westfields, Middlewich Road,
Sandbach CW11 1HZ

PRESENT

Mr N Briers Chairman
Councillors M Parsons and L Smetham

1 ELECTION OF CHAIR

RESOLVED: That Mr Nigel Briers be elected Chair of the meeting.

2 DECLARATIONS OF INTEREST

No declarations of interest were made.

3 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED: That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)(4) of the Local Government Act 1972 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 10 of Part 1 of Schedule 12A of the Act.

4 ASSESSMENT OF A COMPLAINT

The Sub-Committee considered the report of the Borough Solicitor and Monitoring Officer which provided details in respect of a complaint made against a former County Councillor. This complaint had been received prior to 31st March 2009 and, in accordance with the transitional arrangements made under the Local Government and Public Involvement in Health Act 2007, had been transferred to Cheshire East Council for completion.

The complainant had subsequently requested that the complaint be withdrawn.

The Sub-Committee was invited to consider if, in line with the Standards Board for England advice, the request be accepted.

Members took into account the following -

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?

- Is the complaint such that action can be taken on it, for example, without the complainant's participation?
- Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressed by the subject Member or an associate of theirs, to withdraw the complaint?

Members were satisfied that there was no reason to refuse the request to withdraw the complaint. Accordingly, it was –

RESOLVED: (a) That the Sub-Committee accede to the complainant's request that his complaint against a former County Councillor be withdrawn; and

(b) That the complainant and the subject Member be informed of the Sub-Committee's decision.

The meeting commenced at 10.00 am and concluded at 10.15 am

Mr Nigel Briers (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Standards Sub-Committee**
held on Tuesday, 12th May, 2009 at Room F1 - Westfields, Middlewich Road,
Sandbach CW11 1HZ

PRESENT

Mr N Briers Chairman
Councillors M Parsons and L Smetham

5 ELECTION OF CHAIR

RESOLVED: That Mr Nigel Briers be elected Chair of the meeting.

6 DECLARATIONS OF INTEREST

Councillors M Parsons and L Smetham declared a personal interest in agenda item No. 3 (Complaint No. CNBC 01/08) on the basis that they were Members of Cheshire East Borough Council, as was the subject Member. Mr N Briers declared a personal interest in the same item on the basis that he had been the Chair of the Standards Committee of Crewe and Nantwich Borough Council which was an authority upon which the subject Member had also served.

7 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED: That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)(4) of the Local Government Act 1972 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 2 , 7C and 10 of Part 1 of Schedule 12A of the Act.

8 CONSIDERATION OF COMPLAINT NO. CNBC 01/08

The Sub-Committee considered the report of the Borough Solicitor and Monitoring Officer which provided details in respect of a complaint made against a serving Councillor. This complaint had been received prior to 31st March 2009 and, in accordance with the transitional arrangements made under the Local Government and Public Involvement in Health Act 2007, had been transferred to Cheshire East Council for completion.

The report of Mr W R Graham who had investigated the complaint, was submitted. Mr Graham had concluded that there had been no breach of the Code of Conduct. The Sub-Committee's role was to consider the report and in particular, to decide (a) whether to accept the recommendations and the findings, or (b) not to accept those findings and decide other steps which should be taken. These would include

convening a Determination Hearing, or referring the matter to the Adjudication Panel for England, this latter step being dependent on the seriousness of the allegations, if proven.

Having taken into account the report's contents and Members' obligations under the Standards Committee (England) Regulations 2008, together with relevant Guidance issued by the Standards Board for England, the Sub-Committee was satisfied that it should accept the findings set out in the report. Accordingly, it was –

RESOLVED: (a) That the findings of the Investigator's Report be accepted, namely that there had been no breach of the Code of Conduct by the subject Member;

(b) That there should be no Determination Hearing into the allegations made by the complainant;

(c) That there should be no referral to the Adjudication Panel;

(d) That the subject Member and the complainant be informed of the Sub-Committee's decision; and

(e) That, in line with the subject Member's request, no press notice be published.

The meeting commenced at 10.15 am and concluded at 10.35 am

Mr Nigel Briers (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Standards Hearing Sub-Committee**
held on Wednesday, 17th June, 2009 at Municipal Buildings, Earle Street,
Crewe, CW1 2BJ

PRESENT

Mr Briers (Chairman)
Councillors Rhoda Bailey, B H Dykes and M Parsons ;
Independent Member: Mr M Garratt

39 ELECTION OF CHAIR

RESOLVED: That Mr Nigel Briers be elected Chair of the meeting.

40 DECLARATIONS OF INTEREST

Councillors B H Dykes and Rhoda Bailey each declared a personal interest in agenda item 6 (Consideration of Complaint) on the basis that they were Members of Cheshire East Borough Council, as was the subject Member.

No other declarations of interest were made.

41 PUBLIC SPEAKING TIME/OPEN SESSION

In accordance with Procedure Rules 11 and 35, members of the public were entitled to address the Committee on any matter relevant to its work.

There were no members of the public present and the Committee proceeded to its next business.

42 EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)(4) of the Local Government Act 1972 on the grounds that it involved the likely disclosure of exempt information as defined in Paragraphs 1, 2, 7C and 10 of Part 1 of Schedule 12A of the Act.

43 CONSIDERATION OF COMPLAINT

The Sub-Committee considered the report of the Borough Solicitor and Monitoring Officer which provided details in respect of a complaint made against a serving Councillor.

This complaint had been received prior to 31st March 2009 and, in accordance with the transitional arrangements made under the Local Government and Public Involvement in Health Act 2007, had been transferred to Cheshire East Council for completion.

Mr Richard Dix, of Jonathan Goolden, Solicitors, had been asked to conduct an investigation into the complaint and his report was submitted. Mr Dix had concluded that the subject Member had not breached the Code of Conduct.

The Sub-Committee's role was to consider the report and in particular, to decide whether (a) to accept the recommendations and the findings, or (b) not to accept those findings and decide other steps which should be taken, viz, refer the matter for consideration at a hearing before this Sub-Committee or refer the matter to the Adjudication Panel for England.

Having taken into account the report's contents and Members' obligations under the Standards Committee (England) Regulations 2008, together with relevant Guidance issued by the Standards Board for England, the Sub-Committee was satisfied that there had been no breach of the Code of Conduct by the subject Member. It, therefore, accepted the findings set out in the report. Accordingly, it was –

RESOLVED: (a) That the findings of the Investigator's Report in respect of the complaint, be accepted, namely that there had been no breach of the Code of Conduct by the subject Member;

(b) That there should be no Determination Hearing into the allegations made by the complainant;

(c) That there should be no referral to the Adjudication Panel for England;

(d) That the subject Member and the complainant be informed of the Sub-Committee's decision; and

(e) That, unless requested otherwise by the subject Member, the Decision Notice be published in the local press.

The meeting commenced at 2.30 pm and concluded at 2.45 pm

Mr Nigel Briers (Chairman)

Contents

introduction
consideration meetings
hearings
findings
suspensions
appeals
costs
role of the monitoring officer

STANDARDS COMMITTEE
DETERMINATIONS



contents

| | |
|---|-----------|
| introduction | 3 |
| Regulations | 4 |
| Background | 4 |
| consideration meetings | 5 |
| hearings | 6 |
| Timing of the standards committee hearing | 6 |
| Scheduling a hearing | 7 |
| The pre-hearing process | 7 |
| Key points for the pre-hearing process | 7 |
| Pre-hearing process summary | 9 |
| The hearing | 9 |
| Representatives | 10 |
| Evidence | 10 |
| Witnesses | 10 |
| Sanctions | 11 |
| Considering the sanction | 12 |
| findings | 15 |
| Notice of the standards committee's findings | 15 |
| Making the findings public | 15 |
| Written decision format | 16 |
| suspensions | 17 |
| Full suspensions | 17 |
| What responsibilities remain for suspended members? | 18 |
| Partial suspensions | 18 |

contents

| | |
|--|-----------|
| appeals | 20 |
| Appeals to the Adjudication Panel for England | 20 |
| Appeal tribunals | 20 |
| Outcome of the appeal | 21 |
| Notice of the appeal tribunal's decision | 21 |
| costs | 22 |
| role of the monitoring officer | 23 |
| appendix 1 | 24 |
| Model documentation for the pre-hearing process | 24 |
| Pre-hearing process checklist for authorities | 24 |
| Checklist for members | 26 |
| Pre-hearing process forms | 28 |
| appendix 2 | 29 |
| Model hearing procedures for the standards committee | 29 |
| The written decision | 32 |
| appendix 3 | 33 |
| Categories of exempt information | 33 |

introduction

This guidance is designed to help members and officers in relevant authorities who are involved in the determination of complaints that a member may have breached the Code of Conduct. It reflects the Standards Committee (England) Regulations 2008 (the regulations). These regulations are mandatory and this guidance must be taken into account by your authority.

It details each stage of the determination of complaints process and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required. The guide is aimed primarily at members of standards committees and monitoring officers, but will also provide a useful reference tool for all members and officers involved in the determination of complaints.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Each authority must develop effective procedures to fulfil its legislative requirements. Members and officers involved in the determination of complaints must take this guidance into account when doing so.

Any reference in this guidance to a standards committee includes a reference to sub-committees established to consider a monitoring officer's investigation report and to consider determination hearings. Any reference to the "subject member" is a reference to the member who is the subject of the complaint that the Code of Conduct may have been breached.

You can contact the Standards Board for England on **0845 078 8181** or email **enquiries@standardsboard.gov.uk**

introduction

Regulations

The Standards Board for England has issued this guidance to reflect the Standards Committee (England) Regulations 2008 (the regulations) in respect of holding determination hearings. These regulations derive from the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

The regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Under the regulations, standards committees must take this guidance into account.

The regulations do not cover joint working between authorities. The government plans to issue further regulations to provide a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints of misconduct by their members.

Background

The main purpose of the standards committee's determination hearing is to decide whether a member has breached the Code of Conduct and, if so, to decide if a sanction should be applied and what form the sanction should take. All complaints that a member may have breached the Code are assessed by the relevant authority's standards committee.

The standards committee must establish a sub-committee (the assessment

sub-committee) which is responsible for assessing complaints that a member may have breached the Code. A complainant may make a request for a review of the standards committee's decision where it decides to take no further action on a complaint. The standards committee must establish a review sub-committee which is responsible for carrying out these reviews.

The standards committee should appoint a sub-committee (the consideration and hearing sub-committee) to consider a monitoring officer's investigation report and to hold determination hearings. This sub-committee must be chaired by an independent member of the standards committee.

On completion of an investigation the monitoring officer must make one of the following findings:

- There has been a failure to comply with the Code.
- There has not been a failure to comply with the Code.

They must write an investigation report and send a copy of it to the subject member. Alternatively, where a Standards Board ethical standards officer has completed an investigation and decided that a complaint should be determined by the standards committee, they will refer their report to the monitoring officer.

The monitoring officer must refer the report to the standards committee. A consideration and hearing sub-committee should be appointed to receive and consider such reports.

consideration meetings

If the investigator, in their report, finds no failure to comply with the Code of Conduct, the standards committee must decide whether to accept that recommendation. The standards committee must also decide whether it or the Adjudication Panel for England should hear the case. This preliminary decision must be formally made and recorded.

A meeting of the standards committee to consider the monitoring officer's investigation report must be convened under Regulation 17 of the regulations. Regulation 8(6) allows the consideration of any information presented for that purpose to be considered as exempt information.

As with all exempt information decisions, the standards committee must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. When advising on this matter the monitoring officer should consider the effect of Regulation 17(4). This regulation allows the subject member to prohibit the publication of a notice, stating that the standards committee has found that there has been no failure to comply with the Code.

Despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a meeting. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the meeting. In most cases, the public interest

in transparent decision-making by the standards committee will outweigh the subject member's interest in limiting publication of an unproven allegation that has not yet been determined.

A member of the standards committee who considers and overturns a monitoring officer's finding that there has been no failure to comply with the Code may participate in a subsequent hearing.

This meeting to consider the monitoring officer's investigation report provides a useful opportunity for the standards committee to consider the potential issues which might arise during the pre-hearing process.

This consideration meeting is separate to the meeting at which the hearing is conducted. If the investigation report finds that there has been a failure to comply with the Code a hearing must take place – unless the standards committee decides that the matter should be referred to the Adjudication Panel for England for determination.

hearings

Timing of the standards committee hearing

Under Regulation 18 of the regulations, a standards committee must hear a complaint within three months of the date on which the monitoring officer's report was completed. If the investigation was carried out by an ethical standards officer, the standards committee must hear the complaint within three months of the date that the monitoring officer received the ethical standards officer's report.

As with a meeting to consider a monitoring officer or ethical standards officer's report, when the standards committee is convened for a hearing under Regulation 18 it is also subject to Regulation 8(6).

When assessing whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information, monitoring officers similarly need to consider the effect of Regulation 20(2). This allows the subject member to prohibit normal publication of the committee's notice of the finding of no failure to comply with the Code of Conduct.

As before, despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a hearing. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the hearing. In most cases, the public interest in transparent decision-making by the standards committee will outweigh the subject member's interest in

limiting publication of an unproven allegation that has not yet been determined.

In most cases all parties will agree that the hearing should take place in public. It is sensible to seek the views of the relevant parties as early as possible to allow for legal advice to be sought if required.

If the standards committee decides that a hearing is appropriate they should give a copy of the report to:

- the subject member
- the clerk of any relevant town or parish council
- the standards committees of any other authorities concerned

The hearing must take place at least 14 days after the subject member receives a copy of the report from the monitoring officer. However, the hearing can be held sooner than 14 days after the member receives a copy of the report if the subject member agrees.

The standards committee may consider the report in the subject member's absence if the subject member does not go to the hearing. If the standards committee is satisfied with the subject member's reasons for not being able to come to the hearing, it should arrange for the hearing to be held on another date.

If the standards committee does not hear the matter within three months of receiving the completed report, it must ensure that the matter is heard as soon as possible after that.

hearings

Scheduling a hearing

Except in the most complicated cases, standards committees should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total.

When scheduling hearings, standards committees should bear in mind that late-night and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to important matters being forgotten.

The pre-hearing process

The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.

Other than in very straightforward cases, authorities should use a pre-hearing process to:

- identify whether the subject member disagrees with any of the findings of fact in the investigation report
- identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide
- identify whether evidence about those disagreements will need to be heard during the hearing

- decide whether there are any parts of the hearing that are likely to be held in private
- decide whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' material

The pre-hearing process should usually be carried out in writing. However, occasionally a meeting between the standards committee, the relevant parties and their representatives may be necessary. It is important for the monitoring officer advising the standards committee to consider pre-hearing matters carefully.

Some matters in the pre-hearing process may be decided only by the standards committee or consideration and hearing sub-committee (if one is appointed). Therefore, if it is necessary for the standards committee to meet, they will have to do so formally as with any other council committee meeting. However, it is usually more appropriate for the majority of the pre-hearing process to be dealt with by the monitoring officer or other suitable officer.

Key points for the pre-hearing process

The officer providing administrative support to the standards committee should write to the subject member proposing a date for the hearing, and they should do this in consultation with the chair of the standards committee.

hearings

They should also outline the hearing procedure, the member's rights and they should additionally ask for a written response from the subject member within a set time. This is to find out whether the subject member:

- wants to be represented at the hearing by a solicitor, barrister or any other person
- disagrees with any of the findings of fact in the investigation report, including reasons for any of these disagreements
- wants to give evidence to the standards committee, either verbally or in writing
- wants to call relevant witnesses to give evidence to the standards committee
- wants any part of the hearing to be held in private
- wants any part of the investigation report or other relevant documents to be withheld from the public
- can attend the hearing

It is important for standards committee members involved in the pre-hearing process to bear in mind the distinction between the essential facts of the case and any inferences based on those facts. A critical part of the pre-hearing process should be an attempt to focus the relevant parties' attention on isolating all relevant disputes of facts between them.

This is because attention to the factual issues will save valuable time later on in the determination process.

The standards committee should start this process by requesting that the subject member makes clear precisely what findings of fact in the report it disagrees with and why.

It should invite the monitoring officer or ethical standards officer to comment on the subject member's response within a set time period. This is to ensure that all parties are clear about the remaining factual disputes and can prepare to deal with those issues on the appointed day.

The standards committee should also ask the relevant parties to provide outlines or statements of the evidence their witnesses intend to give. This will allow the standards committee to decide how many witnesses may reasonably be needed and to identify the issues they will be dealing with at the hearing.

It should only allow the relevant parties to raise new disagreements over factual matters in the investigation report at the hearing in exceptional circumstances, such as new evidence becoming available that the parties could not have produced before. The standards committee should make clear to the subject member that unless they comply with the above procedure, it may rule that it will not allow the new evidence to be presented at the hearing.

hearings

Members of the standards committee should consider the evidence provided to them before the hearing to identify any potential conflicts of interest.

In addition they should consider the evidence to identify any connection with the people involved or any other doubts they have over the integrity of the hearing. If they have such concerns, they should seek advice from the monitoring officer as soon as possible. For example, they may know a witness who will be giving controversial evidence or they may have an interest in an important element of the case.

The determinations toolkit features model forms that can help the member respond to the standards committee. It includes a form to identify any findings of fact that the member disagrees with – **Form A**. It also includes a form to outline any further evidence for the standards committee – **Form B**.

The standards committee may also arrange for any other witnesses to be present who they feel may help in determining the case. This may include the complainant. However, the standards committee cannot order witnesses to appear or give evidence.

Pre-hearing process summary

The standards committee's clerk should consult with the committee's legal adviser and send a pre-hearing process summary to everyone involved in the complaint at least two weeks before the hearing. This should be done after the standards

committee has received responses from the subject member and from the investigating officer. The pre-hearing process summary should:

- set the date, time and place for the hearing
- summarise the allegation
- outline the main facts of the case that are agreed
- outline the main facts which are not agreed
- note whether the subject member or investigating officer will go to the hearing or be represented at the hearing
- list those witnesses, if any, who will be asked to give evidence, subject to the power of the standards committee to make a ruling on this at the hearing
- outline the proposed procedure for the hearing

You can find a checklist for this pre-hearing process summary document in the toolkit – **Form F**.

The hearing

Members should bear in mind that a standards committee hearing is a formal meeting of the authority and is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities.

hearings

The standards committee should work at all times in a demonstrably fair, independent and politically impartial way. This helps to ensure that members of the public, and members of the authority, have confidence in its procedures and findings.

The standards committee should bear in mind the need to maintain public confidence in the council's ethical standards. This requires that the standards committee's decisions should be seen as open, unprejudiced and unbiased. All concerned should treat the hearing process with respect and with regard to the potential seriousness of the outcome, for the subject member, the council and the public. For the subject member, an adverse decision by the committee can result in censure or in suspension for up to six months.

Representatives

The subject member may choose to be represented by counsel, a solicitor, or by any other person they wish. If the subject member concerned wants to have a non-legal representative, the subject member must obtain the consent of the standards committee.

The standards committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing. However, an appropriate warning will usually be enough to prevent more disruptions and should normally be given before permission is withdrawn.

Evidence

The standards committee controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned.

In many cases, the standards committee may not need to consider any evidence other than the investigation report or the ethical standards officer's report, and any other supporting documents. However, the standards committee may need to hear from witnesses if more evidence is needed, or if people do not agree with certain findings of fact in the report.

The standards committee can allow witnesses to be questioned and cross-examined by the subject member, the monitoring officer, the ethical standards officer or their representative. Alternatively, the standards committee can ask that these questions be directed through the chair. The standards committee can also question witnesses directly.

Witnesses

Generally, the subject member is entitled to present their case as they see fit, which includes calling the witnesses they may want and which are relevant to the matters to be heard. The subject member must make their own arrangements to ensure that their witnesses (and witnesses they would like to question) will attend the hearing.

hearings

The standards committee has the right to govern its own procedures as long as it acts fairly. For this reason, the standards committee may limit the number of witnesses if the number is unreasonable.

The standards committee will normally take a decision on whether to hear any particular evidence or witness only after having heard submissions from both parties on the issue.

Witnesses of facts that are disputed would normally attend the hearing and should be prepared to be cross-examined. Witnesses as to the character of the subject member, if required, regularly present their evidence in writing and may or may not actually attend the hearing.

Witnesses, especially members of the public, often play an important part in the process and should be treated with courtesy and respect. Authorities may wish to consider developing a witness care scheme. At the very least, witnesses should be kept promptly informed of the relevant dates, times and location of the hearing.

Standards committees should recognise that subject members also need to be kept fully apprised of the process and any changes to it. Some authorities appoint an officer as a point of contact with the subject member for the duration of the process.

Sanctions

If the standards committee finds that a subject member has failed to follow the Code of Conduct and that they should be sanctioned, it may impose any one or a combination of the following:

- censure of that member
- restriction for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions meet **both** the following requirements:
 - i) They are reasonable and proportionate to the nature of the breach.
 - ii) They do not unduly restrict the person's ability to perform the functions of a member.
- partial suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008)
- suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008)
- that the member submits a written apology in a form specified by the standards committee
- that the member undertakes such training as the standards committee specifies
- that the member participates in such conciliation as the standards committee specifies

hearings

- partial suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) or until such time as the member has met **either** of the following restrictions:

- i) They have submitted a written apology in a form specified by the standards committee.
- ii) They have undertaken such training or has participated in such conciliation as the standards committee specifies.

- suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) or until such time as the member has met **either** of the following restrictions:

- i) They have submitted a written apology in a form specified by the standards committee.
- ii) They have undertaken such training or has participated in such conciliation as the standards committee specifies.

Suspension or partial suspension will normally start immediately after the standards committee has made its decision. However, if the standards committee chooses, the sanction may start at any time up to six months following its decision. This may be appropriate if the sanction would otherwise have little effect on the subject member. For example, in the case of a suspension or partial suspension where there are no authority or committee meetings which the subject member would normally go to in the period

after the hearing has finished. The standards committee should also confirm the consequences, if any, for any allowances the subject member may be receiving.

Periods of suspension or partial suspension set by a standards committee do not count towards the six-month limit for absences from authority meetings, after which a member would normally be removed from office under section 85 of the Local Government Act 1972.

Considering the sanction

When deciding on a sanction, the standards committee should ensure that it is reasonable and proportionate to the subject member's behaviour. Before deciding what sanction to issue, the standards committee should consider the following questions, along with any other relevant circumstances:

- What was the subject member's intention? Did the subject member know that they were failing to follow the Code of Conduct?
- Did the subject member get advice from officers before the incident? Was that advice acted on or ignored in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety, for example improper expense claims or procedural irregularities?

hearings

- What was the result of failing to follow the Code of Conduct?
- What were the potential results of the failure to follow the Code of Conduct?
- How serious was the incident?
- Does the subject member accept they were at fault?
- Did the subject member apologise to the relevant people?
- Has the subject member previously been warned or reprimanded for similar misconduct?
- Has the subject member failed to follow the Code of Conduct before?
- Is the subject member likely to do the same thing again?
- How will the sanction be carried out? For example, who will provide the training or mediation?
- Are there any resource or funding implications? For example, if a subject member has repeatedly or blatantly misused the authority's information technology resources, the standards committee may consider withdrawing those resources from the subject member.

Suspension may be appropriate for more serious cases, such as those involving:

- trying to gain an advantage or disadvantage for themselves or others
- dishonesty or breaches of trust
- bullying

Sanctions involving restricting access to an authority's premises or equipment should not unnecessarily restrict the subject member's ability to carry out their responsibilities as an elected representative or co-opted member.

The following is an extract from useful guidance published by the Adjudication Panel for England on aggravating and mitigating factors they take into account when assessing an appropriate sanction:



Examples, but not an exhaustive list, of mitigating factors are:

- An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- A member's previous record of good service.
- Substantiated evidence that the member's actions have been affected by ill-health.

hearings

- Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the member.
- Compliance with the Code since the events giving rise to the determination.
- Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

“**Examples, but again not an exhaustive list, of aggravating factors are:**

- Dishonesty.
- Continuing to deny the facts despite clear contrary evidence.
- Seeking unfairly to blame other people
- Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

The Adjudication Panel for England also advises the following:

“ In deciding what action to take, the Case Tribunal should bear in mind an aim of upholding and improving the standard of conduct expected of members of the various bodies to which the Codes of Conduct apply, as part of the process of fostering public confidence in local democracy. Thus, the action taken by the Case Tribunal should be designed both to discourage or prevent the particular Respondent from any future non-compliance and also to discourage similar action by others.

Case Tribunals should take account of the actual consequences which have followed as a result of the member's actions while at the same time bearing in mind what the possible consequences may have been even if they did not come about.

This guidance does not include a firm tariff from which to calculate what length of disqualification or suspension should be applied to particular breaches of the Code. Any such tariff would in any event need to have regard to the need to make adjustments toward the lower end of the spectrum if there are mitigating factors and towards the upper end if there are aggravating factors.

findings

Notice of the standards committee's findings

The standards committee should announce its decision at the end of the hearing. It is good practice to make a short written decision available on the day of the hearing, and to prepare the full written decision in draft on that day, before people's memories fade. The officer providing administrative support to the standards committee will normally also draft minutes of the meeting.

The standards committee must give its full written decision to the relevant parties as soon as possible after the hearing. In most cases this should be within two weeks of the hearing.

The relevant parties are:

- the subject member
- the complainant
- the standards committees of any other authorities concerned
- any parish or town councils concerned
- the Standards Board for England

Making the findings public

The standards committee must arrange for a summary of the decision and reasons for it to be published in at least one newspaper that is independent of the authorities concerned. The newspapers where the decision and reasons are published should be circulated in the area of the authorities involved. A summary of the decision may also be published on the website of any authorities concerned, and

in any other publication if the standards committee considers it appropriate.

If the standards committee finds that the subject member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding. In such cases, the subject member is also entitled to decide that no summary of the decision should be passed to local newspapers.

If the standards committee finds that the subject member failed to follow the Code but that no action is needed, the public summary must:

- say that the member failed to follow the Code, but that no action needs to be taken
- outline what happened
- give reasons for the standards committee's decision not to take any action
- state that the member may appeal against that finding

If the standards committee finds that a member failed to follow the Code and it imposed a sanction, the public summary must:

- say that the member failed to follow the Code
- outline what happened

findings

- explain what sanction has been imposed
- give reasons for the decision made by the standards committee
- state that the member may appeal against that finding

The standards committee's reports and minutes should be available for public inspection for six years after the hearing. However, sections of documents relating to parts of the hearing that were held in private will not have to be made available for public inspection.

Written decision format

For consistency and thoroughness, standards committees should use the following format for their full written decisions.

The front cover of the standards committee's full written decision should include the name of the:

- authority
- subject member
- complainant
- standards committee member who chaired the hearing
- standards committee members who took part in the hearing
- monitoring officer
- ethical standards officer who referred the matter (if applicable)
- local investigator who investigated the matter (if applicable)
- clerk of the hearing or other administrative officer

It should also include:

- case reference numbers from the principal authority and from the Standards Board for England, (if applicable)
- the date of the hearing
- the date of the report

The standards committee's full written decision should include:

- a summary of the complaint
- the relevant section or sections of the Code of Conduct
- a summary of the evidence considered and representations made
- the findings of fact, including the reasons for them
- the finding as to whether the member failed to follow the Code, including the reasons for that finding
- the sanctions imposed, if any, including the reasons for any sanctions
- the right to appeal

suspensions

The Local Government Act 2000 enables the Adjudication Panel for England and standards committees to suspend and partially suspend members found to be in breach of the Code of Conduct. But, it does not specify exactly what members can and cannot do in their official capacity during the term of suspension.

This has led to confusion in some authorities as to what representative roles, if any, a suspended member can perform. It has also led to confusion over what council facilities they are allowed to use and what entitlements they can continue to receive as a suspended member. This section clarifies what representative roles, if any, a suspended member can perform.

Full suspensions

Members under full suspension should not:

1) Take part in any formal business of the authority

A member who is fully suspended may not exercise any of the functions or responsibilities of membership of the authority. Section 83(9) of the Local Government Act 2000 further provides that a suspended member should not participate in any committee or sub-committee of the authority.

2) Have access to council facilities

Suspended members should not use or have access to council facilities. As the member is under suspension and

unable to conduct council business, it follows that any use of council facilities by a suspended member would not be conducive to the discharge of the functions of the authority. This is because the member would not be performing council business while suspended.

3) Receive their council allowance

Under Regulation 4(3) of the Local Authorities (Members Allowances) Regulations 2003, councils may specify in their member allowance schemes that:

“Where a member is suspended or partially suspended from his responsibilities or duties as a member of an authority in accordance with part III of the Local Government Act 2000 or regulations made under that Part, the part of basic allowance payable to him in respect of the period for which he is suspended or partially suspended may be withheld by the authority.”

It is recommended that members should not receive their allowance while under suspension because they are not performing their role as a member. But, the decision to withhold a member's allowance is ultimately at the discretion of the individual authority.

suspensions

Members under suspension, should:

1) Make their suspended status clear

While suspended members remain councillors, they should put 'suspended' after their name when referring to themselves in writing as members. They should also notify constituents of this when contacted by them on constituency business. This is to ensure that all concerned are aware that the member is under suspension and unable to perform council duties.

2) Make arrangements for another member to handle their constituency work

With help from their council officers, suspended members can arrange for other ward members to handle their constituency work. Or, in the case of a single-member ward, suspended members can arrange for neighbouring ward members to take over their constituency work for the duration of the suspension. This ensures that constituents continue to be democratically represented.

What responsibilities remain for suspended members?

The Code of Conduct does not apply to a person who has been suspended in respect of a relevant function of office for a relevant period of time, so long as the member makes it clear that they have been suspended and does not purport to act as a representative of their authority.

However, when amendments to section 52 of the Local Government Act 2000 come into effect, three paragraphs under the Code of Conduct will apply, “at any other time, where that conduct constitutes a criminal offence”. As such, these paragraphs will still apply to members who are suspended. These paragraphs will be:

- paragraph 3(2)(c) – intimidation of certain persons in relation to an allegation under the Code of Conduct
- paragraph 5 – disrepute
- paragraph 6(a) – improperly conferring or securing an advantage or disadvantage

Partial suspensions

Members can be partially suspended under sections 83(9) and (10) of the Local Government Act 2000. While members who are fully suspended cannot take part in any formal business of the authority during the period of suspension, members who are partially suspended are restricted only from certain activities or business.

The terms of a partial suspension must be set by the standards committee during sentencing. It will often involve suspension from certain committees, or restricted access to certain areas or individuals.

A partial suspension enables the committee to tailor a sanction to the particular breach, while still allowing the member to carry out other functions. For instance, a member who failed to uphold

suspensions

the Code of Conduct at a planning committee could be suspended from taking part in planning committee meetings for a certain period. Or a member who bullied licensing officers about an application might be barred from contact with officers of the licensing department for a certain period. Again we recommend that members should not receive allowances relating to areas in which they are suspended from for the duration of their suspension.

Officers and members of the authority should be informed of a member's suspension and advised of the suspended member's rights and obligations, as detailed earlier. The council should also help the member make arrangements for another member, either from their ward or a neighbouring ward, to take over constituency work.

It may also notify the public in the authority's area that the member is suspended and unable to perform official council duties until the end of the suspension. Once the suspension has ended, the member is free to resume their duties in full as a member of the authority.

appeals

Appeals to the Adjudication Panel for England

A member subject to a standards committee finding may apply in writing to the President of the Adjudication Panel for England for permission to appeal against that finding.

The President must receive the member's written application within 21 days of the member receiving notice of the standards committee's decision. In this application, the member (appellant) must outline the reasons for the proposed appeal and apply for any sanction imposed to be suspended, if appropriate. They must also indicate whether they want the appeal carried out in writing or in person.

When deciding whether to grant permission to appeal, the President will consider if there is a reasonable chance of the appeal being successful, either in whole or in part. The President will give the appellant concerned their written decision within 21 days of receiving the application. The President will also give their written decision to:

- the Standards Board for England
- the standards committee of any authority concerned
- any parish or town councils concerned
- the complainant

If the President refuses to give permission, they will explain the reasons for that decision.

Appeal tribunals

If permission is granted, the President of the Adjudication Panel for England will arrange for a tribunal to deal with the appellant's appeal. The tribunal will be made up of at least three members appointed by the President. It may also include the President.

Any member of the Adjudication Panel for England with an interest in the matter may not be a member of the appeal tribunal. Likewise, any member of the Adjudication Panel for England who has been a member or officer of the authority concerned within the last five years cannot take part.

If the appellant does not agree to have the appeal carried out in writing, the appeal tribunal will hold a hearing. The tribunal must give the member notice of the hearing at least 21 days in advance. The appellant can be represented at the appeal hearing by counsel, a solicitor or any other person they choose. If the appellant wants to have a non-legal representative, the appellant must get permission from the tribunal beforehand. However, the tribunal may prevent that person acting as a representative if they are directly involved in the case.

The appeal tribunal can decide its own procedures. However, it is likely that both the standards committee and the monitoring officer or ethical standards officer will be given the opportunity to make representations in relation to the appeal. Additionally, in appropriate cases,

appeals

they can attend or be represented at the appeal hearing.

If the appellant agrees to have the appeal carried out in writing, the tribunal may still decide to hold a hearing at which the appellant can attend in person and be represented as outlined above. However, the tribunal may choose to carry out the appeal entirely through written representations.

If, after being given reasonable notice, the appellant fails to go to an appeal hearing or be represented at it, the tribunal may determine the matter in the appellant's absence. However, if the tribunal is satisfied that there is a good reason for the appellant's absence, it will postpone the hearing to another date.

Outcome of the appeal

The appeal tribunal will consider whether to uphold or dismiss the finding or part of the finding made by the standards committee.

If the tribunal upholds the standards committee's finding, or part of the finding, it may:

- confirm any sanction imposed by the standards committee
- vary any sanction by substituting any other sanction that was available to the standards committee

If the tribunal dismisses the finding of the standards committee, the decision and any

resulting sanction will no longer apply from the date of the rejection. The standards committee must act on any directions given by the appeal tribunal.

Notice of the appeal tribunal's decision

The appeal tribunal will give written notice of its decision to:

- the appellant
- the Standards Board for England
- the standards committee of any authority concerned
- any parish or town councils concerned
- the complainant

The tribunal will also publish a summary of its decision in one or more of the newspapers circulating in the area of the authorities concerned.

costs

Members are responsible for meeting the cost of any representation at a standards committee hearing or appeal tribunal. Local authorities are able to take out insurance to cover this.

However, most insurance schemes will only cover the costs incurred by members who are found not to be in breach of the Code. Therefore members are advised to refer to the terms of their own insurance scheme.

role of the monitoring officer

Monitoring officers need to be aware of the potential conflicts involved in advising the standards committee and advising members.

It is important that standards committees receive high quality, independent advice. For this reason a monitoring officer should be the main adviser to the standards committee, unless they have an interest in the matter that would prevent them from performing this role independently. If this situation arises, a monitoring officer should arrange for another appropriately qualified officer to advise the standards committee.

The monitoring officer or other legal adviser's role in advising the standards committee is to:

- make sure that members of the standards committee understand their powers and procedures
- make sure that the determination procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible
- make sure that the subject member understands the procedures the standards committee will follow
- provide advice to the standards committee during the hearing and their deliberations
- help the standards committee produce a written decision and a summary of that decision

Monitoring officers play an important role in advising their members on a day-to-day basis. When performing this role, monitoring officers need to be aware of the potential conflicts of interest that can arise, as these conflicts could prevent them from advising the standards committee at a later stage.

However, conflicts of interest are not likely to arise simply from informal discussions between members and monitoring officers. Monitoring officers consider options for reducing the likelihood of such conflicts, including:

- arranging for another officer to advise members
- continuing to advise members, while identifying possible scenarios that may lead to future conflicts. They should also ensure that if their advice could be relevant to an investigation, they have another appropriately experienced officer who is prepared to support the standards committee in its hearings and deliberations.

Smaller authorities in particular may find it useful to make arrangements with neighbouring authorities to make sure that when a conflict arises, an appropriately experienced officer is available to advise the standards committee.

appendix 1

Model documentation for the pre-hearing process

Authorities should use a pre-hearing process to:

- Identify whether the subject member disagrees with any findings of fact in the investigation report.
- Decide whether those disagreements are significant to the hearing.
- Decide whether to hear evidence about those disagreements during the hearing.
- Decide whether there are any parts of the hearings that should be held in private.
- Decide whether any parts of the investigation report or other documents should be withheld from the public, prior to the hearing on the grounds that they contain 'exempt' material.

Below is a checklist for authorities to use before the hearing. At the end of Appendix 1 is model documentation to support it. The documentation is intended to give authorities a consistent approach to help them decide what the relevant issues are before the hearing itself. It is not compulsory.

Pre-hearing process checklist for authorities

The monitoring officer must give a copy of the investigation report to the subject member.

The officer providing administrative support to the committee, in consultation with the chair of the committee, should:

- provide a copy of the standards committee's pre-hearing and hearing procedures to the subject member
- outline the subject member's rights and responsibilities
- propose a date for the hearing
- ask for a written response from the subject member by a set time to find out whether they:
 - i) disagree with any of the findings of fact in the investigation report, including the reasons for disagreement
 - ii) want to be represented at the hearing by a solicitor, barrister or any other person. This should be done while noting that the standards committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined

appendix 1

- iii) want to give evidence to the standards committee, either verbally or in writing
- v) to invite any other witnesses the committee feels are appropriate

The chair of the committee, in consultation with the legal adviser to the committee, should then:

- iv) want to call relevant witnesses to give evidence to the standards committee
- v) can attend the hearing on the proposed date
- vi) want any part of the hearing to be held in private
- vii) want any part of the investigation report or other relevant documents to be withheld from the public
- send a copy of the subject member's response to the monitoring officer or ethical standards officer and invite the monitoring officer or ethical standards officer to say by a set time whether they want:
 - i) to be represented at the hearing
 - ii) to call relevant witnesses to give evidence to the standards committee
 - iii) any part of the hearing to be held in private
 - iv) any part of the investigation report or other relevant documents to be withheld from the public
- confirm a date, time and place for the hearing
- confirm the main facts of the case that are agreed
- confirm the main facts which are not agreed
- confirm which witnesses will give evidence
- outline the proposed procedure for the hearing
- provide this information to everyone involved in the hearing at least two weeks before the proposed date of the hearing

appendix 1

Checklist for members

The officer providing administrative support to the committee, in consultation with the chair of the committee, should make sure that the subject member is aware of the following points.

Pre-hearing process

The subject member has the right to:

- go to the hearing and present their case
- call a reasonable number of witnesses to give relevant evidence to the standards committee
- be represented at the hearing by a solicitor, barrister or any other person.
Note – the committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined

Any disagreements with the finding of facts in the investigation report must be raised during the pre-hearing process. The standards committee will not consider any new disagreements about the report's findings of fact at the hearing itself, unless there are good reasons why these have not been raised beforehand.

The subject member does not have to go to the hearing or be represented. If the subject member chooses not to go to the hearing, the committee may make a determination in their absence.

The hearing will be held in public and the relevant papers will be available for public inspection unless the standards committee is persuaded that there is a good reason to exclude the public. This is in line with the relevant access to information and human rights legislation.

Hearing process

After considering the written and verbal presentations, the standards committee will reach and announce its findings of fact, whether the subject member has failed to follow the Code of Conduct and whether a sanction should be applied. As well as announcing its decision at the hearing and providing a short written decision on the day of the hearing, the standards committee will give the member concerned its full written decision within two weeks of the end of the hearing.

If the standards committee decides that the member has failed to follow the Code and that the member should be sanctioned, it may do any one or a combination of the following:

- Censure the member. This is the only sanction available when dealing with a person who is no longer a member of the authority.
- Restrict the member's access to the resources of the relevant authority for up to six months, which could include limiting their access to the premises of the relevant authority.

appendix 1

- Suspend or partly suspend the member for up to six months.
- Suspend or partly suspend the member for up to six months on the condition that the suspension or partial suspension will end if the member apologises in writing, receives any training, or takes part in any conciliation that the standards committee orders them to. Conciliation involves an independent person helping the relevant people to try to reach an agreement on the matter set out by the standards committee.

Sanctions may start immediately or up to six months after the hearing, if the standards committee wishes.

The standards committee will also arrange to publish a summary of its findings and any sanction applied in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities. If the standards committee finds that the member has not broken the Code, the member can ask the standards committee not to have this information published.

The member who is the subject of a standards committee finding has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal against that finding.

Checklist for the pre-hearing process summary

After the standards committee has received responses from the subject member and the monitoring officer or ethical standards officer, it should prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:

- the name of the authority
- the name of the subject member
- the name of the complainant (unless there are good reasons to keep their identity confidential)
- case reference numbers of the principal authority or the Standards Board for England
- the name of the standards committee member who will chair the hearing
- the name of the monitoring officer
- the name of the ethical standards officer who referred the matter (if applicable)
- the name of the clerk of the hearing or other administrative officer
- the date the pre-hearing process summary was produced
- the date, time and place of the hearing

appendix 1

- a summary of the complaint
- the relevant section or sections of the Code of Conduct
- the findings of fact in the investigation report that are agreed
- the findings of fact in the investigation report that are not agreed
- whether the subject member or the monitoring officer or ethical standards officer will attend or be represented
- the names of any witnesses who will be asked to give evidence
- an outline of the proposed procedure for the hearing

Pre-hearing process forms

These forms are a guide only and can be found in the **Standards committee determinations toolkit**. Authorities should prepare their own forms as appropriate.

Form A provides an example table to help the subject member identify any disagreements about the findings of fact in the investigation report.

Form B helps the subject member set out any other evidence that is relevant to the complaint made about them.

Form C helps the subject member set out any representations the standards committee should take account of if the subject member is found to have broken the Code of Conduct.

Forms D and E cover details of the hearing and the witnesses who will give evidence.

Also included is **Form F** which is a checklist of details for the pre-hearing process summary.

appendix 2

Model hearing procedures for the standards committee

The model hearing procedures below aim to give standards committees a consistent approach to determining matters locally. These procedures are not compulsory, but authorities should make sure that any procedures they do use are consistent with the principles in this guidance.

Standards committees need to have an efficient and effective hearing process. This will help committees deal with all the issues that need to be resolved in a way that is fair to the member. It will also reduce the prospects of any successful appeal.

The model procedure below is intended to give standards committees a consistent approach to determining matters locally.

The model procedures are not compulsory. However, authorities should make sure that any procedures they use are consistent with the principles in this guidance.

Interpretation

- 1) 'Subject member' means the member of the authority who is the subject of the allegation being considered by the standards committee, unless stated otherwise. It also includes the member's nominated representative.
- 2) 'Investigator' means the monitoring officer or ethical standards officer and includes their nominated representative.

- 3) 'Committee' also refers to a sub-committee.

- 4) 'Legal adviser' means the officer responsible for providing legal advice to the standards committee. This may be the monitoring officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

Representation

- 5) The subject member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person.

Legal advice

- 6) The committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee should be shared with the subject member and the investigator if they are present.

Setting the scene

- 7) After all the members and everyone involved have been formally introduced, the chair should explain how the committee is going to run the hearing.

appendix 2

Preliminary procedural issues

- 8) The committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

Making findings of fact

- 9) After dealing with any preliminary issues, the committee should then move on to consider whether there are any significant disagreements about the facts contained in the investigator's report.

- 10) If there is no disagreement about the facts, the committee can move on to the next stage of the hearing.

- 11) If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The committee may give the subject member an opportunity to challenge any evidence put forward by any witness called by the investigator.

- 12) The subject member should then have the opportunity to make representations to support their version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.

- 13) At any time, the committee may question any of the people involved or any witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the member.

- 14) If the subject member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

- 15) If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether it would be in the public interest to continue in their absence.

After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:

- continue with the hearing, relying on the information in the investigator's report
- allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary

appendix 2

- postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already

- 16) The committee will usually move to another room to consider the representations and evidence in private.
- 17) On their return, the chair will announce the committee's findings of fact.

Did the subject member fail to follow the Code of Conduct?

- 18) The committee then needs to consider whether, based on the facts it has found, the subject member has failed to follow the Code.
- 19) The subject member should be invited to give relevant reasons why the committee should decide that they have not failed to follow the Code.
- 20) The committee should then consider any verbal or written representations from the investigator.
- 21) The committee may, at any time, question anyone involved on any point they raise on their representations.
- 22) The subject member should be invited to make any final relevant points.
- 23) The committee will then move to another room to consider the representations.

- 24) On their return, the chair will announce the committee's decision as to whether the subject member has failed to follow the Code.

If the subject member has not failed to follow the Code of Conduct

- 25) If the committee decides that the subject member has not failed to follow the Code, the committee can move on to consider whether it should make any recommendations to the authority.

If the subject member has failed to follow the Code of Conduct

- 26) If the committee decides that the subject member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the subject member as to:
- whether the committee should apply a sanction
 - what form any sanction should take

- 27) The committee may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.
- 28) The committee will then deliberate in private to consider whether to impose a sanction on the subject member and, if so, what sanction it should be.

appendix 2

- 29) On their return, the chair will announce the committee's decision.

Recommendations to the authority

- 30) After considering any verbal or written representations from the investigator, the committee will consider whether it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

The written decision

The committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.

appendix 3

Categories of exempt information under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determinations by standards committees) are:

- 1) Information relating to any individual.
- 2) Information which is likely to reveal the identity of an individual.
- 3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a minister of the Crown and employees of, or office holders under, the authority.
- 5) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6) Information which reveals that the authority proposes:
 - to give under any enactment a notice under or by virtue of which requirements are imposed on a person
 - to make an order or direction under any enactment
- 7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
 - 7A) Information which is subject to any obligation of confidentiality.
 - 7B) Information which relates in any way to matters concerning national security.
 - 7C) Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.

Source: Appendix 3 is an extract from the Local Government Act 1972 (as modified in relation to local determination by standards committee).

notes

This page is intentionally left blank

**REPORT OF A MEETING OF THE PUBLICITY
SUB-COMMITTEE RE: STANDARDS COMMITTEE**

held in the
West Committee Room, Municipal Buildings, Crewe on Tuesday 23rd June 2009
at 10.30a.m.

PRESENT: Nigel Briers (Chair), David Sayer, Roger Pomlett and
John Goddard

APOLOGIES: Apologies for absence were received from Mike Garratt,
Ken Edwards and Patsy Barnett

The Sub-Committee met primarily for editorial purposes in connection with certain documents (3) now tendered in final draft form prior to consideration by the full Standards Committee and these comprised -

(1) The suggested front cover for the publicity leaflet and of the samples submitted it was agreed unanimously that the example incorporating a photographic portrayal of the Headquarters of Cheshire Council East at Westfields, Sandbach be recommended for approval and inclusion in the leaflet.

(2) The final draft of the body of the leaflet after editing by the Council's Communications Department and in terms of this document it was unanimously agreed that this now be referred to the full Standards Committee without further amendment; and

(3) A third document being in the nature of an *aide memoire* and explanatory leaflet for use by councillors including Town/Parish councillors, council clerks and advisory staff dealing specifically with the sometimes complex issues arising in relation to personal and prejudicial interests. Whilst the Sub-Committee approved the form and content of this draft it was stressed that such was not intended to be in any way regarded as a substitute for the Code but at all times to be read in conjunction with the Code and that this comment should be highlighted in the final product. As with the previous documents this will now go to the full Standards Committee for approval/further comment.

The Council's Website

The Sub Committee considered the present level of information included on the Council's web site and unanimously agreed that documents under consideration and listed (1) (2) and (3) above in their final form be included on the website with an appropriate link to the website of the Standards Board for England (enquiries@standardsboard.gov.uk).

Additional to the information aspects members agreed that it should be possible to download the Complaint Form (yet to be finally drafted) but were unanimously opposed to the concept of complaints being lodged on line with the Council and that it should be made absolutely clear to potential complainants that such Complaint Forms must be lodged by prepaid post (preferably recorded delivery) or hand delivered to the Council's Offices.

Next Meeting

In view of the proximity of the full meeting (13th July 2009) no determination was made in this respect.

This page is intentionally left blank

Cheshire East Council

Standards Committee





Foreword from the Council Leader

Cheshire East
Council formally
came into being

on 1 April 2009 and I am pleased and honoured to hold office as its first leader. Everyone who has been elected to the new Council and elected or appointed to the Town and Parish Councils within Cheshire East is committed to working to the highest standards of behaviour at all times. We will be upholding, and building on the excellent record of the predecessor local authorities who came together to form Cheshire East.

Local Government must go about its business honourably and be seen to do so, in order that the public can retain confidence in the conduct and integrity of their elected representatives. The Standards Committee ensures compliance with the Council's Code of Conduct and investigates any breach of the code, and in any more serious cases, conduct a full hearing with appropriate sanctions.

The purpose of this leaflet is to offer guidance and information to the public we serve, and to Councillors throughout the Authority, coupled with an assurance that all valid complaints or referrals will receive close and responsible attention.

Wesley Fitzgerald

The purpose and role of the Standards Committee

Confidence in local democracy is a cornerstone of our way of life. It can only be achieved when elected and co-opted Councillors (Unitary/Town/Parish) are seen to live up to the very highest standards the public has the right to expect from them. The Standards Committee is responsible for promoting high ethical standards and investigating allegations that Councillors behaviour may have fallen short of the required standards. Its work is important to everyone who cares about the maintenance of an open and honest system of local governance.

The Committee meets on a regular basis and members of the public are welcome to attend. A short period of ten minutes is available at the start of the meeting to allow members of the public to speak on matters relevant to the work of the committee. It is helpful if at least one day's notice is given of the question or statement.

Makeup of the Standards Committee

In contrast with other Committees of Cheshire East Council, the Standards Committee has no less than five independent non-political members who are appointed, and selected on merit and experience and these include the Chairman and Vice-Chairman of the Committee. This ensures the Committee retains independence and free from political influence. The remaining members of the Standards Committee are drawn widely from across the spectrum of the Council and community and comprise eight elected members who reflect the political constitution of the Council as a whole along with three Town/Parish Councillors.

Code of conduct

Cheshire East Council has adopted a Code of Conduct that sets out rules governing the behaviour of its members. All elected and co-opted members of the local authority including Town and Parish Councillors are covered by the Code.

The Code of Conduct demands high standards of individual behaviour and requires, for example, that members do not abuse their position or misuse their Authorities' resources. In addition, there are rules governing disclosure of interest and withdrawal from meetings, furthermore, Councillors are also required to record their financial and other interests.

Making a complaint

If you are unhappy with the way a Councillor has behaved you may wish, before lodging a formal complaint in writing, to discuss the issue in confidence with the Monitoring Officer or his representative. The Standards Committee wants to ensure that complaints are dealt with as speedily and efficiently as possible. By discussing your complaint a simple and speedy solution may be found.

If you do decide to proceed with a formal written complaint about a Member of Cheshire East Council or a member of a Town or Parish Council, you may do this by using the complaint form available from the Monitoring Officer, or download it from the Council's Website. You may wish to refer to the Code of Conduct available from the Standards Board for England or from the Monitoring Officer.

Continued overleaf

If you do make a written complaint you will be told in writing what will happen to your complaint. If the authority decides that the Standards Committee will deal with the complaint, a meeting of three of the Committee, chaired by one of the Independent Members will decide what happens next. This meeting will be called within 20 days of receiving your complaint.

We exist to help ensure that you have complete confidence in the integrity of your local Councillors. If you do have a complaint we will do all we can to ensure that it is dealt with fairly and effectively.

Making contact

Information about the Standards Committee including details of meetings, membership, and the work of the Committee is available from info@cheshireeast.gov.uk or phone **01270 529952**

If you wish to make a complaint please contact the Council's Monitoring Officer at the address below, phone **01270 686637** or e-mail complaints@cheshireeast.gov.uk

The Standards Board for England can provide you with useful information about both the Code of Conduct and the work of Standards Committees as well as the Board itself. Contact:

The Standards Board for England
Fourth Floor
Griffin House
40 Lever Street
Manchester M1 1BB

Tel: **0161 817 5300**
Fax: **0161 817 5499**
Minicom: **0161 817 5499**
e-mail: enquiries@standardsboard.gov.uk

Cheshire East Council
Westfields
Middlewich Road
Sandbach CW1 1HZ

www.cheshireeast.gov.uk

The Model Code of Conduct – An Explanatory Leaflet Relating to Personal and Prejudicial Interests

INTRODUCTION

Whenever the Members' Code of Conduct ('the Code') is under discussion inevitably questions will arise in relation to the twin issues of personal and prejudicial interests. These matters, more than any other aspect of the Code, give rise to repeated confusion and misunderstanding often leading to unsubstantiated complaints, distress for Councillors, and occasionally waste of resources.

THIS SHORT LEAFLET IS NOT INTENDED TO REPLACE THE CODE BUT SHOULD BE READ IN CONJUNCTION WITH THE CODE AND IS PRIMARILY AIMED TO GUIDE MEMBERS IN THE RIGHT DIRECTION AND TO ESTABLISH BASIC PRINCIPLES.

In Parts 2 and 3 of the Code at paragraphs 8-13 inclusive will be found the detailed provisions which set out the various long list of inclusions and exclusions relating to personal and prejudicial interests and the register of interests and these will need to be consulted in any given set of circumstances.

The first working principle to establish is the basic concept that no prejudicial interest can arise unless it is first established that a personal interest exists ie it is a two part test. The Councillor must consider first 'Do I have a personal interest (in the business on the agenda)? If the answer to that question is 'No' – then that is the end of the matter. If on the other hand the answer is 'Yes' or 'Very Likely' then the member must go on to consider if that personal interest can be construed as being also a prejudicial interest.

PERSONAL INTERESTS

In all Council and Council Committee meetings Councillors (Unitary/Town/Parish) must, where appropriate, declare a personal interest to be recorded in the minutes of the meeting. You must declare this at the start of the meeting or as soon as it becomes clear to you that a personal interest exists.

IF YOU DECLARE A PERSONAL INTEREST YOU CAN REMAIN IN THE MEETING, SPEAK AND VOTE ON THE MATTER, UNLESS YOUR PERSONAL INTEREST IS ALSO A PREJUDICIAL INTEREST.

You have a personal interest where it involves;

- a. An interest you have registered. All Councillors must within 28 days of taking up their office sign a Declaration of Interests. (Any changes in your

interest must similarly be recorded within 28 days of the change). The Clerk or Monitoring Officer can give you guidance if you are not sure. However you need to declare on the Register your membership of other Local Authority bodies and any bodies exercising functions of a public nature, as well as your job, any gifts over £25, any contracts between yourself and the local authority. (Please see Appendix 1).

- b. Where the well-being, or financial position of you, members of your family, or people with whom you have a close association is likely to be affected by the business of the meeting more than it would affect most people in the area. If your interest arises solely because you are a member of another body in the authority eg school governor or any public body in another authority, you do not need to declare an interest unless you wish to speak on the matter. If you do not speak you may still vote without making a declaration. (See appendix 2)

PREJUDICIAL INTERESTS

In some circumstances your Personal Interests may also be considered to be Prejudicial. In this situation you need to declare the fact that you have a Prejudicial Interest and its nature before the issue is debated. **YOU SHOULD THEN LEAVE THE ROOM**, unless members of the public are allowed to make representations, give evidence, or answer questions on the matter. Once you have finished speaking or when the meeting decides you have finished, you cannot remain in the meeting and must leave. You cannot remain and observe the vote.

Your personal interest will also be a prejudicial interest if all of the following conditions are met –

- (1) The matter being discussed affects your financial position or that of any person with whom you have a personal interest.
- (2) Where a member of the public who knows the relevant facts would reasonably think your personal interest is so significant that it may prejudice your judgement.
- (3) It does not fall into one of the exempt categories (please refer to appendix 3).

CONCLUSION

The decision to declare an interest will always turn on the particular facts and it is clearly necessary for all Councillors to grasp the rationale and thinking behind the Code and if in doubt seek advice from your clerk or the monitoring officer.

APPENDIX 1

Register of Interests

All councillors are required to provide a record of their interests in a public register of interests. This must be completed within 28 days of taking office, and any changes must be recorded within 28 days of that change. You need to register your interests so that the general public, authority staff and fellow councillors, know which of your interests might give rise to a conflict of interest. This is a public document and aims to ensure that decision-making is seen to be open and honest. This helps to preserve public confidence in the integrity of local government. You need to register a range of connections which includes –

- membership of local authority bodies
- membership of any body exercising functions of a public nature, eg political party or trade union
- your job or business
- any contracts between the Authority and yourself
- any land or property in the Authority's area

If the form is not clear to you, please consult the Monitoring Officer or appropriate Town/Parish Clerk.

APPENDIX 2

Interests Not on Your Register

You have a personal interest in a matter if that matter affects the well-being or financial position of you, members of your family, or people with whom you have a close association, more than it would affect most people in the area affect. (“Well-being” can be described as a condition that could affect the quality of life of you or those in your family or with whom you have a close association.)

A member of your family has a wide meaning and a person with “close association” is someone you have contact with who is more than an acquaintance.

APPENDIX 3

Prejudicial Interests

Your personal interest will also be a prejudicial interest if ALL of the following conditions are met:

It is not in one of the exempt categories, namely -

- if you hold a tenancy or lease with the Authority as long as it is not relevant to your particular lease or tenancy
- setting Council Tax or a precept
- any ceremonial honour
- statutory sick pay, if you are in receipt of such
- school meals or transport unless specific to your child's school or where you are a parent-governor

This page is intentionally left blank



LOCAL CODE OF CONDUCT – COMPLAINTS PROCESS

1) Introduction

These notes have been prepared to enable you to make a complaint about the conduct of a Member(s) (Councillor) of the Local Authority or a Town and Parish Council. Attached is a complaint form, together with a copy of the Model Code of Conduct.

2) Changes to the complaints procedure

On 8th May 2008, the responsibility for considering complaints that a Member(s) of a Local Authority or a Town or Parish Council may have breached the Code of Conduct transferred to the Standards Committees of Local Authorities.

3) What this means to you

From now on, if you want to complain about the conduct of a Member(s) of Cheshire East Council or a Member(s) of one of our Parish or Town Councils, you must submit your complaint to the Monitoring Officer, Westfields, Middlewich Road, Sandbach, CW11 1HZ. The complaint must be in writing and a complaint form is attached to help you but you do not need to use it.

Complaints can only be dealt with where they relate to the behaviour of a Member(s) and it will be the Assessment Sub-Committee which will be asked to hear the complaint. It will not deal with complaints about matters which are not covered by the Member(s)s Code of Conduct. If you make a complaint, it must be about why you think a Member(s) has not followed the Code of Conduct.

3) Are you using the correct complaints procedure?

It is important to note that not every complaint will fall within the jurisdiction of the Standards Committee. Complaints about dissatisfaction with a decision or action of the Authority or one of its Committees, a service provided by the Authority or the Authority's procedures do not fall within the jurisdiction of the Standards Committee. Complaints of this nature should be made under the Council's separate Complaints Scheme.

Attachments:

- **Complaint Form**
- **The Local Authorities Model Code of Conduct 2007**

Please Note: This form is available on the Council's website, but cannot be accepted electronically. Please submit as hard copy to -

The Monitoring Officer, Westfields, Middlewich Road, Sandbach, CW11 1HZ

COMPLAINT FORM

Code of Conduct – Borough, Parish/Town Councillors and Co-opted Member(s).
Please see attached explanatory notes.

Your details-

1. Please provide us with your name and contact details. *(See Explanatory Notes attached.)*

| | |
|---------------------------|--|
| Title: | |
| First name: | |
| Last name: | |
| Address: | |
| Daytime telephone: | |
| Evening telephone: | |
| Mobile telephone: | |
| Email address: | |

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- The member(s) you are complaining about
- The monitoring officer of the authority
- The parish or town clerk (if applicable)

We will tell them your name and given them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 7 of this form.

2. Please tell us which complainant type best describes you:

- ☐ Member of the public
- ☐ An elected or co-opted Member of an Authority

- ☐ An independent Member of the Standards Committee
☐ Member of Parliament
☐ Local Authority Monitoring Officer
☐ Other Council Officer or employee of the Council
☐ Other - please specify ()

3. *Equality monitoring questions*

*[Keep consistent with data collection elsewhere in the authority] Insert
CEC provisions here*

4. Making your complaint .

How to make a complaint

You must make your complaint in writing. This complaint form has been produced in order to help you make your complaint but you do not have to use it. Once you have made your complaint, you will be told in writing what will happen to it.

Timeframe

Unless there are exceptional circumstances, events which took place more than 12 months prior to the complaint being submitted, will not normally be investigated.

More detail about the complaint process, the possible outcomes of a complaint and how queries are dealt with can be found in the Explanatory Notes in the Appendix to this form.

5. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct and the name of their Authority:

| Title | First name | Last name | Council or Authority name |
|-------|------------|-----------|---------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

6. Please explain in this section (or on separate sheets) what the Member(s) has done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done which you believe breaches the Code of Conduct.

The Explanatory Notes in the Appendix to this form give more guidance on what kind of information you should provide.

Please provide us with details of your complaint. Continue on a separate sheet if there is not enough space on this form.

7. **Only complete this section if you are requesting that your identity is kept confidential.**

In the interests of fairness and natural justice, the Council believes that Member(s) who are complained about have a right to know who has made the complaint. The Council also believes they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason.

More detail on this can be found in the Explanatory Notes in the Appendix to this form.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

8. Additional Help

As noted in paragraph 4 above (Making Your Complaint), complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let me know as soon as possible.

[Contact details of person who can help to be inserted here (?possibly Deputy Monitoring Officer) together with details of the type of support which can be offered to complainants and how to access it.]

If you require this document or a summary version in large print, Braille, audiotape, CD or in another language, please contact us on 01270 529952.

APPENDIX**EXPLANATORY NOTES**

The following additional notes are numbered to correspond with those on the Complaints Form.

1. The following people will be informed that you have made this complaint.

- the Member(s) you are complaining about
- the parish or town clerk (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 7 of this form.

Anonymous complaints will only be referred for investigation or some other action if accompanied by independent evidence to substantiate them or they indicate the exceptionally serious or significant nature of the complaint.

4. Making Your Complaint

What happens once you submit your complaint?

Assessment of the Complaint

The following initial tests and criteria will be applied to assess new complaints and decide what action, if any, to take. Each complaint will be judged on its own merits.

- Before assessment of the complaint

The complaint will be considered by the Assessment Sub-Committee of the Standards Committee, which must be satisfied that:

1. The complaint is against one or more named Member(s) of Cheshire East Council or a parish or town council within the Cheshire East Borough;
2. The named Member(s) was or were in office at the time of the alleged conduct; and
3. The complaint, if proven, would be a breach of the Code under which the Member(s) was operating at the time of the alleged misconduct.

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant will be informed that no further action will be taken in respect of the complaint.

- Assessment of the Complaint

If the above tests are met the Assessment Sub-Committee will have regard to the following criteria:

1. Adequate information – the Sub-Committee will want to be satisfied that it has sufficient information to decide whether the complaint should be referred for investigation or other action;
2. Timescale – the Sub-Committee will take into account when the events. the subject of the complaint, took place and will not normally investigate or pursue other action if the event occurred more than 12 months prior to the complaint being submitted (except if it decides there are exceptional circumstances);
3. Seriousness of the complaint – the Sub-Committee will not normally refer a matter for investigation or other action if it is considered trivial, malicious, politically motivated or “tit-for-tat”.
4. Public Interest - if the complaint relates to an ex-Member of Cheshire East or one of its Town/Parish Councils, who is now a Member of another Authority, the Sub-Committee may refer the matter to the Standards Committee of that Authority for consideration. If the Member has resigned, is seriously ill, or has died, the Sub-Committee will only refer the matter for investigation or other action if it considers that the public interest will be served by so doing. If the complaint has already been the subject of an investigation or other action relating to the Code of Conduct or has been investigated by other regulatory authorities, it is unlikely to be referred for investigation or other action unless it is evident that public interest will be served by further action being taken.

If we do not refer your complaint to the Standards Assessment Sub-Committee you will be informed of this and given the reason.

- Decisions the Committee can make

If we decide that the Standards Committee will deal with your complaint, a meeting of the Standards Assessment Sub-Committee will be arranged within an average of 20 working days in order to decide what should happen next. The Sub-Committee can decide to -

- refer the complaint to the Monitoring Officer for investigation
- refer the complaint to the Monitoring Officer for other action
- refer the complaint to the Standards Board for England
- decide no action should be taken

When and how the complainant and others will be notified

Once the Standards Assessment Sub-Committee has reached a decision you will be informed of it and of the reasons for it within 5 working days. If the decision is to take no action, you can ask for a review. You must do this in writing within 30 days of receiving the decision. Your request must be considered within 3 months by a differently constituted Sub-Committee which may uphold the original decision or overturn it. You will receive written notification of its decision.

Where to direct enquiries

If you have any queries about any part of the complaint process you should contact the Monitoring Officer, Chris Chapman, at Westfields, Middlewich Road, Sandbach, CW11 1HZ: Tel. 01270 686013 or e-mail: chris.chapman@cheshireeast.gov.uk.

6. It is important that you provide all the information you wish to have taken into account by the Assessment Sub-Committee when it decides whether to take any action on your complaint. For example:
 - You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that a Member insulted you, you should state what was said and the circumstances in which it was said.
 - You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
 - You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
 - You should provide any relevant background information.
7. Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted; the Assessment Sub-Committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Requests for confidentiality will be considered using the following criteria -

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed;

- The complainant is an officer who works closely with the subject Member(s) and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed;
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. Medical evidence may be requested in support of this criterion;
- Whether the complaint can be investigated without revealing the complainant's identity.

* * * * *

This page is intentionally left blank

CHESHIRE EAST COUNCIL

REPORT TO: STANDARDS COMMITTEE

Date of Meeting: 13th July 2009

Report of: Borough Solicitor and Monitoring Officer

Subject/Title: Terms of Reference – Standards Sub-Committees

1.0 Report Summary

- 1.1 The report details the changes to the Terms of Reference for two of the standing Sub-Committees of the Standards Committee, namely [(1) Assessment; and (2) Hearings]. For completeness, a copy of the Terms of Reference for the Review Sub-Committee, which remains unaltered, is also enclosed.

2.0 Recommendation

- 2.1 The Committee is asked to RESOLVE –

That the revised Terms of Reference for the Assessment Sub-Committee and the Hearings Sub-Committee be confirmed.

3.0 Reasons for Recommendation

- 3.1 The revised Terms of Reference for two of the Standards Sub-Committees comply with relevant legislation, and Guidance issued by the Standards Board for England.

4.0 Wards Affected

- 4.1 Not applicable

5.0 Local Ward Members

- 5.1 All Councillors

6.0 Policy Implications

- 6.1 None identified

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

7.1 None identified.

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

8.1 None identified.

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 None identified.

10.0 Risk Management

10.1 The creation of separate Sub-Committees to deal with Hearings has ensured that the separate functions involved in the handling of complaints can be carried out without conflicts of interest.

11.0 Background and Options

11.1 At its meeting held on 13th January 2009, the Committee agreed to the establishment of two Sub-Committees to fulfil its assessment and review roles, namely the Assessment Sub-Committee and the Review Sub-Committee.

11.2 On 10th March 2009, the Committee agreed to establish a separate Hearings Sub-Committee and approved its Terms of Reference. The Sub-Committee's role would be to conduct hearings in the event of the Assessment Sub-Committee concluding that the complaint should be considered further.

11.3 Subsequently, difficulties were encountered in respect of the Terms of Reference and the Monitoring Officer reported on these at the meeting held on 18th May 2009. They conflicted, in part, with Guidance issued by the Standards Board for England. The Monitoring Officer outlined proposed amendments and these were accepted by the Committee which delegated authority to the Monitoring Officer to make any consequential amendments.

11.4 The detailed Terms of Reference for each of the three Sub-Committees is attached. The following is a summary of the role of each.

- Assessment Sub-Committee: (3 Members)

The Sub-Committee will receive complaints and make an initial assessment as to whether or not there is a *prima facie* case which warrants further action or investigation.

- Review Sub-Committee: (3 Members)

If the Assessment Sub-Committee concludes that there is no case to answer, and the complainant is dissatisfied with this outcome, he/she can request the Review Sub-Committee to review that decision. This Sub-Committee has the same decision-making powers as the Assessment Sub-Committee, ie (i) refer the complaint for investigation, (ii) refer for other action, (iii) refer to the Standards Board for England, or (iv) decide that no action should be taken.

- Hearings Sub-Committee (5 Members)

This Sub-Committee has a two-fold role. It acts in a “determining” capacity to receive an Investigator’s Report, for the purpose of deciding, based on the facts as set out in the report, whether or not to accept the findings of the Investigator.

If the Investigator’s report concludes that there has been no breach and the Sub-Committee agrees, there is no further action.

If a breach has been identified or the Sub-Committee disagrees with a finding of “no breach”, then it must hold a Hearing to consider the matter in full. This will be a separately convened Sub-Committee and can include the same Members who considered the complaint at “determination” stage. At the Hearing, the subject Member, together with the complainant and any witnesses, will have the opportunity to present their case to Members.

The Sub-Committee will determine whether or not there has been a breach of the Code of Conduct and if it concludes that there has been a breach, will be able to impose appropriate sanctions.

12.0 Overview of Year One and Term One Issues

12.1 None identified.

13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Carol Jones
Designation: Democratic Services Officer
Tel No: 01270 529952
Email: carol.jones@cheshireeast.gov.uk

This page is intentionally left blank

TERMS OF REFERENCE FOR STANDARDS SUB-COMMITTEES

(Note: Approved 10.March 09. Revised 18.May.09)

- **Assessment Sub-Committee** (3 Members – any 3 drawn from full Committee) (Regulation 6 stipulates that an Independent Member must chair a Sub-Committee and Regulation 7 stipulates that at least one Member of the Authority must be present at the meeting)

Terms of Reference

- (a) To receive complaints that a Member of Cheshire East Council or a Town/Parish Council within Cheshire East has failed, or may have failed, to comply with the Authority's Code of Conduct;
- (b) To make an initial assessment of any complaint using the Assessment Criteria and decide one of the following courses of action:
 - (i) refer the complaint to the Monitoring Officer for investigation;
 - (ii) refer the complaint to the Monitoring Officer for other action;
 - (iii) refer the complaint to the Standards Board for investigation;
 - (iv) decide that no action should be taken.

- **Review Sub-Committee** (3 Members – any 3 drawn from full Committee) (Regulation 6 stipulates that an Independent Member must chair a Sub-Committee and Regulation 7 stipulates that at least one Member of the Authority must be present at the meeting)

Terms of Reference

- (a) To review, upon receipt of a request from a complainant, a decision of the Assessment Sub-Committee to take no action in respect of a complaint that a Member of Cheshire East Council or a Town/Parish Council within Cheshire East has failed to comply with the Authority's Code of Conduct and determine one of the following courses of action:
 - (i) Refer the complaint to the Monitoring Officer for formal investigation;
 - (ii) Refer the complaint to the Monitoring Officer for other action;
 - (iii) Refer the complaint to the Standards Board for England;
 - (iv) Decide that no action should be taken.
- (b) To publish a written summary giving the main points considered, conclusions reached and the reasons for the conclusions in relation to any actions set out in paragraph (a).

- **Hearings Sub-Committee** (5 Members – any 5 drawn from full Committee - Quorum - 3) (Regulation 6 stipulates that an Independent Member must chair a Sub-Committee and Regulation 7 stipulates that at least one Member of the Authority must be present at the meeting)

Terms of Reference

- (a) To consider a report of the Monitoring Officer following his/her investigation of the complaint and decide one of the following courses of action:
 - (i) to accept the Monitoring Officer's finding that there has been no failure to observe the Code of Conduct;
 - (ii) to refer the matter for consideration at a hearing before this Sub-Committee;
 - (iii) to refer the matter to the Adjudication Panel for determination.
- (b) To hold hearings into complaints that a Member of Cheshire East Council or a Town/Parish Council within Cheshire East has failed, or may have failed, to comply with the Authority's Code of Conduct;

To decide that:

- (i) the Member who was the subject of the hearing has not failed to comply with the Code of Conduct; or
 - (ii) the Member who was the subject of the hearing has failed to comply with the Code of Conduct but no action needs to be taken; or
 - (iii) the Member who was the subject of the hearing has failed to comply with the Code of Conduct and that a sanction should be imposed.
- (c) To impose any appropriate sanctions when a finding under paragraph (b) (iii) above occurs in accordance with Regulation 19 of The Standards Committee (England) Regulations 2008.
 - (d) To publish a written summary giving the main points considered, conclusions reached and the reasons for the conclusions in relation to any actions set out in paragraphs (a) and (c) above.



New regulations come into force

In [Bulletin 42](#) we explained that regulations were being prepared to allow the Standards Board to suspend the initial assessment functions of an authority and to enable authorities to establish joint standards committees. The Standards Committee (Further Provisions) Regulations 2009 came into force on 15 June 2009. [Guidance about establishing joint standards committees](#) has been issued by the Standards Board to coincide with the regulations.

The regulations are much as expected and you may wish to refer to the [relevant article in Bulletin 42](#) for a summary of what they contain.

The regulations also amend the powers of standards committees to grant dispensations to members who would otherwise be unable to take part in authority business because of a prejudicial interest. There is a separate article about dispensations in this Bulletin and [guidance has also been issued](#) on our website.

Changes to criteria for granting dispensations

The Standards Committee (Further Provisions) (England) Order 2009 makes changes to the criteria for granting dispensations for members to speak and vote when they have a prejudicial interest.

A standards committee can grant a dispensation to a member:

- where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting **OR**
- where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

To decide whether these criteria apply, members must ignore any dispensations that have already been given to others at the meeting. The requirement to ignore any dispensations already granted means that any previously granted dispensations are disregarded for the purposes of working out whether the two circumstances above apply.

So, if there were ten members on a committee, six of whom would not be able to vote on some business, all six can claim a dispensation. If previously granted dispensations were not disregarded, a situation could arise where once two people had been granted

dispensations, the remaining four would be ineligible. This is because at that point there would be less than 50% of the committee who could not vote.

Even if the criteria apply, members cannot get a dispensation to:

- allow them to take part in voting at an overview and scrutiny committee about a decision made by any body of which they were a member at the time the decision was taken
- allow an executive member with a prejudicial interest in an item of executive business to take an executive decision about it on their own

Ultimately it is for an authority's standards committee to decide what criteria they will apply when considering a request.

The criteria that will be applied and the process that will be followed should be made available to all members by the standards committee.

By law, a member must submit an application in writing for consideration by the standards committee. It is up to the standards committee whether or not they grant a dispensation and there is no right of appeal from their decision.

A standards committee can decide the nature of any dispensation it grants. For example, the dispensation may allow a member to speak and not vote, or to fully participate and vote. The committee can also decide how long the dispensation should apply, although it cannot be longer than four years.

After four years has elapsed since a dispensation was granted, it can no longer be used.

The decision must be recorded in writing and must be kept with the register of interests maintained by the monitoring officer.

We have issued new guidance on dispensations to reflect the new regulations. The guidance can be found by clicking [here](#).

Standards Board responds to CSPL inquiry

The Standards Board has responded to the inquiry into MPs' expenses held by the Committee on Standards in Public Life. You can view our response to the Committee on Standards in Public Life's inquiry by clicking [here](#).

Support for Code of Conduct 'remains high'

Newly-published research suggests that member behaviour is improving and that support for the Code of Conduct remains high.

The Standards Board surveys the level of satisfaction in local government with our performance, and attitudes to the ethical environment, every two years. This year we commissioned BMG Research to carry out this survey on our behalf. As some of you may know, the survey was first undertaken in 2004 and was repeated in 2007.

The report's key findings are:

- 62% consider us successful in keeping local government, in general, informed about what we are doing (52% in 2007 and 46% in 2004). We are committed to making continuous improvements in this area.
- Support for the Code of Conduct remains high - 94% support the requirement for members to sign a Code of Conduct (93% in 2007 and 84% in 2004)
- 47% of respondents stated that they think members standards of behaviour have improved (44% in 2007, 27% in 2003).
- 75% of stakeholders have confidence in the way their local standards committee deals with complaints about members.
- This year we also asked respondents if they support the requirements for an officer's code - 88% of members expressed support for a requirement for an officer's code compared with 70% of monitoring officers and 78% of town/parish clerks. We will be feeding this information back to the department for Communities and Local Government.

Questions asked in the survey covered a number of areas including:

- attitudes to the Standards Board and ethical environment
- perceptions of the Standards Board
- views on our publication and website
- suggestions for ways in which we can improve our communication

In total, BMG received 1,973 completed questionnaires; this represents a response rate of 44% among town and parish councils, and 32% among principal and other authorities.

The research findings allow us to identify strengths and weaknesses, as well as demand for our services. In this way we can tailor our communications and advice and guidance to the needs of our stakeholders. Since the research also collects data on attitudes to the ethical environment, we can also use it to help us assess the impact of the standards framework.

Thank you to everyone who participated in this survey, it is only through your continued support with our research that we are able to track the progress we are making.

A copy of the full report can be downloaded by clicking [here](#).

For further information, please contact:

Cara Afzal (Deputy Research and Monitoring Manager) on 0161 817 5314 or email cara.afzal@standardsboard.gov.uk.

Studying the impact and effectiveness of the ethical framework in local government

In 2006, we commissioned Cardiff University to carry out a five-year project to identify the impact of the standards framework within nine local authorities. Year one of this study is now complete.

This project also involved a survey of the public within the nine areas to identify any link between the activities of a local authority and public perceptions. This research is being led by Dr Richard Cowell from the Centre for Local and Regional Government Research.

The research aims to address three main questions:

- Has the ethical framework caused any changes in local government processes and systems, and culture and values?
- Has the ethical framework had any effect on the conduct of councillors?
- Has the ethical framework had any effect on public attitudes to local government either directly, or through any changes in council processes and/or councillor conduct?

What has the research found so far?

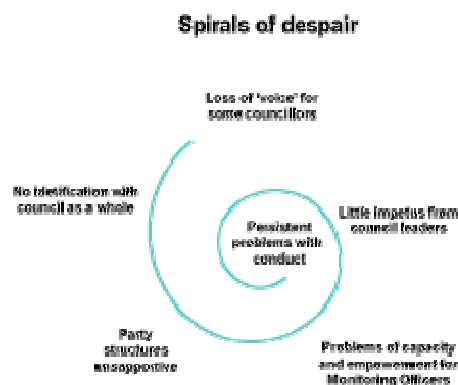
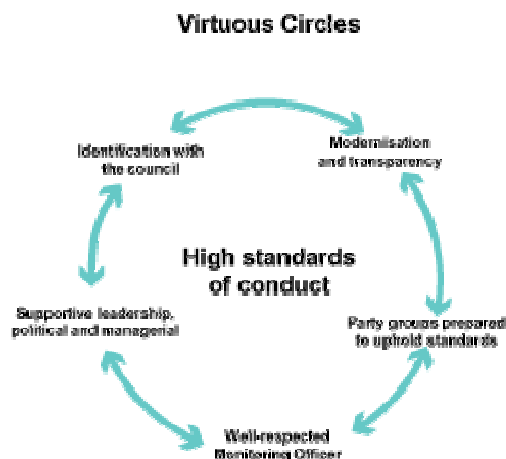
Changes in processes, systems, culture, and values: The research identifies that, in most councils, the ethical framework and standards have become established and accepted as part of corporate life. The majority of respondents are positive about the move towards local regulation (apart from a concern about costs). The formal components of the ethical framework are being implemented successfully and there is some desire among those interviewed for committees to take a more pro-active role in promoting good conduct.

The conduct of councillors: The research reveals many feel that the conduct of councillors has improved in recent years, and that ethical issues are being treated seriously. There also seems to be widespread support for the view that the ethical framework has been beneficial. Councils with better conduct tend to make more effort to continually train and remind councillors of their responsibilities, and to make involvement in training mandatory. The ethical framework has helped improve conduct by acting as a regulatory mechanism, being used to support the sanctioning, demotion or resignation of councillors who have caused serious ethical problems.

Effect on public attitudes: The research found that more positive public survey responses for trust are achieved in councils displaying good standards of conduct. In addition, councils with high levels of trust tend to be well managed. Nearly half of the public survey respondents were confident that their local authority would uncover breaches in standards of behaviour by a councillor. Furthermore, a similar proportion believe that those breaching the Code would be dealt with effectively.

The research has also highlighted two very useful typologies, “Virtuous circles”, and ‘Spirals of despair’.

- **“Virtuous circles”** - refer to those organisational and cultural factors that lead to effective use of the ethical framework and good conduct
- **“Spirals of despair”** - are factors that result in poor conduct



For more details on these factors, please click [here](#) to read the full report.

We are committed to making findings from our research accessible to our stakeholders and to this end we will continue to use various forums to disseminate the findings.

If you have any thoughts on this report, or the usefulness and accessibility of other Standards Board research please do not hesitate to contact Cara Afzal, Deputy Research and Monitoring Manager on 0161 817 5414, or email cara.afzal@standardsboard.gov.uk.

Quarterly returns – one year on

We have been collecting quarterly returns for a year now and so take the opportunity to reflect on how the local framework has bedded in.

Firstly, we would like to thank all monitoring officers and their colleagues who made returns to the Standards Board. We are delighted with the consistent high level of completed returns. For quarter four – as with quarter two – we received a return from every authority. This was a particularly good achievement as we asked those authorities that were being abolished to send their returns earlier than the normal schedule.

Undoubtedly, these authorities were under extreme pressure preparing for the transition to unitary status.

We do not underestimate how difficult it must have been to find time to complete the quarterly returns. We are hopeful that the impressive return rate will continue into the next financial year.

The next collection period for the 1 April – 30 June quarter will be 1-14 July.

What can we tell from the first year's worth of data?

Standards committees

Quarterly returns tell us that a typical standards committee has **10** members. In an authority without parishes it has **9** members, including **4** independent members. In an authority with parishes it is slightly larger with **11** members, including **4** independent members and **3** parish representatives.

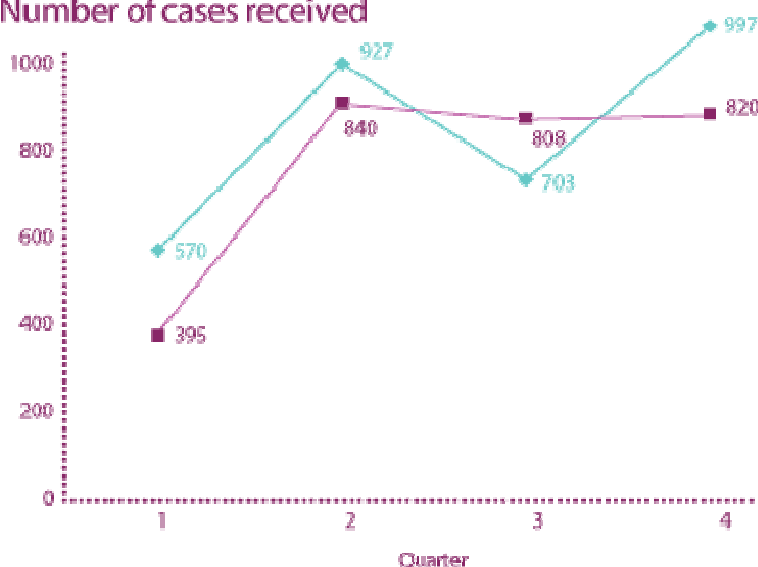
On average, district and metropolitan councils have the largest standards committees and police authorities have the smallest. Standards committee composition has remained constant through all quarters

Case handling

A total of **2,863** cases have been recorded on quarterly returns so far. This covers the time period 8 May 2008 to 31 March 2008. **345** authorities have dealt with at least one case during the first year. Of all the authorities with cases, the average recorded is **2** per quarter, a total of **8**.

It is still perhaps too early to identify trends and make generalisations, but it is interesting to note that in quarter 4, the number of cases received under the new framework is very similar to the previous two quarters (see chart below). This may indicate that the case load is levelling out, now that potential complainants are aware of the new system.

Number of cases received

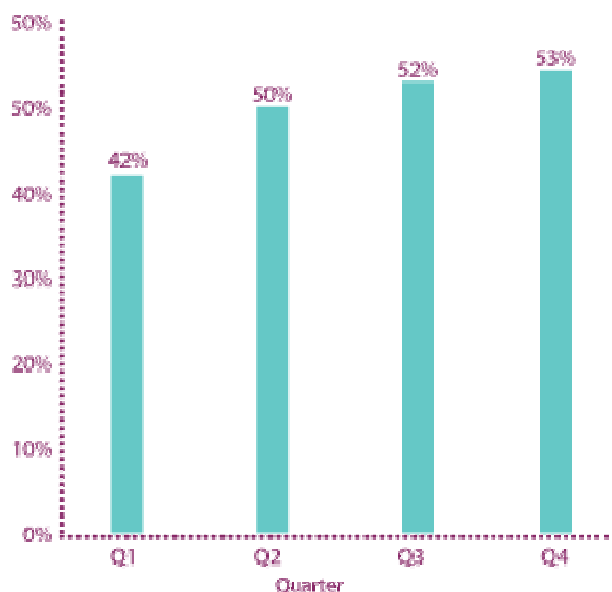


The majority of complaints, **54%**, are made by the public and **36%** are from council members. The remaining **10%** are from a combination of officers, parish or town clerks, MPs, monitoring officers, and those that fall into the category of 'other'. Again, these percentages have seen little change during the year.

Initial assessment

The percentage of cases where no further action is taken is increasing each quarter.

Percentage of no further action decisions



There have been 526 review requests through the year and 384 of these have been assessed. **94%** have remained 'no further action' and the other 25 (**6%**) were either referred for investigation or referred to us.

There are 224 cases with investigation outcomes recorded on quarterly returns. In **71%** of cases, no breach of the Code was found. In **25%** of cases, a breach was found and a penalty was imposed, and in **4%** of cases a breach was found but no further action was taken.

More details about the quarterly returns, such as what breaches of the Code have been recorded, can be found on our website by clicking [here](#). You can also contact the monitoring team on 0161 817 5300 or email authorityreturns@standardsboard.gov.uk.

Good response for annual returns

We are very pleased with the number of returns we have received for the annual return questionnaire, which was launched on 20 April 2009.

As of 29 May, 95% of authorities had completed a return. This figure includes the new unitary authorities, which completed a shortened version.

We are now entering the analysis phase and first impressions are that there is a good range of notable practice to share with standards committees. More information about our findings will follow in future *Bulletins* and on our website.

Probity in Planning Guidance Issued

The Local Government Association has recently published a revised guidance note on good planning practice for councillors and officers dealing with planning matters.

This 2009 update provides refreshed advice on achieving the balance between the needs and interests of individual constituents and the community and the need to maintain an ethic of impartial decision-making with regards to planning decisions.

For more information please see the [LGA website](#).

A new look

From July this year there's a new look and feel to our communications – and we're introducing an abbreviated version of our name: Standards for England.

We've made this switch to emphasise how our role has changed over the past 18 months. During that time we've moved from being an organisation focused mostly on handling complaints to the strategic regulator of standards among local politicians. We'll be telling you more about our new role in our corporate plan, which will be available shortly.

And in our new role we're all about Standards for England.

We believe in principled local politics. Working with local authorities, their monitoring officers and local standards committees, it's our job to champion and promote high standards of conduct among our local politicians. We want to make sure the public are in no doubt that standards and principles matter to local government.

We've made changes after sampling the views of key stakeholders, including those in local government. We asked: what leadership do you expect from us? Our communications will do more to highlight the positive aspects of conduct; making the point that ethical behaviour is both a good thing in itself and good for local democracy.

You can read more about our refreshed identity on our website from 1 July. We'll be introducing style changes to our publications and our website over the next few months. We hope you'll like them, and as always we'll welcome your feedback.

We believe in Standards for England. We hope you do too.