STANDARDS COMMITTEE
Tuesday, 26th February, 2008

Place: Civic Offices, High Street, Epping

Room: Committee Room 1

Time: 7.30 pm

Committee Secretary: G Lunnun, Research and Democratic Services
Tel: 01992 564244 Email: glunnun@eppingforestdc.gov.uk

Members:

Ms M Marshall (Chairman), G Weltch, M Wright, Councillors Mrs P Smith and Mrs J H Whitehouse

Parish/Town Council Deputy Representative(s):

Councillors Mrs D Borton, B Surtees (Deputy)

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1. APOLOGIES FOR ABSENCE

2. MINUTES (Pages 5 - 8)

To approve as a correct record the minutes of the meeting held on 16 October 2007 (attached).

3. DECLARATIONS OF INTEREST

(Monitoring Officer) To declare interests in any item on the agenda.

4. THE CONDUCT OF LOCAL AUTHORITY MEMBERS - ORDERS AND REGULATIONS (Pages 9 - 52)

To consider the attached report.

5. MEMBERSHIP OF THE COMMITTEE

Recommendation:

To consider asking the Council to review the size of this Committee.

(Monitoring Officer) In anticipation that the proposals for sub-committees of

Standards Committees set out in the consultation document of the Department of Communities and Local Government (agenda item 4) will be incorporated into the regulations and orders for local assessment, the Committee are invited to express views to the Council on possible changes to the size of this Committee.

Standards Committees must have a minimum of:

(a) three members (two elected members and one independent member);
(b) 25% as independent lay members if the Committee is more than three people;
(c) an independent chairman (from April 2008);
(d) one parish or town council member if the authority has responsibilities for those councils.

The Standards Board recommends:

(a) at least six people as a minimum (three elected members and three independent members); and
(b) two, or possibly three, parish or town council members if the authority has responsibilities for those councils.

6. TRAINING FOR LOCAL ASSESSMENT

Recommendation:

To consider attendance at a course on the local assessment of complaints.

(Monitoring Officer) LGG, the limited training arm of Solicitors in Local Government and affiliated to the Association of Council Secretaries and Solicitors are running courses on the Code of Conduct and “Local First Sieve” for members of Standards Committees and officers.

The cost of the course is £3,500 plus VAT and comprises an evening session of approximately three hours. Braintree District Council is making arrangements for a session providing for up to 75 attendees and has invited other Essex authorities to send representatives.

An initial interest has been registered with Braintree District Council. A date has yet to be set. Members are asked to indicate if they would like to attend.

7. LOCAL ASSESSMENT - STANDARDS BOARD TRAINING EXERCISE (Pages 53 - 112)

Recommendation:

To undertake three cases from the Standards Board’s training exercise.

(Monitoring Officer) The Standards Board has created a training exercise to help standards committees develop their ability to assess new complaints. The exercise is based on a pilot that the Standards Board ran in 2007 with approximately 50 participating local authorities.

Details of the exercise are attached. Members will note that the full exercise requires approximately three hours which is considered too long to be addressed at this meeting. The first three cases are attached for members to consider at this time and others can be included on the agenda for the next meeting or at a special session if preferred.

8. ALLEGATIONS ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - CURRENT POSITION (Pages 113 - 114)

(Monitoring Officer) To note the attached schedule.

9. DATES OF FUTURE MEETINGS

(Monitoring Officer) The calendar for 2007/08 provides for a meeting of the Committee on 8 April 2008.

Additional meetings can be arranged as and when required by the Committee.

The Council's draft calendar of meetings for 2008/09 provides for meetings of the Committee on 15 July 2008, 13 October 2008, 27 January 2009 and 14 April 2009.

10. EXCLUSION OF PUBLIC AND PRESS

To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the paragraph(s) of Part 1 of Schedule 12A of the Act indicated:

Agenda Item No	Subject	Exempt Information Paragraph Number
Nil	Nil	Nil

To resolve that the press and public be excluded from the meeting during the consideration of the following items which are confidential under Section 100(A)(2) of the Local Government Act 1972:

Agenda Item No	Subject
Nil	Nil

Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

(1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.

(2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.

(3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted

for report rather than decision.

Background Papers: Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

(a) disclose any facts or matters on which the report or an important part of the report is based; and

(b) have been relied on to a material extent in preparing the report does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

EPPING FOREST DISTRICT COUNCIL
COMMITTEE MINUTES

Committee:	Standards Committee	**Date:**	16 October 2007
Place:	Committee Room 1, Civic Offices, High Street, Epping	**Time:**	7.30 - 8.20 pm
Members Present:	Ms M Marshall (Independent Member) (Chairman), G Weltch (Independent Member), M Wright (Independent Member) and Mrs P Smith (Epping Forest Council Appointee),Councillor B Surtees and Councillor Mrs D Borton (Parish/Town Council Appointee), Councillor B Surtees (Town/Parish Council Deputy)		
Other Councillors:			
Apologies:	Councillor Mrs J H Whitehouse (Epping Forest Council Appointee)		
Officers Present:	C O'Boyle (Director of Corporate Support Services), I Willett (Assistant to the Chief Executive), G Lunnun (Democratic Services Manager) and S G Hill (Senior Democratic Services Officer)		

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14. MINUTES

The Chairman advised that she had sent, on behalf of the Committee, a letter to Parish Councillor Jason Salter expressing appreciation for the work he had undertaken in relation to the Standards Committee over the past six years.

The Monitoring Officer reported that the Local Government and Public Participation in Health Bill was now expected to be enacted in January 2008.

RESOLVED:

That the minutes of the meeting of the Committee held on 17 July 2007 be taken as read and signed by the Chairman as a correct record.

15. DECLARATIONS OF INTEREST

No declarations of interest were made pursuant to the Council's Code of Member Conduct.

16. PLANNING PROTOCOL

The Monitoring Officer reported that local planning agents, district councillors and parish and town councillors had been consulted on suggested changes to the Planning Protocol to accord with the new Code of Conduct. In addition views had been sought on the Council's website.

The Committee considered responses made to the consultation exercise.

RESOLVED:

(1) That the amendments made to the Planning Protocol to reflect the representations received be agreed;

(2) That in addition, the following amendments be made to the Planning Protocol.

(a) amendment of paragraph 22.1 to refer only to councillors and officers;

(b) amendment of paragraph 22.2 to refer to all the staff in Planning Services, spouses and partners;

(c) deletion of the last sentence in paragraph 22.2;

(d) clarification of the first two boxes in Appendix 1;

(e) clarification of paragraph 7.2 to state that members of the Cabinet are responsible for bringing forward planning applications on behalf of the Council; and

(f) amendments to be made by the Monitoring Officer to correct typographical errors and to ensure consistency throughout the document;

(3) That the amended Planning Protocol be recommended for adoption by the Council at its meeting on 18 December 2007;

(4) That following adoption of the amended Planning Protocol, the Monitoring Officer send copies to all district councillors and to the clerks of parish and town councils and seek their views on the need for further training in relation to the Protocol; and

(5) That the Monitoring Officer produce a guidance note for the clerks of parish and town councils in relation to the requirements on dual-hatted councillors, in particular regarding their involvement in considering planning applications at parish/town council meetings.

17. NEW CODE OF CONDUCT

The Monitoring Officer reported that at the last meeting, the Committee had noted that the District Council had adopted the new Code of Conduct, without alteration, on 28 June 2007. At that meeting the Committee had requested that a progress report be submitted to this meeting on the adoption of the new Code by parish/town councils and on completion of new registrations of interest by district and parish/town councillors.

The Monitoring Officer reported that notification of adoption of the new Code had been received from all 24 parish/town councils in the district and that an appropriate notice had been published in a local newspaper.

The Committee noted that following adoption of the new Code, all district councillors had completed and returned new registrations of interest forms. Copies of new forms had also been received from all of the members of 17 of the parish/town councils in the district. In relation to the remaining seven parish/town councils, the majority of forms had been received although in some cases it had been necessary to seek further returns as the forms used had not been compliant with the new Code. The

Monitoring Officer emphasised that the forms outstanding were as a result of administrative errors or submission of the wrong forms. There had been no opposition expressed about the need to complete new forms, officers were liaising with parish/town council clerks and the outstanding returns were expected shortly.

RESOLVED:

(1) That the progress report on the adoption of the new Code by parish/town councils and on completion of registrations of interest by district and parish/town councillors be noted; and

(2) That the approach being taken by the Monitoring Officer in relation to the outstanding registration of interest forms from parish/town councillors be supported.

18. CODE OF CONDUCT - APPLICATIONS FOR DISPENSATION

The Monitoring Officer advised that at the last meeting of the Committee consideration had been given to five applications from members of the District Council's Cabinet for dispensation to take part in a decision regarding the acceptance of tenders for the provision of bed and breakfast accommodation to house homeless persons. The Committee had agreed to hold a special meeting, if necessary, in order to consider possible applications from the remaining three members of the Cabinet.

The Monitoring Officer reported that no further applications had been received and it had become clear that the Cabinet quorum had been lost. In order to resolve the issue the Cabinet had delegated the decision to a Portfolio Holder without a prejudicial interest to declare. As a result there had been no need for this Committee to take any further action.

RESOLVED:

That the position be noted.

19. ALLEGATIONS ABOUT THE CONDUCT OF DISTRICT AND PARISH/TOWN COUNCILLORS - CURRENT POSITION

The Committee noted the current position of allegations made to the Standards Board for England regarding district and parish/town councillors.

20. DATES OF FUTURE MEETINGS

The Committee noted the calendar for 2007/08 provided for meetings of the Committee on 26 February 2008 and 8 April 2008.

21. STANDARDS BOARD FOR ENGLAND DVD - "THE CODE UNCOVERED"

The Committee noted that as part of their continued support, the Standards Board for England had produced a DVD, which used a fictional planning application dispute to illustrate the key changes to the revised model Code of Conduct. The Monitoring Officer reported that the Council had received one copy of the DVD and that further copies could be ordered from the Standards Board at a charge of £38.00 per extra copy.

RESOLVED:

(1) That the Monitoring Officer purchase an additional six copies of the DVD for loaning to parish/town councils;

(2) That the Monitoring Officer make arrangements for district councillors on planning committees to view the DVD; and

(3) That the DVD be shown at or immediately before the next meeting of the Local Councils' Liaison Committee.

CHAIRMAN

Report to the Standards Committee

Date of meeting: 26 February 2008

Epping Forest District Council

Subject: The Conduct of Local Authority Members - Orders and Regulations

Officer contact for further information: Graham Lunnun (01992 – 564244)

Recommendation:

To formulate a response to the consultation document issued by the Department for Communities and Local Government in relation to orders and regulations regarding the Conduct of Local Authority Members in England.

… 1. The Government has published the attached consultation paper seeking views on the detailed arrangements for putting into effect the orders and regulations required to provide a more locally-based ethical regime for the Conduct of Councillors.

2. The consultation document seeks views by 15 February 2008 and, in order to comply with that timescale, members were asked to submit views in order that officers could co-ordinate a reply. However, the Department for Communities and Local Government has granted an extension of time in order to allow the Committee to formulate its views at this meeting.

3. The arrangements need to cover:

(a) the operation of Standards Committees' powers to make initial assessments of misconduct allegations;

(b) the operation of other functions by Standards Committees and the Adjudication Panel in issuing penalties and sanctions;

(c) the operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime; and

(d) other matters, such as the rules on the granting of dispensations, the granting of exemptions of posts from political restrictions and the pay of local authority political assistants.

4. The Government anticipate the provisions coming into effect in Spring 2008 and on 1 April 2008 at the earliest.

5. The particular questions on which comments are sought are summarized in Annex A of the consultation paper.

6. The Committee is asked to formulate a response to the Consultation taking account of the following views already expressed by Members:

Question 1 - This Committee, and probably other Standards Committees, comprise six members. If two Sub-Committees are required, each one will need to comprise of three members.

The Standards Board recommends that a Standards Committee should comprise at least six people as a minimum (three elected members and three independent members).

However, six members is considered insufficient as it will not be possible for two Sub-Committees with separate memberships to operate in the event of conflicts of interest, holidays or sickness.

A decision not to investigate should only be subject to a review if new evidence is produced. Otherwise, another Sub-Committee will simply be invited to come to a different conclusion on the same evidence and this will encourage all complainants to request reviews of all initial decisions.

Members undertaking the initial assessment or review should not be prohibited from taking part in any subsequent determination hearing. The initial assessment or review looks only at an allegation and decides whether an investigation is warranted. A requirement that any hearing should be before different members from those undertaking the initial assessment or review would require a Standards Committee with a minimum of nine members and probably more to cover for conflicts of interest, holidays or sickness.

Question 2 - Yes. There should be an agreement between Standards Committees to avoid unnecessary duplication of effort and distress for the member involved. It is neither necessary nor desirable for the Standards Board to become involved but guidance from the Board will be required in order to resolve the position where agreement cannot be reached.

Question 3 - Yes, guidance will be sufficient and it should not be too prescriptive.

Question 4 - Differing views have been expressed in response to this question.

One view is to agree the suggestions.

The other view acknowledges that there might be circumstances when it might be appropriate to seek more evidence from a complainant before telling the member concerned but questions whether it would be appropriate for the investigating officer to interview other witnesses before the member is made aware of the complaint.

Question 5 - Yes, with the addition of a member not being re-elected added to the circumstances justifying referral back to the Committee.

Question 6 - Yes.

Question 7 - Differing views have been expressed in response to this question.

One is that this Committee has three independent members so this would not present a problem; however, it is suggested that when a complaint is against a Parish or town councillor, a district councillor could chair a meeting and vice versa.

The other view is that some authorities have difficulty in recruiting independent members and this may be a problem for those authorities; parish councillors with no political affiliation should be regarded as 'independent'; district councillors should be able to chair meetings unless they have a prejudicial interest; there is no need for a requirement that all chairs be independent members but guidance should encourage this where possible.

Question 8 - Yes.

Question 9 - Yes.

Question 10 - Differing views have been expressed in response to this question.

One is, that if a Standards Committee is not functioning properly, the need for a Council to pay another Standards Committee to do their work, is unlikely to have an impact on the way in which the first Committee operates; the regulation should specify that reasonable costs may be recovered by another authority.

The other view is that the Standards Board should set down a template for what can be included leaving each authority to charge costs reflecting their own situation; however, it is questioned whether members and officers will have the time to take on this extra work.

Question 11 - Differing views have been expressed in response to this question.

One is that this is a good idea but needs further thought on how it might operate; and that careful consideration needs to be given to the issues of time and costs, particularly those of officers.

The other view is that this could overcome the concerns expressed in response to Question 1; it is not considered necessary to limit the geographical area but the regulation should specify that each Standards Committee, not officers, must agree to joint working.

A third view expressed is to support the suggestion that the parish representative can be drawn from any parish in the joint committee's area.

Question 12 - Yes.

Question 13 - Yes.

Question 14 - Yes, decisions have been made; and the proposal is supported.

Question 15 - No comment.

Question 16 - This date seems optimistic.

Other comment - A feature throughout the regime is to publish notices in the local newspaper - this is very expensive. Publication on the Council's website or in the Council's 'free' newspaper should be sufficient.

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Communities and Local Government

Orders and Regulations Relating to the Conduct of Local Authority Members in England

Consultation

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Communities and Local Government

Orders and Regulations Relating to the Conduct of Local Authority Members in England

Consultation

January 2008
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Contents

Chapter 1

Introduction

1. We are consulting on the detailed arrangements for putting into effect orders and regulations to provide a revised ethical regime for the conduct of local councillors in England.

2. Part 10 of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) provides for a revised ethical conduct regime for local government based on the principle of proportionate decision-making on conduct issues by local authorities. We wish to make arrangements for these provisions to come into effect in Spring 2008, and to seek views on how the detailed rules should work in practice.

3. The paper also consults on other undertakings relating to the operation of the regime in respect of the political restrictions imposed on certain local government posts and the maximum pay of political assistants. We are also taking the opportunity to consult on proposals to amend the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002, with a view to resolving concerns which have been raised by some local authorities on the operation of some aspects of the current provisions.

4. This consultation follows extensive earlier consultation on the basic principles on which the revised conduct regime for local government should be based. The Discussion Paper '*Standards of Conduct in English Local Government: The Future*', of December 2005, set out the Government's responses, regarding the reform of the regime relating to standards of conduct of local government, to the recommendations of the Committee on Standards in Public Life, the report of the then Office of the Deputy Prime Minister Select Committee and the Standards Board. The Local Government White Paper, '*Strong and Prosperous Communities*', issued in October 2006, outlined the Government's proposals to introduce a more proportionate and locally based decision-making regime for the investigation and determination of all but the most serious of misconduct allegations against members of local authorities.

5. Our most recent consultation with regard to the conduct regime was a six week consultation between January and March this year on amendments to the model code of conduct for local authority members, which resulted in a revised model code being introduced with effect from 3 May 2007.

6. For the new, reformed ethical regime based on a devolutionary approach to become operational, we need to make regulations and orders under the Local Government Act 2000 (the 2000 Act) as amended by Part 10 of the 2007 Act to implement the proposals set out in the Local Government White Paper to deliver a more locally based conduct regime for local government members, with local standards committees making initial assessments of misconduct allegations and most investigations and determinations of cases taking place at local level.

7. We now need to put in place detailed arrangements to allow standards committees and the Standards Board to undertake their new roles under the new regime. These arrangements need to cover:

    - The operation of standards committees' powers to make initial assessments of misconduct allegations.

    - The operation of other functions by standards committees and the Adjudication Panel in issuing penalties and sanctions.

    - The operation of the Standards Board's revised strategic role to provide supervision, support and guidance for the regime.

    - Other matters, ie the rules on the issue of dispensations, the issue of exemptions of posts from political restrictions and the pay of local authority political assistants.

8. The paper sets out for each of these issues in turn the specific purpose of the provisions, the proposals for how the rules should operate via appropriate regulations and orders under the 2000 Act, and seeks views on the proposals, including highlighting particular questions on which consultees' comments would be welcome (summarised at Annex A).

9. We aim to undertake a separate consultation shortly on amendments to the instruments setting out the general principles which govern the conduct of local councillors and the model code of conduct, which members are required to follow.

Position of Welsh police authorities

10. The new ethical conduct regime providing for the initial assessment of misconduct allegations by standards committees will not apply to Welsh police authorities. The initial assessment of allegations in respect of members of Welsh police authorities will therefore continue to be a matter for the Public Services Ombudsman for Wales and not local standards committees. The proposals referred to in this paper in respect of joint standards committees will also not apply to Welsh police authorities. However, the rules on the size, composition and procedures of standards committees and the proposed amendment to the dispensation regulations will apply to these authorities.

11. We are asking for comments on this paper by 15 February 2008. This effectively gives consultees six weeks to respond. This reflects the period normally allowed for consultation with local government in the Framework for Partnership between the Government and the Local Government Association. As mentioned above, significant consultation has already been undertaken about the principles underpinning the new reformed regime and the approach to be adopted in the regulations and orders under the new regime.

12. Comments should be sent to:
    William Tandoh
    Address: Department for Communities and Local Government
    Local Democracy and Empowerment Directorate
    5/G10 Eland House, Bressenden Place, London SW1E 5DU
    e-mail: william.tandoh@communities.gsi.gov.uk

    by **15 February 2008.**

Chapter 2

New standards committee powers to make initial assessments of misconduct allegations, composition of committees and access to information

Purpose

1. Regulations will need to be made to amend and re-enact existing provisions in the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 and to amend and re-enact the provisions of the Relevant Authorities (Standards Committee) Regulations 2001, to make provision:

    - with respect to the exercise of the new initial assessment functions by standards committees of relevant authorities in England;
    - as to the powers and validity of proceedings of standards committees, including notification requirements;
    - with regards to the publicity to be given to matters referred to monitoring officers of local authorities;
    - in relation to the way in which any matters referred to the monitoring officer of a local authority by a standards committee should be dealt with;
    - to enable a standards committee to refer a case to the Adjudication Panel (ie the independent body which decides whether in the more serious cases the code of conduct has been breached and what sanction, if any, should be applied to the member) where the standards committee considers that the sanctions available to it would be insufficient;
    - with respect to the size and composition of standards committees and access to meetings and information.

Proposals

a) Standards committee members and initial assessment

2. In order to undertake their new functions for making initial assessments of misconduct allegations and considering requests to review decisions to take no action, under powers conferred by Part 10 of the 2007 Act, as well as existing powers for standards committees to make determinations of allegations, each standards committee will need to have a clear operational structure. It is likely that there will be a need for sub-committees of standards committees to be created, so that the separate functions involved in the ethical regime for local authority members can be appropriately discharged, namely:

- The initial assessment of a misconduct allegation received by a standards committee under section 57A of the 2000 Act.

- Any request a standards committee receives from a complainant to review its decision to take no action in relation to the misconduct allegation under section 57B of the 2000 Act.

- Any subsequent hearing of a standards committee to determine whether a member has breached the code, and where appropriate impose a sanction on a member.

3. Standards committees will need to minimise the potential risk of failing to conduct the above processes appropriately. In order to do this and ensure fairness for all parties in the operation of the ethical regime, we propose that the regulations should prohibit a member of a standards committee who has taken part in decision-making on the initial assessment of an allegation under section 57A of the 2000 Act, or considered an allegation which has been referred back to the standards committee by a monitoring officer or ethical standards officer, from being involved in the review of any subsequent request from the complainant under section 57B of the 2000 Act for a review of the committee's decision to take no action. The most obvious way of achieving this would be to require sub-committees of the standards committee to exercise the different functions.

4. However, we are aware of the resource implications of prohibiting members of standards committees from undertaking certain functions of the ethical regime and the problems this may cause for local authorities. Accordingly, we propose that members of a standards committee who have been involved in the initial assessment of a misconduct allegation, or a review of a standards committee's previous decision to take no action, should not be prohibited from taking part in any subsequent hearing by the standards committee to determine whether that matter constituted a breach of the code of conduct and, if so, whether any sanction is appropriate.

Question

Q1. Does our proposal to prohibit a member who has been involved in a decision on the initial assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

b) Members of more than one authority - parallel complaint procedures

5. We are aware that the introduction of the regime for the initial assessment of misconduct allegations may raise an issue with regard to what should happen if a misconduct allegation is made against an individual who is a member of more than one authority (known as a dual-hatted member) and, as such, may have failed to comply with more than one relevant authority's code. For example, an individual who is a member of a district council and a police authority, may be the subject of allegations that he or she has breached the code of both authorities. As such, it would be possible for both the standards committee of the district council and the police authority to receive allegations against the member.

6. Such a situation could lead to inconsistencies in how allegations are dealt with, as one standards committee could decide that no action should be taken with regard to an allegation, whilst another standards committee could refer the allegation for investigation. In addition, to the inconsistencies that this situation may create, there is the issue of a member being subject to an investigation in relation to the same allegation more than once. One potential option for avoiding such a situation would be for the regulations to require that where an allegation of misconduct is made to two separate standards committees, for those committees to decide which one of them should consider the matter, and in default of agreement for the allegation to be referred to the Standards Board who could then decide how it should be dealt with.

7. However, in the spirit of the new devolved conduct regime, we consider that decisions on whether to deal with a particular allegation should be taken by standards committees themselves, following discussion with each other and taking advice as necessary from the Standards Board. This would enable a cooperative approach to be adopted, including the sharing of knowledge and information about the local circumstances and cooperation in the carrying out of investigations to ensure effective use of resources.

8. Two standards committees might, for example, consider it would be appropriate for both of them to consider similar allegations or the same allegation against the same individual, and even to reach a different decision on the matter. Under the new locally based regime standards committees will be encouraged to take into account local factors which affect their authorities and communities. Allegations of misconduct constituting a particular criminal offence might, for example, be taken more seriously by a standards committee of a police authority, than of another type of authority. And this could lead to the two standards committees reaching a different decision on the matter.

Question

Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

c) Publicising the new initial assessment procedure

9. In order to ensure that people are aware of the existence of the new ethical regime and the local arrangements for how to make a misconduct allegation, we propose to include in the regulations a requirement that each standards committee should publish a notice detailing where misconduct allegations should be sent after the new regime has commenced. We also propose that the regulations should require a standards committee to use its best endeavours to continue to bring to the public's attention the address to which misconduct allegations should be sent, as well as any changes in those arrangements.

10. We propose that the Standards Board for England will then issue guidance on the content of the notice, and on how the requirement for the standards committee to provide appropriate information on the regime may be met, including, for example, advertising in one or more local newspapers, a local authority's own newspaper or circular and the authority's website.

d) Guidance on timescale for making initial assessment decisions

11. In order to achieve sensible consistency in the way allegations are dealt with across local authorities, we think it is appropriate for good practice guidance by the Standards Board to indicate the time scale in which a standards committee would be expected to reach a decision on how a misconduct allegation should be dealt with, for example 20 working days, as well as to provide other guidance to assist standards committees in complying with the timescale.

12. Since it is our intention that the new ethical regime should be implemented by light-touch regulation, we do not propose that such a deadline is prescribed by regulations accompanied by any statutory penalty for failure to meet the time scale. Our proposal is that the Standards Board, in considering the operation of the ethical regime by authorities would take into account the overall compliance each authority has demonstrated with the guidance, including guidance on the timetable for action, so that lack of compliance with the timescale on its own would not of itself trigger intervention action by the Board. This kind of regime would suggest that it would be preferable if the timescale was retained as part of the guidance rather than imposed as a statutory requirement.

Question

Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

e) Requirement for a standards committee to provide a written summary of an allegation to the subject of the allegation

13. To ensure that the ethical regime is fair and transparent for all parties, new section 57C(2) of the 2000 Act requires a standards committee to take reasonable steps to give a written summary of an allegation it receives to the person who is the subject of it. This will make sure that he or she knows what the allegation is. However, we consider that there may be certain circumstances where it may not be appropriate for a standards committee to provide information to the subject of an allegation at the time it receives the allegation. We wish to provide by regulation that where the standards committee forms the reasonable view that it would be in the public interest not to provide the written summary, it would have the discretion to defer doing so. We propose to provide that standards committees would be required to take into account advice on the withholding of information provided by the monitoring officer and guidance from the Standards Board. The regulations can stipulate when the duty to provide the summary must be complied with. We propose that the obligation to provide the summary should normally arise after a decision is made on the initial assessment, but in cases where the concerns referred to above apply, it should instead arise after the monitoring officer or ethical standards officer has carried out sufficient investigation, but before any substantive hearing of a case against the subject of the allegation.

14. Guidance from the Standards Board would give advice on the circumstances in which a standards committee would be entitled to operate its discretion to defer giving the written summary of the allegation. This guidance might include taking such action in the following circumstances.

    - Where the disclosure of the complainant's personal details or details of the allegation to the person who is the subject of the allegation, before the investigating officer has had the opportunity to interview the complainant, may result in evidence being compromised or destroyed by the subject of the allegation.

    - Where there is the real possibility of intimidation of the complainant or witnesses by the subject of the allegation.

15. Where a standards committee is relieved of the duty to give a written summary of an allegation to a member, it might exercise its discretion to give some more limited information to the member for example by redacting certain information, if this would not prejudice any investigation.

Question

Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

f) Requirement for a standards committee to give notice of decisions under section 57A and 58 of the 2000 Act

16. In addition to the requirement outlined in the above section, the 2000 Act, as amended, requires a standards committee and the Standards Board to 'take reasonable steps' to give written notice of a decision to take no further action, including the reasons for its decision, to the complainant and the subject member. In addition, a standards committee is required to notify the subject of an allegation, if it receives a request from the complainant to review its decision to take no action regarding a misconduct allegation.

17. We propose that guidance issued by the Standards Board will set out best practice for committees including practice with respect to the notification of a complainant, a subject member or any other appropriate person of the progress of the handling of the allegation. We propose that such guidance would include advice that the Standards Board or the standards committee should take reasonable steps to notify the complainant and the subject member where:

    - the Standards Board decides under section 58 of the 2000 Act, to refer a matter back to the relevant standards committee or refer the allegation to an ethical standards officer for investigation;

    - a standards committee decides to refer a matter to another relevant authority under section 57A(3) of the 2000 Act, to the Standards Board under section 57A(2)(b) of the 2000 Act or the monitoring officer under section 57A(2)(c) of the 2000 Act; or

    - a monitoring officer decides to refer a matter back to a standards committee under section 57A of the 2000 Act. Such a notice may include the reasons why a monitoring officer has decided to refer the case back.

g) References to monitoring officers under section 57A(2)(a) of the 2000 Act

18. Section 57A(2)(a) of the 2000 Act, provides that a standards committee may refer an allegation it receives to the monitoring officer of the authority. We propose to provide for the monitoring officer to be able to investigate and make a report or recommendations to the standards

committee. However, in addition, we propose to provide in the regulations that when a standards committee refers a case to a monitoring officer it may also direct the monitoring officer that the matter should be dealt with otherwise than by investigation. Dealing with an allegation other than by investigation would allow the monitoring officer the discretion, assisted by guidance from the Standards Board, to tackle the problem identified in ways such as the provision of training or mediation to the particular member or making amendments to the authority's internal procedures, for example, arrangements for the provision of training to all members.

19. Enabling a standards committee to refer a case to the monitoring officer for action other than investigation is intended to address situations where the standards committee considers that a case has relevance for the ethical governance of the authority, eg where there are disagreements between members or cases of repeated poor behaviour, which do not require a full investigation, but where a committee feels that some action should be taken.

h) References to monitoring officers – procedure for referring allegations back to a standards committee

20. We propose to set out in the regulations the circumstances where a monitoring officer may refer an allegation back to the standards committee under section 66(2)(f) of the 2000 Act, and the procedure for doing so. We propose that such a referral would apply in the following circumstances:

    - where, during an investigation or following a referral for action other than investigation, evidence emerges that, in the monitoring officer's reasonable view, a case is materially either more serious or less serious than originally seemed apparent, which might mean that, had the standards committee been aware of that evidence, it would have made a different decision on how the matter should be treated;

    - where a monitoring officer becomes aware of a further potential misconduct allegation which relates to the matter he or she is already investigating. In such circumstances, the monitoring officer may refer the matter back to the standards committee to decide on how the new matter should be treated;

    - where the member subject to the allegation has resigned, is terminally ill or has died.

21. With regard to the procedure which a monitoring officer must observe when referring an allegation back to a standards committee, we propose to set out in the regulations that where a monitoring officer refers back an allegation to a standards committee he or she must send written notification of his or her decision to refer a case back and the reasons for the decision to the relevant standards committee. In such

circumstances, the standards committee will then be required to undertake a further assessment of the allegation and reach a decision under section 57A(2) to (4) of the 2000 Act.

Question

Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

i) Referral of matters from a standards committee to the Adjudication Panel for England for determination

22. With the introduction of the more locally based conduct regime, we consider that it is likely that standards committees will be required to make determinations in respect of more serious cases, which are currently dealt with by the Standards Board, its ethical standards officers and subsequently referred to the Adjudication Panel. We consider that providing a standards committee with the right to refer to the Adjudication Panel, where it considers that a breach of the code may merit a sanction higher than that available to the committee, will allow any sanction imposed to match the level of seriousness of the breach of the code.

23. We propose that it would be a matter for the standards committee to make a decision following the receipt of the monitoring officer's report that, if the member was found to have committed the breach, the appropriate sanction would be higher than that which the standards committee would be able to impose. Such a provision would ensure that the subject of the allegation would not be required to face both a standards committee hearing and then a separate hearing of the Adjudication Panel in respect of the same allegation.

24. In order to ensure that standards committees only refer the most serious cases to the Adjudication Panel, we propose to provide in the Regulations that the Adjudication Panel may refuse to accept a referral from a standards committee under certain circumstances, for example, where the Adjudication Panel does not consider, on the face of the evidence, that the matter would attract a sanction of greater than that currently available to standards committees.

j) Increase the maximum sanction available to standards committees

25. As stated above, with the introduction of the more locally based conduct regime, we consider that standards committees will be required to consider more serious cases. Accordingly, we propose to increase the maximum sanction which a standards committee can impose on a member who it has found to have breached the code from a three months partial suspension or suspension to six months.

Question

Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?

k) Composition of a standards committee and sub-committees of standards committees

26. Section 53(4) of the 2000 Act requires that a standards committee should be chaired by a person who is neither a member nor an officer of a relevant authority ("an independent member"). The existing rules relating to independent members will continue to apply so that the independent member must not have been a member or officer of the authority within the previous 5 years. As indicated earlier, committees are likely to appoint sub-committees in order to undertake the three separate functions involved in the ethical regime for local authority members:

    - The initial assessment of a misconduct allegation (section 57A of the 2000 Act).

    - Any review of a decision to take no action (section 57B of the 2000 Act).

    - A hearing to determine whether a member has breached the code and whether to impose a sanction.

27. In order to maintain the robustness and independence of decision-making, we consider that it is important for an independent member to chair each of the sub-committees discharging each of the functions listed above.

28. We propose that the rules should remain as currently provided under the Relevant Authorities (Standards Committee) Regulations 2001 with regard to the size and composition of standards committees (including providing that where a committee has more than three members, at least 25% of them should be independent), and on the proceedings and the validity of the proceedings of committees and sub-committees (including that a meeting should not be quorate unless there are at least three members present).

Question

Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

l) Public access to information on decisions on initial assessments of allegations under section 57A and reviews under section 57B

29. We consider that it would not be appropriate for a meeting of a standards committee to undertake its role on making an initial assessment under section 57A to be subject to rules regarding notices of meetings, circulation of agendas and documents and public access to meetings, as set out in the Relevant Authorities (Standards Committees) Regulations 2001. We take the view that it would not be appropriate for the above rules to apply to meetings which make the initial assessment decisions, as they may be considering unfounded and potentially damaging allegations about members which it would not be appropriate to make available to the general public. Currently, the Standards Board does not publish any information about cases that it does not decide to refer for investigation, which may include, for example, cases which are malicious or politically motivated. Consistent with this approach, we do not take the view that it would be appropriate to give such allegations of misconduct any publicity during the initial assessment phase.

30. For similar reasons, we also do not consider that a standards committee's function of reviewing a decision to take no action regarding a misconduct allegation should be subject to the access to information rules in respect of local government committees.

31. Accordingly, we propose that initial assessment decisions under section 57A of the 2000 Act, and any subsequent review of a decision to take no action under section 57B of the 2000 Act, should be conducted in closed meetings and should not be subject to notice and publicity requirements under Part 5A of the Local Government Act 1972. This approach was supported strongly by those authorities who participated in the Standards Board's recent initial assessment pilot schemes.

Question

Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Chapter 3

The Standards Board's new monitoring function and the circumstances where it may suspend a standards committee's function of undertaking the initial assessment of misconduct allegations and for other committees or the Standards Board or joint committees to undertake this role

Purpose

32. Under the new locally based ethical regime, the Standards Board will provide guidance and support to standards committees and monitoring officers on undertaking their new roles and will monitor their performance to ensure consistency of standards across the country.

33. In order to support this role, the Standards Board will be putting in place monitoring arrangements to ensure that the local regime is operating efficiently and effectively. This will involve authorities completing periodic online returns in relation to the cases they handle and producing an annual report, which the Standards Board will monitor. The Board's monitoring will be undertaken against a series of criteria which they will set out in guidance.

34. The Board's approach has been developed in consultation with a range of local authorities and the aim is to provide support for authorities in ensuring the efficient operation of the local regime and to be easy for authorities to use. The information gathering system will enable the Standards Board to analyse the information received in order to identify and share good practice, which will assist authorities in assessing and improving their own performance. It will also allow the Standards Board to identify those standards committees and monitoring officers who are encountering difficulties in undertaking any aspect of their roles, as well as to identify how to assist them to improve their performance.

Proposals

35. Section 57D of the 2000 Act provides that the Standards Board may, in circumstances prescribed by regulations by the Secretary of State, direct that a standards committee's function of undertaking the initial assessment of misconduct allegations be suspended until the Board revokes such a suspension. The Standards Board's decision on whether to suspend a standards committee's initial assessment function will be made on a case-by-case basis and will be informed by information gathered by the Board about the performance of standards committees and monitoring officers. The Board's consideration of the suspension of a committee's powers may be triggered by one or a number of circumstances such as:

- a breakdown of the process for holding hearings;
- a disproportionate number of successful requests to review a standards committee's decision to take no action;
- repeated failure to complete investigations within reasonable timescales;
- repeated failure to carry out other duties expeditiously, including repeated failures to comply with the proposed 20 working days deadline for making an initial assessment of an allegation;
- failure to implement standards committee's decisions; or
- repeated failure to submit periodic returns to the Standards Board under section 66B and information requests under section 66C.

36. In circumstances where a standards committee's initial assessment functions have been suspended, the standards committee must refer any misconduct allegation it receives to the Standards Board or a standards committee of another relevant authority in England, with its consent, to undertake the initial assessment function.

37. Our aim is that the Standards Board should use its power to suspend a standards committee's initial assessment functions only as a last resort, and after strenuous attempts to improve the authority's performance have failed, resulting in the committee's failure to operate an effective initial assessment process. The Standards Board will endeavour to provide support, guidance and advice to local authorities throughout.

38. As there are numerous circumstances in relation to the performance of the ethical regime which may lead the Standards Board to direct that a standards committee's initial assessment function be suspended, we propose that the regulations should allow for any circumstances where the Standards Board is satisfied that a suspension of the standards committee's functions would be in the public interest. In operating this discretion, the Board would be required to have regard to the range of factors set out in paragraph 35, above.

Question

Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Arrangements for undertaking initial assessments

a) Circumstances where the initial assessment functions may be undertaken by another standards committee

39. Section 57D(2) of the 2000 Act provides that where the initial assessment function of one authority has been suspended, that function may be undertaken by the standards committee of another authority. We propose to allow for such arrangements to be made where the Standards Board and the receiving standards committee agree that it would be appropriate. Provision would also be made to allow a committee to withdraw from such an agreement if it chose to. We will make regulations as necessary, to facilitate such arrangements.

b) Possibility of providing for the Standards Board or standards committees to charge those standards committees which have had their initial assessment functions suspended for undertaking those functions on their behalf

40. Because of the impact which a transfer of responsibility for initial assessment to another standards committee could have, one option might be to allow an authority or the Standards Board to levy a charge against the authority whose standards committee has had its initial assessment functions suspended, to meet the cost of carrying out its functions.

41. There is no express provision in the 2000 Act dealing with the imposition of charges and we do not intend at this stage to make any provision to provide for any.

42. However, we would be grateful for views from consultees about whether the ability to charge a fee to recover the costs of undertaking another committee's role would contribute to the effective operation of the new ethical regime. For example, allowing a charge for the recovery of costs for undertaking the initial assessment role may help to encourage high performing standards committees to agree to undertake another standards committee's functions during the period that its functions are suspended. Such an approach may also encourage standards committees to undertake their responsibilities under the 2000 Act efficiently and effectively, in order to avoid having to pay the costs of another authority taking over their role if their functions are suspended.

Question

Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

c) Proposed procedures for the suspension of a standards committee's initial assessment functions and the re-instatement of those functions

43. In relation to the procedure which the Standards Board should follow when using its power to direct that a standards committee's initial assessment function is suspended, we propose that the Regulations should set out the following requirements and procedures.

- Before a direction to suspend, the Standards Board should send the authority's chief executive a written notice of intention to suspend the functions of the standards committee. Copies of this would be sent to the person who chairs the standards committee and the monitoring officer. The notice may include any recommendations and directions aimed at improving the performance of a standards committee.

- The Standards Board will exercise the suspension power under section 57D of the 2000 Act by written direction, sent to the relevant authority's chief executive and copied to the person who chairs the standards committee and the monitoring officer. The standards committee's functions will be suspended from the date specified in the written notice of direction from the Standards Board. Under that section, the Standards Board may direct that the standards committee must refer any misconduct allegations for action either to the Board itself or to the standards committee of another authority if that committee has consented.

- A direction to suspend the local assessment function may be revoked where the Standards Board is satisfied that the suspension should cease based on evidence and undertakings given by the relevant standards committee. The revocation takes effect from the date specified in the notice of revocation.

- The standards committee should be required to publicise the fact that their power to make initial assessments has been suspended and what alternative arrangements will apply for the handling of misconduct allegations, including the fact that new allegations will be dealt with elsewhere, in one or more local newspapers. Where a committee's power to make initial assessments is reinstated, the committee should similarly be required to publicise the arrangements which will apply for handling allegations following the reinstatement.

44. During a suspension, we envisage that the Standards Board should maintain communication with the monitoring officer and the standards committee chair, as well as other relevant people within the authority, in order to develop an action plan for improving the authority's performance. The aim of the action plan will be to set out the action which the standards committee and the monitoring officer need to take which would then justify the reinstatement of the standards committee's functions in the shortest possible time. We consider that the authority should be required to demonstrate improvement, through evidence, in its ability to discharge its functions under the Act. We propose that the Standards Board will provide various types of support throughout the process including, but not limited to, giving advice and guidance, sharing best-practice or participating in peer reviews, advising that training be undertaken or that a relevant authority enter into joint working arrangements with other local authorities.

45. In order for a standards committee's functions to be re-instated as soon as practically possible, the Standards Board will require cooperation from the suspended authority to ensure the Section 57A, 57B and 57C functions can be carried out. We propose to include within regulations governing the functions of standards committees an obligation to co-operate with the Standards Board during any period of suspension of its initial assessment functions, and to have regard to guidance issued by the Standards Board regarding the re-instatement of those functions, as a means to promote and maintain high standards of conduct, including the publication by the standards committee of a notice of any decision by the Standards Board to suspend the committee's functions or to revoke such a decision.

d) Joint working

46. In order to promote more effective ways of working, we propose to enable a standards committee to work jointly with one or more other standards committees in exercising their new functions under the local decision-making regime for allegations of misconduct, which might allow, for example, for more efficient use of common resources and aid the sharing of information, expertise, advice and experience.

i) Functions applicable for joint working

47. In common with the wishes expressed by many standards committees in recent pilot exercises on joint working run by the Standards Board, we wish all standards committees' functions to be available for joint working, but for each standards committee to decide which of the ethical regime functions it would like to operate jointly with other standards committees. For instance, the majority of those authorities involved in the pilots intended only to operate jointly the initial assessment functions under section 57A of the 2000 Act, whilst other authorities expressed an interest in extending joint arrangements to cover the holding of hearings and determinations of whether a member has breached the code.

ii) Structure and procedural rules of joint standards committees

48. Following the results from the joint working pilot, we believe relevant authorities may best establish joint standards committees within schemes which reflect the regulatory requirements, and which are agreed by each participating local authority. The regulations will specify the functions in relation to which joint working arrangements may be made. Guidance from the Standards Board will give advice on the content of these arrangements, including:

    - size of joint committee, number of independent members and independent chair (ie to follow the rules on the size and composition of individual standards committees)
    - residual functions retained by standards committees (if any)
    - process for dissolution
    - process for appointment of members of a joint standards committee, including independent members and parish representatives
    - process for individual relevant authorities to withdraw from the joint standards committee
    - the appointment of a lead monitoring officer for the joint standards committee or outline division of monitoring officers duties between the relevant authority monitoring officers
    - payment of allowances
    - arrangements for where the Standards Board suspends the functions of the joint standards committee

49. Guidance issued by the Standards Board will help local authorities decide what joint arrangements might be suitable for them. The options available would include the creation of a joint committee which would undertake all the functions of the individual committees, which could be particularly appropriate and represent a sensible use of resources for single purpose authorities, who are the source of fewer complaints than other authorities. Alternatively, agreements would be possible to allow one or more of committees' functions, ie the initial assessment of allegations, the review of a decision to take no action or the determination hearing, to be undertaken by the joint committee. In either model, it would be possible for the joint committee to establish sub-committees to deal with particular functions.

50. Regulations will make clear that joint standards committees are bound by the same rules and procedures that apply to standards committees. However, we believe an exception should be made in relation to the requirement that a parish representative be present when a matter relating to a parish council in the relevant authority's area is discussed. For joint standards committees, this requirement should be satisfied if a parish representative from any parish in the area covered by the joint standards committee is in attendance. That is, it is not necessary for the parish representative to come from the area of the particular parish a member of which is the subject of the matter being considered.

Question

Q11. Would you be interested in pursuing joint working arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Chapter 4

Adjudications by case tribunals of the Adjudication Panel

Purpose

51. To extend the range of sanctions available to case tribunals of the Adjudication Panel, to prescribe the circumstances in which a reference to the Adjudication Panel following an investigation or an interim report by an ethical standards officer may be withdrawn, and to make provision for a case tribunal to give notice of its decision that a member has breached the code to a standards committee and to prescribe the purpose and effect of such a notice.

Proposals

a) To extend the range of the sanctions available to a case tribunal of the Adjudication Panel

52. To ensure that a tribunal has a full range of sanctions available to it in cases where it has found that a member has breached the code, we intend to make available to a tribunal a wider range of less onerous sanctions equivalent to those already available to standards committees (which are contained in regulation 7 of the Local Authorities (Code of Conduct)(Local Determination) Regulations 2003, as amended by regulation 8 of the Local Authorities (Code of Conduct)(Local Determination)(Amendment) Regulations 2004)). We consider that they should be available to a tribunal of the Adjudication Panel when reaching a decision on which sanction it should impose, so that the seriousness of the breach of the code can be matched by the level of the sanction imposed. We intend to make regulations which will enable a case tribunal to impose sanctions including the censure of the member, the restriction of the member's access to the premises of the authority and the use of the authority's resources, and a requirement for the member to undertake training or conciliation.

53. The full range of sanctions which we propose to make available to the Adjudication Panel is as follows:

- No sanction should be imposed.
- Censure of the member.
- Restriction for a period of up to 12 months of the member's access to the premises of the authority and the member's use of the resources of the authority, provided that any such restrictions imposed on the member –

  (a) are reasonable and proportionate to the breach; and

(b) do not unduly restrict the member's ability to perform his functions as a member.

- Requirement that the member submits a written apology in a form specified by the case tribunal.

- Requirement that the member undertake training as specified by the case tribunal.

- Requirement that the member undertake conciliation as specified by the case tribunal.

- Suspend or partially suspend the member for a period of up to 12 months or until such time as he or she submits a written apology in a form specified by the case tribunal.

- Suspend or partially suspend the member for a period of up to 12 months or until such time as he or she undertakes such training or conciliation as the case tribunal may specify.

- Suspend or partially suspend the member from being a member or co-opted member of the relevant authority concerned or any other relevant authority for up to 12 months or, if shorter, the remainder of the member's term in office.

- Disqualify the member from being or becoming a member of that or any other authority for a maximum of 5 years.

Question

Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

b) Withdrawing references to the Adjudication Panel

54. We propose to prescribe in the regulations that an ethical standards officer may withdraw a reference to the Adjudication Panel in certain circumstances. These would include circumstances where:

- after the ethical standards officer has determined that the case should be referred to the Adjudication Panel for adjudication, further evidence emerges that indicates that the case is not as serious as thought originally so that, in the ethical standards officer's view, there is no longer any justification for presenting the case to the Panel;

- a penalty imposed by another body meant the Adjudication Panel could do no more (for example, a sentence of imprisonment of three months or above for a related or non-related offence which would disqualify the member from office for 5 years); or

- the pursuit of the case would not be in the public interest, such as where the member accused has been diagnosed with a terminal illness or has died.

55. Before an ethical standards officer withdraws a reference to the Adjudication Panel, we propose that the regulations should require the ethical standards officer to notify the complainant, the subject of the allegation and the monitoring officer of the relevant authority of the proposed withdrawal. These people would therefore have the opportunity to make representations to the ethical standards officer in advance of the final decision of the withdrawal of the case being taken. We would also provide that the consent of the President of the Adjudication Panel would need to be obtained before a case could be withdrawn. We propose equivalent provision as regards the referral of interim reports from ethical standards officers to the Adjudication Panel.

Question

Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

c) Decision notices of case tribunals of the Adjudication Panel

56. We propose to ensure, through regulations, that the rules relating to the suspension of a member who has been found to have breached the code by the Adjudication Panel are consistent with those which already apply in respect of disqualification.

57. Where a case tribunal of the Adjudication Panel decides that a member has breached his or her authority's code and that the breach warrants the suspension of that member, there is a requirement for the case tribunal to issue a notice to the relevant local authority. Currently, the effect of the suspension notice, unlike an Adjudication Panel's notice to disqualify a member, is not to put into effect the suspension of the member but instead merely to give notice to the standards committee that the person has failed to comply with the code of conduct. Accordingly, the local authority which receives a suspension notice from the Adjudication Panel must currently take action actually to suspend the relevant member. Section 198 of the 2007 Act amends the 2000 Act in respect of the decisions of case tribunals in England. This allows the Secretary of State to make regulations which provide for the effect that any notice issued by the case tribunal is to have. We propose to prescribe that in the case of the issue by the case tribunal of any notice, the effect of the notice will in future have the effect set out in the notice so that no further action is needed by the relevant authority before the notice can come into effect.

58. We also propose that a notice from the Adjudication Panel should have immediate effect, unless otherwise stated, and that the notice should give information on what breach of the code has been found and the sanction imposed. We propose that the notice should be sent to the chairman of the standards committee and copied to the monitoring officer and the member who is the subject of the notice. We propose that, consistent with current practice, the fully reasoned decision of the tribunal is provided to the above people within two weeks of the decision being taken.

Chapter 5

Issuing dispensations to allow councillors to participate in meetings so as to preserve political balance

Purpose

59. It is proposed to amend the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 ("the Dispensations Regulations"), to clarify the rules relating to standards committees granting dispensations to members of local authorities.

Proposal

60. Some local authorities have from time to time expressed concern about the current drafting of the Dispensations Regulations, the effect of which is to allow standards committees to grant dispensations from the prohibition of a member to participate in any business where: more than 50% of the members participating would otherwise be prevented from doing so, and where the political balance of the committee would otherwise be upset.

61. Some authorities have identified the following concerns in the operation of these regulations:

- Regulation 3(1)(a)(i) provides that a dispensation may be issued where the number of members of the authority prohibited from 'participating in the business of the authority' exceeds 50% of those entitled or required to participate. It is claimed that this reference to an entitlement to participate is ambiguous, since in some authorities all members are entitled to attend all committee meetings. The reference to the entitlement to participate in meetings could be replaced with reference to the number of members able to vote on a particular matter.

- Regulation 3(1)(a)(ii) refers to the inability of the authority to comply with section 15(4) of the Local Government and Housing Act 1989. Since that section relates to the appointment of members to committees, and not to the attendance of members at committees it is suggested that what is meant by the term "not able to comply with any duty" under that section of the 1989 Act is ambiguous and might be clarified. Additionally, it could be clarified that the regulations are intended to deal with situations where a majority on a committee would be lost; the intention is not that they should aim to retain the precise political balance on each committee.

- The reference to section 15(4) could be interpreted as allowing dispensations to be granted in relation to committees but not in relation to full council meetings, where issues of political balance can be of concern particularly where there are hung councils or councils with small majorities.

62. To address these concerns, we propose to amend the regulations to make it more clear that they have the following effect:

    - A standards committee should be able to grant dispensations if the effect otherwise would be that the numbers of members having the right to vote on a matter would decrease so that a political party lost a majority which it previously held, or if a party gained a majority which it otherwise did not hold

    - It should be possible to grant a dispensation if the matter is under discussion at a committee or at a meeting of the full council.

Question

Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposal to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Chapter 6

The granting and supervision of exemptions of certain local authority posts from political restrictions

Purpose

63. The purpose of the regulations is to prescribe that a local authority which is not required to establish a standards committee, should establish a committee to exercise functions in respect of the granting and supervision of exemptions from political restrictions.

Proposals

64. Section 202 of the 2007 Act inserts a new section 3A into the Local Government and Housing Act 1989 to provide that the granting and supervision of exemptions of posts from political restrictions should be a matter for relevant local authorities' standards committees. There are, however, some authorities subject to requirements with regard to politically restricted posts which are not required to establish standards committees. The only such authorities of which we are aware are waste disposal authorities.

65. In order to ensure that such authorities are able to make decisions on the exemption of certain posts from political restrictions, in accordance with section 3A of the Local Government and Housing Act 1989, we propose that those relevant authorities which are not required to have standards committees should establish committees to undertake this function. We propose to provide in the regulations that the rules regarding the minimum number of members the committee should have, the proportion of members who should be independent and the requirement to have an independent chair, which apply to standards committees, as set out in the 2000 Act, as amended, and the regulations discussed above regarding standards committees should also apply to the committees of these authorities.

66. This provision should not prevent these types of authorities from instead discharging their responsibilities with regard to the granting and supervision of exemptions from political restrictions by entering into agreements with other authorities to carry out this role on their behalf, under section 101 of the Local Government Act 1972. We propose therefore that authorities should have the option of which of the above approaches to take, so that it would only be in circumstances where the authority has not made arrangements for the discharge of this function by another authority that it would be required to set up its own committee to undertake the function itself.

Question

Q15. Do think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989, to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Chapter 7

Other Issues

(a) Maximum pay of local authority political assistants – results of earlier consultation

Purpose

67. The purpose of the proposed order is to specify the point on the local authority pay scale which will serve as the maximum pay for local authority political assistants.

Proposals

68. In August 2004, the then Office of the Deputy Prime Minister published the *Review of the Regulatory Framework Governing the Political Activities of Local Government Employees – A Consultation Paper*. In the paper we invited views on the pay arrangements for political assistants. There was a consensus among consultees in favour of linking the maximum pay for political assistants to local government pay scales. Various spine points on the local government scale were suggested as the maximum which should apply, and many suggested spine point 49. Authorities did not suggest that further payments such as London weighting should be added on top of the proposed maximum rate.

69. Accordingly, we propose that the order should set the maximum pay for local authority political assistants at point 49 on the National Joint Council for Local Government Services pay scale (currently £39,132 pa). Local authorities will be able to pay remuneration including any allowances to their political assistants provided remuneration to any individual does not exceed the overall rate represented by spine point 49 from time to time in force.

(b) Effective date for the implementation of the reformed conduct regime

70. We propose that those arrangements referred to in this consultation paper which will implement the reformed conduct regime for local councillors will be implemented no earlier than 1 April 2008. We are aware that this is the date which many authorities have been working to, and that there is an expectation by many in the local government world that the amendments will commence on this date. Feedback from authorities to the Standards Board has suggested that many authorities wish the revised framework to be put in place as soon as practically possible.

Question

Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Annex A: Summary of questions

Your views
We would welcome your views on the issues covered by this consultation paper and any other comments and suggestions you may have.

Questions
The specific questions which feature throughout the text of this paper are reproduced for ease of reference:

Q1. Does our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?

Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

Q11. Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Q15. Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

Comments should be sent by e-mail
or post by **15 February 2008** to:
William Tandoh
Department for Communities and Local Government
Local Democracy and Empowerment Directorate
5/G10 Eland House
Bressenden Place
London SW1E 5DU
e-mail: william.tandoh@communities.gsi.gov.uk

Annex B: The Consultation Criteria

1. The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form.

2. Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (for example, under European Union law), they should otherwise be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

3. The criteria are:

    a. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.

    b. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.

    c. Ensure that your consultation is clear, concise and widely accessible.

    d. Give feedback regarding the responses received and how the consultation process influenced the policy.

    e. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.

    f. Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.

4. The full consultation code may be viewed at http://www.cabinetoffice.gov.uk/regulation/consultation/consultation_guidance/the_code_and_consultation/index.asp#codeofpractice

5. Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process, please contact:

    David Plant, Head of Better Regulation Unit,
    Department for Communities and Local Government,
    Zone 6/H10, Eland House, Bressenden Place, London SW1E 5DU

    e-mail: David.Plant@communities.gov.uk

LOCAL ASSESSMENT

Training exercise for standards committees

Introduction

The Local Government and Public Involvement in Health Act 2007 has created a change in the Standards Board for England's role. In future, our focus will be on ensuring that members adhere to the Code of Conduct, and that there are adequate arrangements in place at local level for handling cases and preventing misconduct.

One of the main changes to the standards framework is that local authority standards committees will be responsible for receiving complaints about members and deciding whether any action needs to be taken. The Standards Board is planning for its strategic role by preparing local government for taking on this local assessment function.

There is to be a greater focus on training and support. With this in mind, the Standards Board has created a training exercise to help standards committees develop their ability to assess new complaints. The exercise is based on a pilot that the Standards Board ran in 2007 with approximately 50 participating local authorities.

Benefits of the exercise

The benefits of the exercise for standards committees are:

- Training and preparation to ease the transition from a central to a local assessment process.
- Practice at operating the appeal mechanism.
- Helping familiarise members with the operation of the revised Code of Conduct (available to download from our website).

The exercise – your preparation

In this section of the website is a set of 12 cases, A-L, which the Standards Board has already assessed. These cases concern real members and are genuine. They have been anonymised as far as possible. However, in the unlikely event that a committee member recognises a case from the circumstances, we expect that confidentiality will be respected for the integrity of the exercise and the sake of those involved.

The cases have been compiled in consultation with the Standards Board's Referrals Unit.

It would be very difficult to pick a truly representative batch from the thousands of complaints the Standards Board has received. Yet, the chosen sample

aims to provide a spread of the main issues which the Standards Board's referrals officers take into account when assessing a case. In the 12 cases:

- We have provided the raw complaint, as it reached our office, and also the summary prepared by officers as it would appear in the decision notice.
- The allegations come from a range of sources – the public, other members, and officers.
- They cover the main paragraphs of the revised Code of Conduct and may disclose a number of potential breaches of the Code.
- There are complaints which are both rural and urban in nature due to the diverse areas committees cover.
- There are also some complaints concerning parish councils. We appreciate that not all standards committees have responsibility for parish councils. However, the Act envisages new community, neighbourhood and village councils in areas without parishes so far. Coupled with the likely increase in unitary authorities, more and more members will need to gain knowledge of this tier of government.

Your committee's task is to decide which cases should be referred for further action. The committee will need to provide reasons for those which are not referred.

It is expected that the exercise should take no more than half a day or an evening, in other words, a three-hour mock session of your committee.

Appeal cases

In two cases (K and L), we will assume that the decision not to refer the matter for investigation has already been made, and it is set out in the decision notice with the reasons. However, the complainants have asked for these decisions to be reviewed as the law allows, and their letter is enclosed. In these instances, therefore, you are sitting as an appeals committee rather than an assessment committee.

Do not worry about you or officers being hypothetically conflicted out by previous involvement. Simply look at the allegation and summary, and then review the request afresh as if you were dealing with a real appeal. In general the grounds for overturning a decision on appeal are:

- That the original decision is considered to be a flawed judgement because it is unreasonable in law or because the correct procedures were not followed.

- The complainant has provided compelling new information in their review request.

Criteria

At present, the Standards Board's referrals officers take account of agreed criteria when assessing a case. The criteria were developed at national level and reflect the priorities of the Standards Board for England. Your committee is therefore not expected to abide by them, as this is a local assessment, and we anticipate that the ethical regime will evolve locally.

Local priorities may not always be the same as the Standards Board's. For example, the Standards Board may have decided that a case disclosed a potential breach of the Code but was not sufficiently serious within the national context to warrant a publicly-funded investigation. A local standards committee, on the other hand, may decide that they can only determine how true or serious the alleged breach was after investigation.

The old system was also based on the idea of an investigation followed by a sanction if appropriate. The new system allows greater scope for mediation and other remedies. Unlike before, standards committees may now wish to take other action in certain instances where a sanction might have been unlikely or unhelpful. The recommended approach can be summed up in the two key tests which members should apply to new complaints:

- Does this allegation disclose a potential breach of the Code of Conduct?

- If it does disclose a potential breach of the Code, should anything be done about it?

This approach is demonstrated in the flowchart at the end of this document. The flowchart also points to the kind of allegations that standards committees might consider suitable for referral to the Standards Board for England. Please note, this is notwithstanding the Standards Board's stated position that it will not automatically accept every case referred to it. It is impossible to accurately predict the sort of cases in this category, and it would be wrong to prescribe them.

Typically though, we expect that they will be:

- Complaints concerning the leadership of the council or in some cases the opposition.

- Complaints from chief executives and monitoring officers.

- Instances where a large number of key people are conflicted out and there is a risk of successful judicial review.

There may be other instances where there has been national attention, or where the standards committee feels that the matter turns on an important point of interpretation of the Code.

It is important to underline that where no breach of the Code is disclosed by the allegation, no matter what its source or whoever the subject member, the case falls at the first hurdle. The matter of referral to the monitoring officer or the Standards Board consequently does not arise. Clearly, where no potential breach is disclosed, the matter is at an end, and it is for the committee to provide robust reasons why.

Members may also consider that there are cases which disclose a clear potential breach of the Code. Your committee need not dwell on these too long, provided there is agreement. The same goes for overturning a decision on appeal. On the other hand, there are a number of borderline cases in your pack which come down to a matter of judgement and justification. As long as the justification is sound, there is really no right or wrong answer in these instances. This is because it will depend on local circumstances. Please also bear in mind that a right of appeal exists against a decision not to refer.

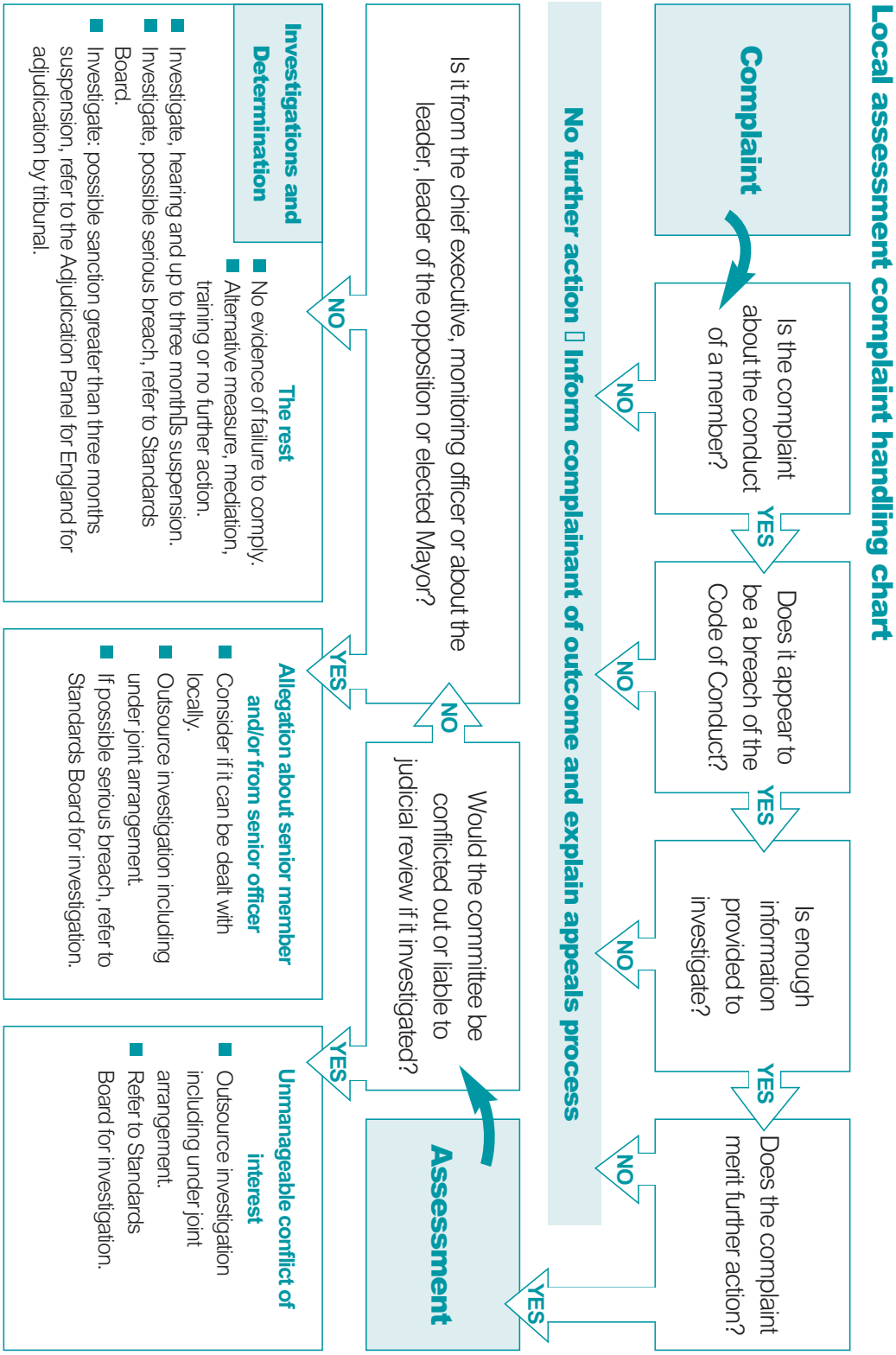
Carrying out the exercise

There ought to be a broad set of common expectations for the exercise to succeed:

- A situation as near to reality as possible with your normal rules of committee procedure, such as for seating arrangements.
- The comfortable degree of formality or informality according to custom.
- Your independent chair or chairperson presiding.
- You should follow your customary means of decision making according to the culture of the authority. For example, the chair taking the mood of the meeting, voting by show of hands, or the clerk drafting a resolution for approval.
- The chair, the monitoring officer or the clerk if present should record the decision and the reasons for it. This is essential in the case of decisions not to refer, and will be a legal requirement in future.
- Officer advice may be available, but given sparingly enough for the committee to gain experience from the exercise.
- You will need approximately three hours of time. It is quite acceptable for the session to be on the same day as a scheduled meeting of the standards committee, although it is recommended that the training session be conducted separately from an open meeting. However, if the

committee's regular business is likely to be onerous, this session might better be held another day.

- A good spirit of mature role play and an agreeable atmosphere for learning.



Contact us

If you have any questions about the exercise please contact our enquiries line on **0845 078 8181** or email **enquiries@standardsboard.gov.uk**.

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CASE A

HILTON BOROUGH COUNCIL - COUNCILLOR PETER CITRINE

Summary

It was alleged that Councillor Peter Citrine published a political leaflet on behalf of the local Liberal Democrats suggesting that people should boycott the shops in the high street belonging to Councillor Leo Hall, the Conservative council leader. This was in response to the council's decision to introduce car-parking charges in the town centre, which the Liberal Democrats were campaigning against. The complainant is an employee of Councillor Hall. She works in a pet shop and alleges that Councillor Citrine is jeopardising her livelihood by effectively encouraging people to patronise another pet shop 200 yards away.

Miss Marjorie Dawes
76 Ferry Lane
Hilton
HT2 6KJ

6th January 2005

Dear sirs,

I wish to complain about an article that has appeared in a political newsletter that has been distributed to thousands of homes in Hilton in December 2004 under the name of Cllr. Peter Citrine of Hilton Borough Council and HiltonLiberal Democrats.

The article in question refers to car parking charges and tells people which shops to boycott owned by Mr. Hall . I am employed by Mr.Hall and I believe to encourage people to boycott his shops will disadvantage me and the other members of staff who work for him. I have already had people speak to me to say they have boycotted the shop as they have been told not to use the shop. It is my very livelihood Cllr. Citrine has put in jeopardy.

Having researched your website and looked up the terms of reference it clearly states that "A member must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage." As there is another pet shop (Pampurred Pets) in Hilton High Street only 200 yards from the shop I work in (Pets Paradise) it is abundantly clear that Cllr. Citrine by his actions is seeking to advantage my rivals as well as seeking a political advantage for him and to the disadvantage of all of us who work there.

Your terms of reference under (2) also states that "A member must (a) treat others with respect." I think the way Cllr. Citrine has used and named the businesses has an affect on my livelihood and is not treating me or my work colleagues fairly or with respect.
What he has done has caused a great deal of harm with the potential to cause job losses for his own political gain ands to the financial advantage of our local competitors.

I, nor any of the staff employed by Mr. Hall are members of any political party, are not active in supporting any political party, nor stood in any elections. We are not political people. All we want to do is to protect our jobs. The newsletter seeks to put in jeopardy the livelihood of me and my work colleagues. If this is how you allow Councillors to conduct themselves then there is little wonder the general public hold them in scant regard.
Surely this type of newsletter brings not only Cllr. Citrine into disrepute but also the authority he represents.

As the Standards Board for England has been set up to deal with this type of complaint I would ask you to investigate this matter as I believe I have been discriminated against, treated disrespectfully, had Hilton Borough councils' reputation tarnished by the actions of Cllr. Citrine who has used his position improperly to forward his own political advantage and to seek a financial advantage for our local competitors to the disadvantage of me and my work colleagues.

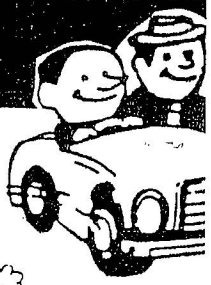
Thank you for taking the tome to read this letter, I enclose a copy of the offending newsletter.

Yours sincerely

M. Dawes

Miss Marjorie Dawes

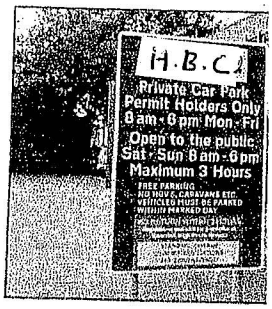
Where you can still park for fre in Hilton town centre:



Parking charges only apply in Council-run car parks. On-street parking is still free.
You can park for free on any stretch of road not covered by yellow lines.
Some roads have a maximum stay of one or two hours.
In some roads you can park all day for free. Check the roadside signs for time limits.

You can also park for free in the small car park behind the Town Hall at weekends.
Parking charges do not apply to this car park at weekends.
There is no ticket machine in this car park.
You do not need to buy a ticket if parking here at weekends.

You may wish to protest about car parking charges by boycotting the High Street shops run by Conservative Council Leader Leo Hall
ELJ Furnishings & Pets Paradise between the Town Hall and Post Office.
But please don't boycott other town centre shops. It's not their fault that parking charges are in place. They need your continued custom.
Please support our local Hilton shops and help their staff keep their jobs.

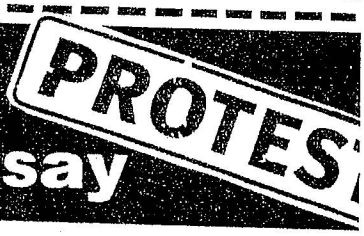


Parking is still free in small car park behind Town Hall at weeken

It's not too late to make YOUR views know

If you've yet to fill in one of our Car Park Charges Survey forms, please do so today.
The more people who make their views known, the better our chances of getting things change

Car Park Charges - YOUR chance to have YOUR say



* Do you agree with car parking charges for borough residents? YES / NO
* Would you support charges for non-residents who commute across the Harbour? YES / NO
* Do you think the £480 charge for a Hilton Residents Parking Pass is: TOO HIGH / TOO LOW / ABOUT RIGHT
* Do you think it right that Conservative Council Leader Leo Hall and top Town Hall officers should continue to get free Town Hall parking when everyone else has to pay? YES / NO

Name: ..... Address: .....

Postcode: ..... Email address (if you have one): .....

Please return to Councillor Peter Citrine, Hilton Liberal Democrats,

If you know of any other local issue or problem which Councillor Peter C and the Liberal Democrats may be able to help with, please let us have the details. Write to Councillor Peter Citrine at Hilton Town Hall, HT4 1AA

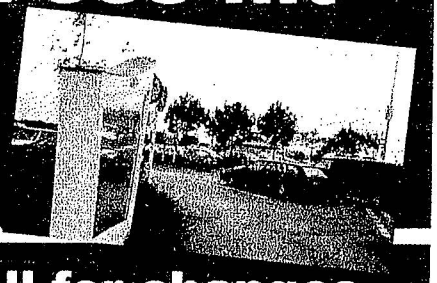
As a local Borough and County Councillor, he's here working for us all-year-roun

Focus

Local News and Action

Xmas Trade down 30% as Car Park Charges take effect

Parking Fees hit Hilton Trade



Lib. Dems. call for changes "before it's too late"

Town Centre Traders fear a gloomy Christmas as Car Park charges hit Hilton - shops and market stalls.

Some shops report trade down by 30 per cent. Three stores are closing their doors and more are expected to follow as the Conservative Car Park Charge drives shoppers away. Now Liberal Democrat councillors want the scheme changed before Hilton becomes a ghost town

Liberal Democrat councillors want:

* **A return to free parking in short-stay shoppers car parks** to help Hilton traders & shoppers.
* **A much-reduced season ticket for borough residents using long-stay car parks** - £50 has been suggested.
* **An end to free parking for top Town Hall officers and councillors** - it's wrong that Conservative councillors including Leo Hall and Peter Lowry can still park for free when everyone else has to pay.

Most residents say they support the Liberal Democrat proposals.

CAR PARK SURVEY RESULTS

Residents oppose Conservative Car Park Tax

A survey of over 10,000 households has shown overwhelming opposition to the Conservative Car Park Tax. Over 95 per cent of those surveyed opposed charges for Hilton residents. 98 per cent believed the annual £480 charge for residents is far too high. 99 per cent said it is wrong that Tory councillors and Town Hall bosses can still park for free.

Residents support Liberal Democrat alternative

Liberal Democrat Councillor Peter Citrine thanked everyone who took part in the survey. "It was important to give local people a say", said Peter. Now the Council should listen to Hilton residents and amend the scheme to bring back free parking for residents in short-stay car parks and give local residents a much cheaper season ticket for the long-stay car parks."

Conservative double standards - What they say and what they do:

* Why did Conservative Leader Leo Hall tell 'The News' that councillors should pay for parking... and then allow Conservative councillors to continue using the Town Hall car park for free?
* Why did Conservative Councillor Peter Lowry say he was *"extremely disappointed that car park charges are to be introduced"* just days before he voted **FOR** their introduction?

Conservative Council Leader Leo Hall can still park his 4x4 at the Town Hall for free

Overleaf - Where YOU can still park for free

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CASE B

BOROUGH OF SELCHESTER – COUNCILLOR JULIA HARTY

Summary

It is alleged that Councillor Julia Harty lied at council meetings about her decision to require Local Education Authority appointed school governors to pay the £36 cost of their own Criminal Records Bureau (CRB) checks. This is a process which she had approved while cabinet member for education. The complainant, who is the opposition chief whip, said that Labour councillors received complaints during August 2006 that new governors would have to have a CRB check at their own expense. He also said there were letters in the press criticising the policy. It is alleged that at this stage, Councillor Harty suggested a bursary scheme for those who could not afford to pay. A newspaper article quoted the council as saying that the fee **may** be waived by those not able to pay. It is alleged that at a scrutiny committee on 12 September 2006, Councillor Harty, replying to a question, said that it had always been the policy to reimburse governors their CRB expenses. This is not what she had in fact agreed.

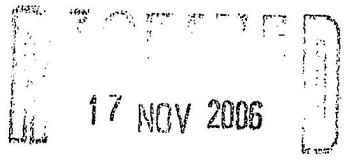
The opposition put down a motion in council on 20 September 2006 on the matter. And it is reported that Councillor Harty again claimed that it was always the policy to reimburse governors for CRB expenses.

Borough of Selchester

Town Hall
Queen Street
Selchester SL1 1BB

Councillor Barry Corder
Labour Group Whip

Tel:
Email: k
Web:



Mr David Prince
Chief Executive
The Standards Board for England
1st Floor, Cottons Centre
Cottons Lane
London SE1 2QG

15 November 2006

Dear Mr Prince

COUNCILLOR JULIA HARTY

I am writing to formally complain about the actions of Councillor Harty who, while holding the position of Cabinet Member for Education, lied at Council meetings about her decision to require LEA appointed school governors to pay the £36 cost of their own Criminal Record Bureau (CRB) checks. The requirement that such governors undergo these checks was a new policy introduced by Councillor Harty. She not only lied about making this decision at Council meetings but she also lied to her own colleagues, including the Leader of the Council.

The facts supporting this complaint are as follows:

During August this year (2006) members of the Labour opposition received a number of complaints from LEA appointed governors who informed us that they had received letters from the Council stating that the Council had decided that newly appointed school governors should undergo a check through the CRB at their own expense as part of the appointment process to the role of school governor.

This resulted in a story in the local press (see copy on page 5).

You will note that at the end of that article the response from the Council's press office confirmed that this decision had been taken and that the fee may be waived for those not able to pay.

Over the following weeks a number of letters from members of the public were printed in the local press (see copies on pages 6 to 8).

At the meeting of the Council's Education and Children's Services Scrutiny Committee held on 12 September 2006 Councillor Harty stated in reply to a question that it was always the policy to reimburse governors for the £36 CRB expense (please see the extract from the minutes of that meeting on page 9).

On the agenda of the Council meeting held on 20 September 2006 there was a special motion from the opposition on this matter (see copy on page 10).

During the debate on this special motion Councillor Harby claimed that the local press had misreported this policy and again she claimed that it was always the policy to reimburse governors for CRB expenses (see extract from the transcript of the Council meeting on page 11).

The statements that she made at these two meetings were simply not true as I will prove.

On 21 September 2006 I e-mailed the Chief Executive, Mr John Greyling, with a list of the information I considered necessary to pursue this matter. I did not receive the last of the information that he ruled I was entitled to until 7 November 2006.

I refer to the first response that I received from him on 23 October (see pages 12 to 13).

You will note that he refused to supply me with all of the information that I considered necessary. However, I believe I have enough information to proceed with this complaint.

On pages 14 to 15 is a copy of the standard letter sent to governors.

The first paragraph on page 14 states that the Council has agreed to implement these CRB checks and that governors undergo these checks at their own expense.

It is important to understand that under the cabinet system of running the London Borough of Selchester although the letters refer to decisions of the Council, the decision was made by Councillor Harby under her powers as Cabinet Member for Education.

The fourth bullet point on page 15 makes it clear that governors are required to give a personal cheque for £36 to pay for the CRB checks when they hand their forms in. There is absolutely no mention of any reimbursement of governors.

I now draw your attention to the chronology of events provided by Janet Hudson, Deputy Director, Children's Services (see page 16).

With regard to Councillor Harby's statements that it was always her intention to reimburse governors the £36 charge for CRB checks, I draw your attention to the fourth paragraph on that page which records a Cabinet Member's briefing held on 31 July 2006 in which Councillor Harby agreed with the implementation process proposed by officers that LEA governors should apply via the school for which they were a governor for a CRB check and that governors would be charged.

Paragraph five on that page (16) records that in response to a local press enquiry about governors being charged for CRB checks, Councillor Harby e-mailed to enquire whether it was possible to set up a bursary scheme but only for those governors unable to pay.

An e-mail dated 15 August 2006 from Alison de Souza (Head of School Governance) to Andrew [redacted] (Director of Children's Services) confirms that Councillor Harby had decided that school governors should pay for the CRB checks themselves (see page 17).

On 17 August 2006 Andrew [redacted] e-mailed Councillor Harby to inform her that he had been contacted by a number of people who were objecting to this policy. In her response dated 18 August 2006 she mentioned that if there were objections, the Council may have to pay for those checks (see page 18).

A copy of the letter from Andrew Elliott sent to Mr Colin O'Neill (one of the complainants) confirms that governors were required to pay for these checks (see page 19).

I now draw your attention to the e-mail dated 29 August 2006 (see page 20) from Councillor Harby to Andrew [redacted] (Director of Children's Services) in which she sets out her opinion that all school governors should offer to pay the CRB charge themselves but that to cover themselves a bursary should be set up to help those governors unable to pay.

The final piece of correspondence that I wish to draw your attention to is the letter of 25 October 2006 from Councillor Robson to John Greenling (Chief Executive) copied to me (see page 21).

In this letter she maintains the lie that it was always the intention to reimburse school governors the cost of their CRB checks and she also confirmed that it was she who agreed to the response to the press which included a statement that for those governors unable to pay this charge may be reimbursed.

She would not have agreed to this statement if it had always been her policy to reimburse all governors. Indeed, as I have already pointed out, in her e-mail to Mr Elliott on 29 August 2006 Councillor Harby makes it plain that in her view as responsible adults governors should just offer to pay this charge themselves.

It is also a red herring for Councillor Harby to say that she did not see a draft of the letters that were sent to governors for the officers are quite clear in their own minds that she was aware of their content which after all merely set out her own decisions.

Councillor Harby has now resigned as the Cabinet Member for Education but we have accepted the assurance from the Leader of the Council that her resignation has nothing to do with this but is for family reasons.

In conclusion therefore I believe I have proved conclusively that when Councillor Harby as Cabinet Member for Education, stated in meetings of the Council that it was always the intention to reimburse, she knowingly told lies.

Indeed, it was only because of the unfavourable coverage of the policy in the local press that she even enquired as to whether or not a bursary could be set up to reimburse those unable to pay. The fact that the CRB is not now going to charge is beside the point.

Councillor Harty's behaviour in this matter completely undermines confidence in local democracy and brings the Council and all its members into disrepute. I would ask therefore that you investigate this matter with a view to taking action against Councillor Harty.

Yours sincerely

B. Corder

LABOUR GROUP WHIP

Gazette - 8th September 2006.

School governors must pay up to be scrutinised

Anger at £36 charge for criminal record checks on unpaid volunteers

by Michael Russell

SCHOOL governors have hit out at the council's decision to charge them for Criminal Records Bureau checks.

Anyone volunteering to do the job with local education authority schools now has to pay £36 to [redacted] Council officials so they can check with the Government's Criminal Records Bureau agency that the applicant has not been convicted of an offence which prevents them from working with children.

Speaking to the Gazette, current governors said that while they agree with the checks they do not believe people who are doing a job for free should have to pay for them out of their own pocket.

They also feel the fee may put some people off being governors in the future.

A governor of [redacted] School in Kingwood Road, [redacted] since 2002, said: "I think it's outrageous to send a bill to governors who give up so much of their time to help schools.

"It strikes me they (the council) don't have a clue about the role governors play; we are not paid for our work and do not even claim expenses.

"We play a very important part in raising school standards and perform a range of duties.

"For example I'm a research scientists and was able to help the school with their proposal to become a science specialist school, which brings in extra funding.

"In my experience it's difficult finding suitable and committed people willing to be governors.

"Some are not going to be carrying £36 in their purses, so it could be a disincentive."

Labour shadow education chief Councillor Harry Beggs has also criticised the £36 charge.

He said: "We support CRB checks, but asking people who give their time freely to put their hands in their pockets is unacceptable.

"We should be welcoming governors and picking up the tab no matter what their income as a sign of respect for their work in the community."

Responding, a [redacted] spokesman said: "The policy applies to all newly-appointed local authority governors to ensure that people who have unsupervised access to children have been fully CRB cleared.

"This provides peace of mind for parents in the borough.

"The fee may be waived for those not able to pay."

What do you think?

Do you think school governors should pay to have CRB checks carried out on them?

- **Call on**
- **E-mail edit@**
- **Write to the Gazette,**

Councillor Harry Beggs has criticised the £36 charge for checks on governors.

Gazette - 22nd September 2006.

No CRB fees for governors

I WOULD like to set the record straight about our policy on school governors appointed by the council.

Following successful negotiations between the council and the Criminal Records Bureau, the CRB has agreed to waive the £36 charge for carrying out checks on school governors appointed by the local authority.

It was always the council's policy to reimburse governors for this expense. However, we are pleased to have agreed with the CRB that there will be no charges for checking volunteers.

We have appointed 23 new governors since May and have more people wanting to be local authority governors in schools than there are places.

The move to ask governors who may have unsupervised access to children to undergo CRB checks was designed to give parents peace of mind.

Anyone who wants to find out more about becoming a school governor can email Cllr Paul Gibb

Cabinet member for community and children's services, Council

Is Gibb being straightfoward?

COUNCILLOR Antony Gibb writes in your paper (Letters, September 22) that it was always the council's policy to reimburse government for the £36 expense of the Criminal Records Bureau checks.

If this is the case, why did letters go out on Council paper telling school governors that they would have to pick up the bill and that this was the decision of the Conservative Cabinet Member for the Education?

I remember first reading of this story in the Gazette and so I would also ask why the council's original statement to this paper said that governors would only be reimbursed if they proved they could not afford the £36 fee?

The only conclusion is that either Mr Gibb being less straightforward than he should or he does not know what he is talking about.

Neither conclusion inspires much confidence in him or the Conservative administration

CLIVE B[illegible]

Address Supplied

It's a blunder by the Tories

I WAS astonished by Councillor Gibb's claim in the Gazette last week (Letters, September 22) that 'it was always the council's policy to reimburse governors for this expense'.

This is contrary to the letter I received on August 9 from the same council which clearly informed me that 'the council has agreed that all newly-appointed LA school governors should undergo a CRB check at their own expense' and asked me to supply a personal cheque for£36.

A member of the education department provided further clarification, confirming in writing that this was the decision made by the cabinet member for education.

It seems to me that either Councillor Gibb is deliberately misleading your readers or that the new Conservative administration is in such chaos that they have no idea what decisions they are making.

I am glad that once he understood his colleagues' decision, he agreed that imposing this charge was ill considered.

But blunders like this do nothing to convince me that they are serious about improving state education or indeed capable of running the council effectively.

I do hope that in future he and his Conservative colleagues will pay a little more attention to the decisions they are making.

JAMES B

He's just naive and misleading

I WAS astonished to read Councillor Gibb's comments in your paper (Letters, September 22).

I appreciate that he has only just taken over from the recently-resigned cabinet member for education and so he may not yet be up to speed.

But, to write to the Gazette making the statements he does, strikes me as at best naive and at worse misleading and incompetent.

I have seen a letter from [redacted] Council demanding £36 from a school governor.

When the school governor in question phoned the council to find out what was going on, he was told that he would have to pay the sum to the council if he wanted to remain a governor.

He was also told that this was a political decision made by the new Conservative administration.

If the decision had not been reversed, my friend would have resigned in protest.

Last week Councillor Gibb said that 'it was always the council's policy to reimburse governors for the £36 expense of the Criminal Records Bureau checks'.

This is plainly not true and could be a matter for his resignation.

Maybe the Conservative administration need to recognise that to lose one cabinet member for education after only five months is unfortunate but to lose two could be seen as careless.

Councillor Gibb, I believe you owe us an apology.

SILVIA J[illegible]

Work to repeat CRB success

I ATTENDED last month's meeting of [redacted] Council and listened to the debate on the new Conservative administration's proposal to charge school governors £36 for criminal record checks.

It has not been made clear that it was the Labour councillors who persuaded their Tory colleagues at the meeting to change their minds over the proposal.

The Tories disguised this change of mind by saying they had no intention of levying such a charge and it was all an invention of misleading press reports.

When a Labour councillor disputed this version and produced letters written to school governors about paying the £36 charge there was consternation on the Tory benches – and the council leader even suggested that the letters were forgeries! They were unaware that such letters had been written from the Education Department following the decision by the Conservatives.

The new Conservative administration seems to have a prejudice against education and now proposes to close [redacted] school, which is one of the borough's most improved schools. This decision cannot be challenged at a full council meeting again until January. Let us hope the opposition benches on the council will be as successful in persuading the Conservative majority to reverse this decision as they were over the £36 levy on school governors.

JOHN

Extract from minutes of the Education and Children's Services Scrutiny Committee – 12th September 2006

Councillor Harry Beggs asked Councillor Julia Harty, Cabinet Member for Education for clarification on rumours about the council charging governors to be CRB checked. Councillor Harty stated that following successful negotiations between the council and the Criminal Records Bureau, the CRB has agreed to waive the £36 charge for carrying out checks on school governors appointed by the local authority.

Cllr Harty went on to state that it was always the policy of the council to reimburse governors for the £36 CRB expense. However, she was pleased that the council had successfully agreed with the CRB that there will be no charges for checking volunteers. 23 new governors had been appointed since May and there were currently more people wanting to be local authority governors in schools than there were places. The move to ask governors who may have unsupervised access to children to undergo CRB checks was originally agreed by the cabinet and was designed to give parents peace of mind. It was always intended that governors would be reimbursed.

COUNCIL – 20 SEPTEMBER 2006

SPECIAL MOTION NO. 3 – SCHOOL GOVERNOR CRIMINAL RECORD BUREAU CHECKS

Standing in the names of:

(i) Councillor Matthew Hopkins

(ii) Councillor Zameera Arif

"This Council welcomes the introduction of Criminal Record Bureau checks for school governors. However, it disagrees with the decision of the Cabinet Member for Education to pass the £36 charge, associated with this, onto individual governors as this is detrimental to governors on low incomes and state pensions. School governors are committed volunteers; giving their time freely and providing a valuable service to our community and it is an insult to seek to charge them for this activity. This Council, therefore, agrees to overturn that decision and will guarantee that this charge is met from public funds."

jpc/13/09/06

Extract from the transcript of the Council meeting held on 20th September 2006.

Councillor Harty

Thank you for your comments. First of all I would like to everybody who is a governor, we the Conservative administration understand how much everybody gives to schools and I myself as Chair of Gardens school understand that too. However, there has been some misreporting in the local press of our policy which I think has led to some misunderstanding and as I announced at Scrutiny our policy was always to reimburse governors for expenses for CRB checks. But following ongoing discussions with the CRB I was able to announce at Scrutiny that we have negotiated that the Council will no charge for CRB checks on volunteers. This is excellent news and as I said I did announce this at the Scrutiny meeting. We do feel that it is important for LEA governors who are our responsibility to be CRB cleared. I am also pleased to report that since the Conservative administration came into power we have re-appointed 23 governors and that we have more demand for LEA governor positions then we have places. This is very good news for schools and I do agree with you how important and value added a role that our governors play in schools. I hope that clears up any concerns you had.

Borough of Selchester

Town Hall
Queen Street
Selchester SL1 1BB

John Grayling, Chief Executive

23rd October 2006

Cllr Corder

CEO/GA/AR

CONFIDENTIAL

Dear Councillor Corder

Re: School Governors CRB Checks

Thank you for your email dated 21st September 2006.

I apologise for the delay in replying. This has been caused by the necessity to collate the information requested and consider how it should be dealt with under the various *access to information* schemes which are relevant in this case.

I enclose the following documents:

1. Chronology of events

2. Letter sent to governors

3. Relevant correspondence & documents

4. Transcript of Council debate

I set out in detail below how we have dealt with your request. The information provided above is provided on the basis of your rights as a councillor and not under the Freedom of Information Act ("FOIA"). It should therefore only be used for the purposes of your duties as a councillor.

As a councillor you are entitled to have access to information if you can demonstrate a need to know in order to carry out your duties as a councillor. In addition you are entitled to material which relates to an executive decision by the Council. I am satisfied that you have a right to see the documents set out above.

Continued.../

Letter to Cllr Corder continued.../

In terms of FOIA, I consider that the correspondence between officers and members on this matter is exempt from disclosure on the grounds that its disclosure is likely to prejudice the effective conduct of public affairs, in that it is likely to inhibit the free and frank provision of advice or the free and frank exchange of views for the purposes of deliberation, and that in all the circumstances the public interest in maintaining the exemption outweighs that in disclosing it. This correspondence is therefore exempt under S.36 of the Act. In addition some of the correspondence relating to the matter is between officers and individual governors and contains personal data in relation to those individuals. Disclosure of this information is likely to breach the data protection principles and therefore the information is exempt from disclosure under S.40 of the Act.

The distinction is an important one as the Council would refuse a request made by a member of the public in relation to the material enclosed under 1 and 3 above.

For the sake of completeness I will deal in turn with your numbered requests.

1. I enclose as document 2 the standard letter sent to all LEA governors.

2. Janet Hudson authorised the letters under the authority of the Councillor Harby.

3. The only minute relating to this matter is the one line extract dated 29th June 2006 which is included with 3 above. Other topics in this minute not relevant to this matter have been deleted.

4. I attach copies of all the correspondence which I consider you are entitled to see as a councillor with 3 above.

In terms of your additional questions relating to press matters the answers are as follows:-

1. Pippa Roux

2. Councillor Harby under her authority as Cabinet member for Education.

I hope that this deals with your enquiry. If you are unhappy with the reply insofar as it relates to your rights under FOIA, you may refer the matter to the Information Commissioner (www.ico.gov.uk). The Commissioner has no jurisdiction to consider your rights as a Councillor, only as a member of the public under FOIA.

I am sending a copy of this letter to both Cllr Harby and the Leader.

Yours sincerely

CHIEF EXECUTIVE

July 2006

Name & Address of Governor

Dear Name of Governor,

RE: CRIMINAL RECORDS BUREAU (CRB) CHECK.

The Council has agreed that all newly appointed LA school governors should undergo a check through the CRB, at their own expense, as part of the appointment process to the role of school governor.

To start that process I enclose a CRB disclosure application form, a guidance booklet explaining how to complete the form, and an addressed envelope. Please read the instructions on the form and in the booklet carefully before completing it. Any errors at this stage will incur delays in completing the check. Please complete sections A to D, and section H only. Sections E, F and G are irrelevant to this application. Section X will be completed by your school. Section Y is completed up here, and section Z is completed by the CRB.

There are some points to note when completing the application which may not be clear from it or the guidance:

- **Section A1:** if you put a cross in the box marked *Ms*, the CRB will expect to see further entries from you in section C20, and C22 if appropriate. If you have not used any other surname since birth, put your surname in section C20 (despite what it asks you to do) and put the current year in section C21.

- **Section B:** the position applied for in section B13 is *LA APPOINTED SCHOOL GOVERNOR*. The rest of section B needs to be completed with the name and address of the school.

- **Section C:** please note the above comments regarding section A1.

- **Section D:** the CRB require your address history for the last five years with no gaps. If you need to complete a continuation sheet, please follow the format in the guidance booklet.

- **Section H:** in the education sector the relevant provisions of the Rehabilitation of Offenders Act do not apply and that means that no previous criminal convictions are considered spent. This means that if you have any previous criminal convictions, regardless of when they occurred, you need to put a cross in the *yes* box of section H66.

- **Section X:** do not make any entries in this section. This is completed by someone from the school, usually the head, deputy or school secretary, so please contact the school and ask to make an appointment to see the Headteacher. Once you have completed your parts of the form, you need to take it to the school with appropriate documentation that confirms your identity. Please see the relevant section in the guidance booklet which gives full details about what is appropriate documentation. Once this is complete, please use the envelope provided and ask the school to send the form to me via the internal mail.

- **Section Y:** do not make any entries in this section.

- **Payment:** all disclosure checks conducted for schools in this authority are enhanced ones for which the CRB charge £36. Please enclose a personal cheque for this amount made out to the school when you give your form to them.

We will record some of the details from your form and then send it off to the CRB. It may take some weeks before the resulting disclosure comes back. The CRB will issue two versions of the disclosure. Your version (called the applicant's version) will be sent to you a couple of days before they send our version (called the registered body's version) back to us. Please keep your copy of the disclosure safely.

All disclosures, and the information that they contain, are handled, stored and subsequently destroyed in accordance with the CRB's Code of Practice (which can be viewed on their website). This means that they are treated in the strictest confidence and information from them is only shared with those making the suitability decision regarding your role as an LA appointed school governor.

If you have any questions or queries about the application process in general, or the CRB disclosure service in general, please contact me at roger@Selchester.gov.uk

Yours sincerely,

Roger Halliwell

Roger Halliwell
Deputy Head of Human Resources
Children's Services Department

Cc The Head Teacher
The Chair of Governors

CONFIDENTIAL

CRB Checks for LA Appointed Governors

Chronology of Events

24.05.06	The issue of CRB checks for LA governors appointed by the Cabinet Member of Education was discussed. Cllr Harty wanted to ensure that any new governor appointed by her was police checked. Cllr Harty agreed to speak directly to Alison da Souza, Head of Governance Services about what was involved.
29.05.06 - 02.06.06	Conversations took place directly between Cllr Harty and Alison da Souza over how this would be implemented.
June and July 2006	Alison da Souza and I pursued the implementation. Alison da Souza composed a helpful memo outlining how the process might work and Roger Halliwell from Education HR drafted a letter for LA governors.
31.07.06	At a Cabinet Member's briefing meeting Cllr Harty agreed that we should proceed with the process as proposed by Alison da Souza and Roger Haliwell. This was that LA governors should apply, via the school for which they were a governor, for a CRB check and that governors would be charged.
17.08.06	In response to a local press enquiry about why governors were being charged for a CRB check Cllr Harty emailed me to ask whether we could set up a bursary scheme for those governors who could not afford to pay. I asked Alison da Souza not to send out any more letters to governors until the matter was resolved.
Early September 06	Consideration given to whether Governors would be exempt from charges. Andrew Elliot (Head of Children's Services) spoke to CRB who agreed that charges would be waived.
12.09.06	Cllr Hartly answered a question to the Scutiny Committee to the effect that the LA had discussed the issue with the CRB and they had agreed to waive the charge.
20.09.06	Council debate.
October 06	Alison da Souza and Roger Halliwell composed a new letter for LA governors regarding CRB checks in line with the CRB's advice. This is now ready to go out to governors.

Janet Hudson
Deputy Director, Children's Services

From: Head of School Governance
Sent: 15 August 2006 13:50
To: Andrew
Cc:
Subject: CRB checks for LA appointed governors

Dear Andrew,
Following the new Cabinet Member's decision that LA appointed governors were to be CRB checked, and that they should pay for the check themselves, Janet asked me & Roger to set up a system to carry this out.
Roger and I drafted a procedure which Janet then presented to Cllr Harty who agreed it.

After appointment, or re-appointment by the LA, School Governance Support sends the CRB form and a letter to the governor (in Roger's name) which gives details of the procedure and guidance on how the form should be completed (letter attached). A letter is also sent to the Headteacher of the school concerned to explain that the newly appointed governor will be coming to the school to have their identity authenticated on the CRB form (letter attached). Copies of the letters are also sent to the chair of governors for information.

Colin O'Neill spoke to me this morning: he is concerned that LA appointed governors are being asked to obtain a CRB check, when this is not a legal requirement, and when H&F does not require it for any other category of governor, and he is concerned that governors, who are volunteers, should be asked to pay for the check themselves.

I have also been contacted by , the Chair of Langfield School Governing Body, who has the same concerns.

Please contact me if you would like any further information.

----- Original Message -----
From: Andrew
To: Harty Julia COUNCILLOR
Cc: Janet
Sent: Thursday, 17 August, 2006 4:52:11 PM
Subject: CRB CHECKS FOR LEA APPOINTED GOVERNORS

Julia

I attach a copy of a letter I have sent to Colin O'Neill In case you did not know already, he was a Labour Councillor. I believe that the Chair at 'Langfield', has raised similar concerns.

Andrew

From: Cllr Julia Harty (REDIRECT)
Sent: 18 August 2006 14:29
To: Andrew
Subject: Re: CRB CHECKS FOR LEA APPOINTED GOVERNORS

I would prefer you to have mentioned Holly and Jessica etc... there is a reason for this, although we may have to pay for it if people are objecting.

Colin O'Neill

17 August 2006

Dear Colin

CRB CHECKS FOR GOVERNORS

I understand that you phoned and tried to speak to me about the position in respect of CRB checks for LEA appointed governors. I have tried to phone you a couple of times without success.

The decision that LEA governors should be CRB checked was made by Cllr Harby, the new Cabinet Member for Education. The (Head of School Governance Support) has informed me that you are concerned about this policy, as you believe it not to be a legal requirement; the Council does not require it of any other category of governor; and that these volunteers are being expected to meet the cost of the checks.

I have copied this to Cllr Harby order that she is made aware of your concerns.

Yours sincerely

Director of Children's Services

From: Cllr. Harty (REDIRECT)
Sent: 29 August 2006 09:34
To: Andrew
Subject: Fw: CRB CHECKS FOR LEA APPOINTED GOVERNORS

I think LEA governors have to be CRB checked. I think anyone working with children should offer to pay themselves and do it as part of being a responsible adult. However I accept that some people will be unable to pay and we should have a bursary to help with that to make sure that we are covered. Did you read that 10% of Kent police have a criminal record.... ergo you cannot trust anyone in this world and they any LEA governor appointed by me must have a CRM check.

With Best Wishes

----- Forwarded Message -----
From: Andrew
To: Cllr Harty
Sent: Monday, 21 August, 2006 8:33:26 AM
Subject: RE: CRB CHECKS FOR LEA APPOINTED GOVERNORS

I will use the Soham line if there is any follow up. Payment of CRB check would remove significant ground for objection and would leave any refusnic having to argue that they did not want to be CRB checked, which would not be an easy position for them to defend. Do you want us to agree that?

Andrew

Town Hall

25th October 2006

Dear Geoff

I have received your letter dated 23rd October. I understand that the letter responds to a request for access to Council records of correspondence over CRB checks.

In that context, I would like to clarify various points, as I was Cabinet Member for Education at that time. As announced at Scrutiny on 12th September 2006, Council policy is for the new governors appointed since May 2006 to undergo CRB checks. We have successfully arranged for the governors to be treated as volunteers and therefore CRB will make no charge to governors. This outcome was the culmination of the efforts of myself and the officer team over the Summer to achieve the best process for governors given the large number of new appointees. The policy has successfully enhanced the safety of our children, whilst ensuring that many of the vacant governor slots have been filled.

At Scrutiny on 12th September 2006 and again at the Council Meeting on 20th September 2006, I stated that 'our policy was always to re-imburse governors for CRB checks.' As is clear from the timeline produced by Janet , in the middle of August, well before my statement to Scrutiny on September 12th, we were seeking to implement a policy of re-imbursement through bursaries so that Councillors could charge back the expense (as they can for childcare costs). Indeed during July we had discussed possible re-imbursement options. When I was asked to respond to the Gazette on August 30th, I agreed to a statement that included 'any new LA governors who are not able to pay the £36 fee will be able to claim the money back from Council.' This was reported in the Gazette on September 8th as 'the fee may be waived.'

I see that I was sent an email on the 14th of August attaching the Education Department Memo in your pack (which did not mention payment or mechanisms) prepared for the meeting on 31st July and the letter that had gone out to governors from Roger (the same letter as the Roger letter dated July 2006 in your pack). I did not approve the detailed content of this letter before it went out, presumably in early August. This letter made mention of governor payment, but did not mention re-imbursement procedures. I can see how this letter contributed to confusion in the way it was written. I was shown only one letter at the Council Meeting which I now believe to be a letter of 9th August sent to the Head at School. I still have no recollection of ever having seen this letter before the Council Meeting. Between July 31st and mid August, there was clearly a breakdown in communication and attention to detail. I was abroad from August 1st to August 14th, my father was very ill during that period (he passed away on August 16th) and I was distracted by personal matters.

I am sorry if my statement of September 20th was inaccurate, although that was not my intention. I hope that you can see that I was at all times acting in good faith.

Please let me know if you need further information.

Yours Sincerely

Cllr J Harty

cc Cllr Corder

LABOUR GROUP OFFICE
26 OCT 2006
RECEIVED

21

CASE C

MARNHAM DISTRICT COUNCIL – COUNCILLOR DAVIES

Summary

The complainant is the leader of the council. It is alleged:

- Councillor Davies sent a number of disparaging emails to the council's IT staff, criticising their work and mocking their capabilities and copied them to third parties.
- Councillor Davies sent unfair and derogatory emails about the chief executive, the council's solicitor and the complainant, copying them in to third parties, as well as inappropriate emails to other councillors.
- Councillor Davies became involved in support of a local IT company in a dispute with the council, and was confrontational when officers reminded him about possible conflicts of interest
- Councillor Davies was hectoring and overbearing towards technical officers in the presence of the chief executive and two other members at a meeting held on 23 April 2005.

The Chief Executive asked the junior officers to leave after 20 minutes on account of Councillor Davies's behaviour, and because they were upset at the untimely death of a close colleague the previous Saturday. It is reported that when Councillor Davies was told of this, he retorted, "I suppose you're going to blame him!" It is alleged that Councillor Davies has been warned about his conduct, including formal warnings, but that it has continued.

Marnham District Council

From the Office of the Leader: Councillor

RU
17 MAY 2005
RECEIVED

Home Tel No: 342528
Home Fax No: 344097
Email:

RECEIVED
17 MAY 2005

13 May 2005

Dear Sir

Members' Code of Conduct: Councillor Davies - Complaint

I am the Leader of District Council and the Leader of the Conservative Group on the Council. On 30th April 2002 the Council adopted the new Code of Conduct (copy attached).

In May 2003 Councillor Davies was elected as a Conservative District councillor. He had been a councillor previously. From May 2003 to January 2005, he was also a member of the Council's Executive Board (its Cabinet) as the Portfolio Holder for the Economy and the Regions.

Unfortunately during 2003, 2004 and 2005 he has in my view on a number of occasions failed to treat Council staff and other councillors with respect in breach of Paragraph 2(b) of the Code, and brought his office and the Council into disrepute contrary to Paragraph 4 of the Code.

The misconduct relates to:

1. Sending emails to the Council's IT staff, criticising or mocking their work and capabilities, and copying these to third parties,
2. Derogatory emails about the Council's Chief Executive, myself and the District Solicitor, and copying these to third parties,
3. Derogatory emails to other Councillors,
4. Becoming closely involved in support of a local IT company against the Council in a dispute over copyright and other issues.

I enclose some examples of the emails which I feel are not acceptable behaviour for a councillor.

Both the Deputy Leader and I have asked Mr Davies on several occasions to desist from such conduct and although he has apologised on some occasions, the conduct has continued.

The Standards Board for England
First Floor, Cottons Centre
Cottons Lane
London SE1 2QG

INVESTOR IN PEOPLE

The misconduct led to the unprecedented step of the Council's Strategic Management Team (the Chief Executive and two other Deputy Chief Executives) submitting a formal complaint to the Council's Conservative Group.

It is totally unacceptable for Council staff to be subjected to such behaviour.

Full copies of relevant emails, notes of meetings and file notes can be obtained from the Chief Executive, Mr J [redacted] at Maldon District Council.

I request that the Standards Board for England investigates this complaint against Councillor [redacted] Davies and I will be happy to co-operate with you if you require any further information. My home telephone number is [redacted] and email address is [redacted]

Yours faithfully

Leader of the Council

Encls:

If you wish to take your ideas forward I suggest you contact these. I need to get on with the Economic Development Strategy and 5 Year Improvement plan etc so do not have the time to get involved. If all are wanting to take forward they will involve me in the business side when appropriate.

From: Cllr Davies

Sent: 17 July 2004 22:54

To: David

Cc:

Subject: Democracy

Dear David,

Well said. I haven't repeated my other emails to on the childishness of all this, but I think that we are now heading into a subject on the roots

of democracy.

I am quite good in that area! I am NOT going to be told what I can and cannot do as an elected Councillor/Portfolio Holder, etc. in being able to talk to my electorate, and the involvement of stakeholders and the public, in general, in the democratic processes.

I am certainly NOT going to be driven by the MDC IT Department, in what I can and cannot do. THEY are the servants not the masters, and merely the providers of a service of communications AND NO MORE THAN THAT.

I will stick with the Coastal Management aspects for now and leave K out of it with Business Support (which I can do through the Enterprise Centre anyway). On Coastal Management I have agreement, in principle, with DEFRA and the Envrionment Agency, at central Government level, way above the local authority level, to develop a process which enables stakeholder educated/informed discussion and input. Several other agencies and consultants fully agree with the process. You have now enabled me to proceed down that route, with or without MDC agreement or involvement. It would just be a pity that they were not involved, BUT they can't "sack" me, I have done nothing illegal or even against anything that I have signed or whatever. I use all my own IT equipment, they don't even contribute towards my communications, and the website is MINE!

I am going to go down the line we have commenced, and will consult all my Coastal Management contacts in Forum and the LGA .

I have their support already, and can get additonal support from senior consultants, all of whom come through MY contacts, NOT MDC's.

I begin to fell that I am being treated contemptuously by the people who insist that they are there to support me and that they carry out my/our wishes, and policy.

It is heading into the head on crash, which last time resulted in the termination of employment of a Chief Executive and six other Director level appointments.

It really doesn't worry me as I have no intention of ever being involved in the public arena ever again. This is how you lose Councillors from the system for ever, and yet the Officers complain about the standard of elected Members and their lack of experience in local government.

Keep me in the picture, please - I am speaking at the Regional Assembly on Wednesday this week, and might even raise the matter there.

I had added (the MP) to this email but will send a copy to him, after I have talked to him and have seen what develops out of this one.

Best wishes, Cllr Davies

H

From: Davies (external)
Sent: 13 October 2004 22:28
To: Mail Sweeper
Cc: (Chief Executive + senior officers)
Subject: RE: Sound Quarantined FW: Powerpoint Presentation for the web site

Terrific guys!!!
You surpass yourselves - it is a PowerPoint presentation on flu' jabs by the local Health Department, with the Chief Executive on the PCT, I just thought he might be interested.
I have never met such an organisation as yours!! The only sounds on that presentation are "whooshes" for the titles coming on - may your "whooshes" never cause a security problem, but you never know do you? After all being medical there could even be small boys willies somewhere around, but then you have never had a virus ever have you - I can only hope that the influenza virus on the PowerPoints is Avian flu!!
By the way H thanks for your FYI copy - but it won't work - if you want the gloves can come off and let us do battle!

-----Original Message-----
From: mailsweeper@
[mailto:mailsweeper@
Sent: 13 October 2004 22:15
To:
Subject: Sound Quarantined FW: Powerpoint Presentation for the web site

A Sound Attachment has been detected and Quarantined. The Mail Administrator has been notified.

Please contact mail-admin@
Tel. 534636

(2)

Subj: Region representation
Date: 25/01/2005 21:04:18 GMT Standard Time
From: davies@
To: (Wide distribution)

Ladies and gentleman,
Despite my politics I have actually enjoyed working with you, and I believe that we didn't do that bad a job!
However, I have now reached my limit of working with an arrogant Chief Executive, who wants to run the world, and, I am afraid, a Leader of Council who will not stand up to him, and have resigned from my Portfolio Holder post, which included the Region. I thought that even the Healthy Region Forum was beginning to get somewhere as well.
There we are, at 68 and a very old retired
still have some pride in what I want to achieve.
Goodbye and good luck for the future.
Best wishes,

From: Davies (external)
Sent: 04 February 2005 00:10
To: WebTeam
Cc: David
Subject: Amendments

Hi, guys,
Come on, if you are going to remove me from the pages, particularly at the speed my front pages were amended, at least be consistent and professiona.
I have a reputation to keep up even if you don't. It only took five months to get my email finally right, and over night to amend my resignation position - HI, Harvey!!
Please remove all references to Councillor Davies from everything that I was involved in , not just bits and pieces.
If you can't do that - can I suggest that @ just a little more advanced and can explain if you are stuck - he's very nice guy - and not at all vindictive (like me!!).
But finally, guys, can I genuinely thank you for your input, without it I would never have known how you could twist the democratic process, and I am extremely grateful for your input into that aspect of MDC. Having just been at Low Burton Parish Council this evening, I now just appreciate just how highly you figure in their esteem.
Best wishes,
Copy to Chief Executive,
Davies

Hi, John, no point in putting my siganture as you know it so well already.
Just try acknowledging this - we will then know here we stand!

8 February 2005

PRIVATE AND CONFIDENTIAL

Dear Councillor Davies

I refer to your email dated 4 February 2005 which I have discussed with the other members of SMT and so whilst the comments below are mine the sentiments are shared by both S and J

Firstly, with regard to your comments about having references to you removed from the web pages, it is entirely appropriate that the website be amended following your resignation as a portfolio holder. I am sure you would agree that keeping the website up to date is desirable from all perspectives. However, you have also asked that all references to you be removed from everything that you have previously been involved in. Clearly that is not appropriate as your involvement in the Council's activities in the past is, and of course should, appropriately remain as part of the official record.

However, I now wish to turn to other aspects of your two emails of 3 February and one of 4 February to H. These emails contain comments which are disparaging I believe both to the staff and in respect of the Council and other councillors. You will recall that I mentioned to you at some point last year when there were a succession of emails from you to R , and other staff which contained criticism couched in terms which I believe damaging to mutual respect that is a requirement of the Code of Conduct covering councillor and officer relations. I appreciate that your reading of your email may lead you to believe that in the email to which I refer you felt that you were being humorous. I for one would always accept that humour is the essential lubricant of life that makes it tolerable. I believe on a number of occasions your comments to junior staff have gone beyond the bounds of humour and have potentially breached the Code of Conduct. The effect of this has been that during 2004 I had on a number of occasions to reassure my staff regarding the content of your emails and the manner in which you asserted your views therein. Your latest emails continue in that vein and are I believe potentially contrary to the Code and extremely damaging to the morale and general well being of the staff concerned.

As a Chief Officer I am quite used to receiving criticism and I am both old enough and large enough to take that criticism. More junior staff are not and I do not believe it appropriate that they should be responding to comments regarding other councillors or indeed have their own role and skills criticised in the fashion that you have done in the past. The general standards for conduct of councillors, which all Members have agreed to observe on taking office, are clearly set out in the Members' Code of Conduct (contained within pages 202 to 209 of the Constitution) and set out in the protocol on Member/staff relations on pages 222 to 228.

I would therefore ask that in the future please refrain from personal or sarcastic commentary to my staff and if you have a concern or indeed a complaint then I would obviously be happy to respond to such matters. You do, of course, still have the same access to officers as any other elected Member and we will always be happy to deal with any issues that you may wish to raise. I do believe that we can only work effectively in the Council if all of us adhere to the concept of mutual respect in our day to day dealings as indeed both the Officer and Members Code requires of us.

Finally, this letter is intended as a confidential document and I would ask you therefore not to disclose this to any third party outside of the Council as I believe this would be counter productive and inappropriate given its nature.

Once you have reflected on this letter if you believe it would be helpful, I am of course at your disposal so that we may sit down and discuss the relevant issues.

Yours sincerely

F
Deputy Chief Executive

NB. Some of the emails to which I refer are enclosed for your convenience.

7 March 2005

Dear Leader and Chief Whip

It is with some regret that I write to you on behalf of the Management Team to complain about the behaviour of a member of your group. R , S and myself have many years of experience in working with a variety of members and have never felt the need to act in this way before. This step is therefore unprecedented which underlines our depth of feeling and concern.

The complaint concerns Councillor Davies. Unfortunately whilst we have expressed our unhappiness to you in the very recent past about his behaviour, there appears to be no moderation in his attitude to certain officers in the Council. As senior managers we are used to a certain degree of criticism and many may argue that we are expected to deal with this. What we are talking about at this time, however, is a succession of derogatory remarks about myself and other officers but more recently and more importantly a number of specific and unfounded allegations about M . SMT find this position totally unacceptable.

R has previously spoken and written to Councillor Davies about the undesirability of his making derogatory remarks in correspondence about staff and it was believed that this would cease.

However in a letter dated 23 February 2005 sent by Councillor Davies to R , the following comment was made:

"... I suspect that you are being advised against such a meeting. Not least by a person who would not survive for long in my business advisers (-) law! Perhaps you should give him some advice in turn to guard his tongue a little more, when he is discussing me with others!"

((-) law is a firm of solicitors with offices in and and other locations)

/...

On the same day a letter was sent to myself, yourself, and to the Chairman of the Council in which the following comments were made:

"With reference to Paragraph 52, . Limited' and the verbal innuendo circulating around the salaried staff in Council HQ and by some Members about my alleged behaviour, I should be grateful if such opinion could clarify such matters directly with me. The source of such comments could only be the SMT and the District Solicitor. I further understand that the District Solicitor has communicated similar comments about me to members of the electorate in my Ward."

These accusations are entirely untrue and undermine the mutual respect between Councillors and staff which is an essential requirement of the Council's Constitution, the Members' Code of Conduct, and is crucial to the efficient running of the Council. These accusations must now stop.

I have written to Councillor Davies firmly refuting the accusations against staff and requiring him to substantiate such claims.

Although I would not normally circulate correspondence to Members, R S . and I feel it very important that you and members of your Group see extracts of relevant letters and emails which demonstrate that the staff have not sought to criticise Cllr Davies, but in fact have tried to assist him and unfortunately these efforts have been misconstrued as allegations of misconduct against him.

At this stage we would like you to share the contents of this letter with the other members of your group.

This matter is separate from the current dispute with A Ltd relating to copyright issues. As you know Mr P of A Ltd made a complaint about my conduct to you which you firmly rejected, and he has also made a similar complaint to the MP to which I believe he has replied. Mr P has been invited to discuss with P his concerns about the way I dealt with his proposal for a Community Server last December, before he refers the matter, if he wishes, to the Local Government Ombudsman.

The misunderstanding relating to officers' comments about Councillor Davies began in December 2004 when I had a telephone conversation with Mr P about his Community Server. I informed him that due to Councillor Davies' involvement in its development, the Council would have to be careful how the proposal was considered at the Council as some may perceive his involvement as indicating a bias or conflict of interest. Mr P unfortunately misinterpreted this as meaning that I had accused Councillor Davies of improper conduct.

As a consequence I immediately placed my comments in writing in a letter of 15th December 2004 to Mr P stating that;

"There is absolutely no suggestion that Councillor Davies has acted improperly within the Code of Conduct. The fact that a councillor may have an interest in a subject area does not constitute improper behaviour. Furthermore, any advice about interests is a matter between this Council, the councillor concerned and the professional officers. It is not open to third party discussions. During our conversation, I merely explained to yourself the way the Code works and that I would need to hold further discussions with Councillor Davies."

Mr P accepted this explanation in his email of 16th December to me where he stated,

"... I am very pleased to have your unequivocal assurance that there is no suggestion that Councillor Davies has acted improperly. My own experience is of a man of utmost integrity, astonishing energy, great commitment to the welfare of his constituents, and boundless enthusiasm!"

On 16th December 2004 Councillor Davies sent an email to me which included the following:

"I have just returned from a short break to find many things let loose. Firstly I handed a short brochure to the Chief Executive at the start of the last Executive Board, with the comment asking for advice on what is the best way to handle this idea, and how to approach the Council in the most efficient manner.

I now find myself accused of bending systems, imputations of dishonourable behaviour, etc. etc ...
Let me first say that I have NO financial business interests with A Ltd whatsoever."

"Could the District Solicitor kindly inform me of what interests I have failed to declare, or have taken any devious steps in the approaches I have made for advice on a practical proposal for the common good?

In view of this email, I sent the following email to Councillor Davies on 17th December:

" - In very simple terms you have not been accused at any time by any officer of improper practice, dishonourable behaviour, or any of the other comments referred to below. In short M and I have correspondence from D P which indicates a conflict under the Code. We have simply sought to protect your position as we are paid to do. The best thing is for us to have a chat together rather than fire emails across the District. In the meantime I shall be sending a further short response to DP.

I personally am very surprised by the interpretation being placed on the correspondence by DP which at no time accuses you of anything. J "

In addition I asked Mr K to explain his views to Councillor Davies and he sent the following email to Cllr Davies on 17th December 2004:

"I refer to your email of 16th December to (CE) and copies to others including myself. (CE) has already confirmed to you in his email this morning that you have not been accused at any time by any officer of improper practice, and I would also like to reassure you that I am not accusing you at all of failing to declare a conflict of interest or of having taken any devious steps in relation to Mr P's proposal."

M then listed a number of statements by Mr P which showed that Councillor Davies had played a key role in the development of the Community Internet Server.

Mr K then stated:

"In view of the above statements, (CE) asked for my initial advice on this association between yourself and the company and how other parties may perceive it.

The reason (CE) sought my advice was to ensure that as the proposal was being considered within the Council, steps were taken to avoid you being subject to complaints at a later date of undue influence or bias in the decision-making process. For example, if the matter was considered at the Executive Board and you presented it as Portfolio Holder, and the proposal was approved by the Board, then it is foreseeable that, for example, the District Auditor or a competitor of A Ltd might query your association with the company.

An initial examination of the proposal indicated that the Council might incur around £x,000 *(over £15,000)* over a period in supporting the proposals.

As you know, contract standing orders require that contracts over £15,000 normally need to be subjected to public competitive tendering and decisions made on price, value for money and quality, before a final decision is taken to spend this sort of money.

In view of the above, J and I were hoping to discuss the matter with you on your return from leave so that we can help clarify the best way that this matter could be considered within the Council and in order to prevent you from facing accusations at a later date of any conflict of interest.

Can I please repeat that I am not accusing you of any misconduct - I am only involved in order to try and help you avoid the circumstances being misinterpreted by others at a later date and to protect the Council's interests.

I hope the above explanation will assist and I am happy to discuss the matter with you at your convenience."

An informal and amicable discussion took place between Councillor Davies and M on 20th December and it was thought that the officers concerns were accepted by Councillor Davies.

Members present after the January Council meeting and during the discussion at the last Corporate Governance and Audit Committee will be aware that neither M nor I made any criticism of Councillor Davies and I specifically said in answer to a question from Councillor M that there was no suggestion at this point in time that any officer or member had misled A. Ltd although there was still a lot of correspondence to go through.

Throughout this process the officers have acted with integrity in trying to protect the position of Councillor Davies by giving professional advice, in trying to preserve the image of the Council, and in trying to maintain the good working relationship between ourselves and the Members. Unfortunately, we do not believe that Councillor Davies' actions have been consistent with these objectives.

/ ...

M is, in the opinion of SMT, a first class solicitor with an impeccable reputation and a very high sense of integrity. He does not deserve to be treated in this way.

Personally I am also aware that Councillor Davies has made written comments about me to members of the Regional Assembly . This has been fed back to me by colleagues. I find it both distasteful and very sad that anyone from this Council would wish to damage our reputation in this way. I also believe that this has to stop.

I apologise for writing such a long letter on behalf of SMT but we firmly believe that enough is enough. Ideally your group will be able to resolve this matter internally and I would appreciate a written response to this letter. In the event that the group do not feel able to resolve the issue, I shall with great regret have to find alternative ways of protecting the position of officers who are merely doing their job.

Yours sincerely

Chief Executive

NOTES OF A MEETING WITH CLLR. DAVIES

Held on Friday, 22 April 2005

In attendance:-

Cllr. C
Cllr. J
Cllr. Davies
Mr. , Chief Executive (Chair)
Mr. , Deputy Chief Executive
Mr. , Manager, Electronic Government
Ms. , Operations Team Leader, E-Gov
Mr. Team Leader, E-Gov
Mr. Operations Assistant, E-Gov

Brief

This meeting was convened in order to discuss with Cllr. Davies the issues he had raised in his letters of 12th and 13th April, concerning allegations that his computer communications with the Council were being treated in a different way to those of other Councillors and that his communications were being read and monitored in an improper manner. (Correspondence relevant to this are Cllr. Davies' letters dated 12th and 13th April to the Chief Executive and the Chief Executive's response dated 20th April.)

The Meeting. (The meeting commenced at approximately 11.03am.)

The Chief Executive introduced the E-Gov staff to Cllr. Davies and R. touched upon their functions as did each individual member of staff when questioned by Cllr. Davies about their background their qualifications.

Subsequent to this the Chief Executive invited Cllr. Davies to raise his issues of concern. Cllr. Davies, at this point, started to question S. on the internet servers. His attitude and demeanour was aggressive and bullying

from the outset and continued in this manner throughout the 'discussion'. The technical detail of the relationship between the two webservers was pursued at some length. The case for load balancing was agreed, but Cllr. Davies was insistent and in a hectoring manner demanded to know whether it was on the actual ratio involved – was it 50/50, 60/40 or whatever? The reply was given that the directing of incoming traffic at any specific time varied according to the existing load. Simon did not rise to the belligerent manner in which he was being 'cross examined' and sought to provide a number of answers. These answers did not appear to satisfy Cllr. Davies, who at one point asked whether S understood how a processor worked and his manner of questioning S became increasingly aggressive and hostile.

He continued to cut across S's replies with comments of a disparaging tone for some considerable time (up to between 15-20 minutes) at which point, given the aggression and hostility being exhibited by Cllr. Davies, the Chief Executive intervened. He said the he was unhappy with the aggressive and belligerent manner in which Cllr. Davies was conducting himself and said that we were holding this meeting in a constructive way so as to address the issues Cllr. Davies had raised.

The Chief Executive explained that the problem with the server had been investigated by and that the company had provided a statement (this was made available to Cllr. Davies) which described the problem and its resolution. The essence of this problem was that people trying to access the

Council's system would, from time to time, be switched from one server to the other. It had been found that the second server was malfunctioning and hence Cllr. Davies was unable to access the data he sought. Cllr. Davies' assertion, on the other hand, that he was being treated 'as a special case' was wholly inaccurate and the Chief Executive said he had demonstrated the difficulty faced with these servers by asking certain Councillors to test the system. When the server had been corrected a wider range of Councillors undertook the tests again which then showed the problem to have been rectified. When told that Cllr. C . had been one of those who tested the system, Cllr. Davies turned to him and asked him in a pressing manner what he had seen on the server when making these enquiries and indicated a level of contempt for Cllr. C 's responses.

At this point Cllr. Davies was still making derogatory comments and R intervened to explain that, in fact, Cllr. Davies was calling into question his own integrity with regard to the assurances Cllr. Davies had been given regarding the treatment of his communications. R reiterated his background and experience and asserted unequivocally that Cllr. Davies had never been treated differently from any other Councillor and certainly in no way improperly.

Cllr. Davies continued to exhibit a very aggressive demeanour and the Chief Executive decided at this point to ask the E-Gov staff to leave to avoid further embarrassment and harassment of those staff. At that point Cllr. C

also excused himself. Therefore, remaining in the room were the Chief Executive, Mr. B Cllr. Davies and Cllr.

Cllr. Davies continued in a similar vane and Mr. B sought to address the issue of the Council's website, producing documents to prove that the Council had the second highest rating available, which was contrary to the assertion by Cllr. Davies that the Council's rating was poor. Cllr. Davies refused to accept this evidence and insisted that the website of Socitim was different.

Further comment ensued and, at this point, Mr. B explained that he was very unhappy with the way Cllr. Davies had interrogated and cross questioned S , particularly given the fact that on Saturday, 16th April, the IT staff had suffered the tragic loss of M (a long-standing colleague of S and a member of his team) who had unexpectedly died. At this point Cllr. Davies said 'I suppose you are going to blame him' to which Mr. B replied that he found the comment 'grossly unworthy' and the Chief Executive exclaimed that he found it truly distasteful that a comment of that nature had been made. The Chief Executive, having decided by then that Cllr. Davies' conduct virtually throughout had been wholly unacceptable, culminating with the disgraceful comment about M S death, asked Cllr. Davies to leave the office because there was no further point in the discussion.

The Chief Executive handed Cllr. Davies his briefcase and his papers and Cllr. Davies made an aside regarding his membership of the Group and strode from the office. (The time was approximately 11.38am)

Within a few minutes the Chief Executive asked the E-Gov staff who had originally been present to rejoin the meeting. They were brought back into the room from their offices on the ground floor and Cllr. J asked if he could remain in the room. The Chief Executive said to the E-Gov staff that he wished to apologise for the conduct to which they had just been subjected and that he was very sorry that they had been questioned with such hostility and aggression. Cllr. J added that he would like to apologise most sincerely for what had occurred regarding the conduct of Cllr. Davies and he added that he thought they all were doing a very fine job for the Council and that he regretted what had just arisen.

At this point the E-Gov staff left the room, leaving the Chief Executive, Mr. B and Cllr. Jones.

This note was written as a contemporaneous record of the meeting within approximately half an hour of the conclusion of the meeting.

04 May 2005

Dear Councillor Davies,

Following the unsatisfactory meeting in my office on Friday, 23rd April I have been reviewing the current position with both R and S. It is our view that your attitude towards the officers in the IT section continues to be totally unacceptable. It is clear that you have no respect for their skills, qualifications or professional dedication and it is not fair on the staff to be subjected to such behaviour. Under these circumstances SMT have instructed that no member of the IT staff is to deal directly with you for the time being. Your rights as a Councillor on IT issues can be fulfilled by your writing to R who will ensure that you receive a reply. The Leader of the Council has been appraised of this situation which will be reviewed in three months time.

K went to great lengths to satisfy your technical query and P insisted upon extensive testing. They believe that the problem is now resolved and we have had no complaints from any other Member.

In conclusion I would like to say that never before have I been obliged to write a letter of this nature to any Member. It is not in the interests of the Council or you to continue this disagreement. Hopefully a cooling off period of three months will put the whole thing into some perspective.

Yours sincerely,

Chief Executive

04 May 2005

Dear Leader

Councillor Taff Davies

On Friday, 23rd April I chaired a meeting in my office with the intention of resolving Councillor Davies' complaint about the way in which he perceived his email correspondence was being filtered. The hope was that we could reassure him about the integrity of our security which, in itself, is routine and certainly not intrusive.

In advance of the meeting we had engaged our consultants specifically to remedy a search fault on one of our servers, which had been identified by Councillor Davies. In order to be as helpful as possible R brought two technicians to the meeting, in addition to R and his operational manager, K

Having resolved the issue in advance (of which Councillor Davies was notified) and having used six Councillors and our consultant to re-test the system, we were confident that Councillor Davies would be satisfied with the outcome. Sadly, we were wrong.

From the outset of the meeting, also attended by Councillors C and J Councillor Davies demonstrated absolute contempt for the Council's IT service. His comments were aggressive, confrontational and speculative. Having taken the decision to involve junior officers in order to help to resolve the issue, I can now only regret that decision. Councillor Davies did nothing to help relationships between officers and councillors (which have always been good at this Council).

After twenty very unpleasant minutes I asked the staff to leave. R then challenged Councillor Davies about his attitude towards the junior members of staff. Rob asked

Councillor Davies if he was aware that those same officers had just tragically lost a young colleague who had died the previous Saturday. Councillor Davies, by his comments, made it clear that not only was he aware of the situation, but also that he had no regard for it. His comments were deeply distasteful and, in the circumstances, I had to insist that he left my office.

Councillor J , to his credit, remained behind to apologise to the staff who were re-called to the office.

We have now reached a point whereby a working relationship between Councillor Davies and the IT section is impossible. The ability of our team, whom we regard very highly, is constantly questioned and their skills derided. Having discussed this very closely with Rob and Sam we now feel that we have little opportunity than to deny direct access to these staff by Councillor Davies. Our legal obligations to him as a Councillor will be fulfilled through SMT and all requests will need to be in writing.

I am sorry that it has come to this but, as a management team, we believe strongly in supporting the staff at this Council in whom we, and I believe most Members, have total confidence. Should attitudes change we are prepared to review our position in three months time.

Yours sincerely,

Chief Executive

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(Monitoring Officer) To note the current position on allegations made to the Standards Board for England regarding District and Parish/Town Councillors.

Standards Board Reference	**Current Position**
SBE 19300.07, 19301.07. 19302.07 and 19303.07	Standards Board decided that the allegations should not be referred to an ethical standards officer for investigation. Having taken account of the available information they did not believe that a potential breach of the Code of Conduct is disclosed. They made no finding of fact. The complainant sought a review of the decision not to refer the complaint for investigation. After careful consideration the Standards Board concluded that the case had been handled correctly and the final decision was reasonable. The Standards Board has closed its file.
SBE 20317.07	Standards Board decided that the allegations should not be referred to an ethical standards officer for investigation. Having taken account of the available information they did not believe the alleged conduct is serious enough to justify an investigation. They made no finding of fact and made no judgement about whether the alleged events actually occurred in the way the complainant said in the absence of an investigation.

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