



Committee: STANDARDS COMMITTEE

Date: THURSDAY, 18 JUNE 2009

Venue: LANCASTER TOWN HALL

Time: 10.00 A.M.

A G E N D A

1. **Apologies for Absence**

2. **Election of Vice Chairman for the Municipal Year 2009/10**

Please note that this appointment can only be undertaken by an Independent Member.

3. **Minutes**

Minutes of meeting held on 9th April 2009 (previously circulated).

4. **Items of Urgent Business authorised by the Chairman**

5. **Declarations of Interest**

6. **Work Programme (Pages 1 - 4)**

Report of the Monitoring Officer

7. **Standards Board for England - Annual Return (Pages 5 - 13)**

Report of the Monitoring Officer

8. **The Standards Committee (Further Provisions)(England) Regulations 2009 (Pages 14 - 29)**

Report of the Monitoring Officer

9. **Standards Board Guidance on Other Action (Pages 30 - 47)**

Report of the Monitoring Officer

10. **Annual Review of Registration of Interests (Pages 48 - 49)**

Report of the Monitoring Officer

11. **Procedure for Considering Allegations of Breach of the Council's Protocols** (Pages 50 - 54)

Report of the Monitoring Officer

12. **Review of Complaint Documentation and Assessment Criteria and Investigation and Hearing Procedures** (Pages 55 - 89)

Report of the Monitoring Officer

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors

Councillors Roger Dennison, Sheila Denwood, Sarah Fishwick, Janie Kirkman, Ian McCulloch, Roger Sherlock and Joyce Taylor

Independent Members

Stephen Lamley (Chairman), Tony James, David Jordison and Sue McIntyre.

Parish Council Representatives

Margaret Davy, Paul Gardner, Susan O'Brien and Frank Senior

(ii) Substitute Membership

Councillors

Councillors Keith Budden, John Gilbert, Roger Plumb, Ron Sands and Jude Towers

(iii) Queries regarding this Agenda

Please contact Ron Matthews, Democratic Services – telephone (01524) 582070 or e-mail rmatthews@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER LA1 1PJ

Published on 10th June, 2009

STANDARDS COMMITTEE**WORK PROGRAMME
18th June 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider progress with the current work programme.

This report is public

RECOMMENDATIONS

(1) That the report be noted

1.0 Introduction

1.1 A work programme for the forthcoming year was approved by the Committee in January 2009, and is updated at each meeting.

2.0 Proposal Details

2.1 The approved work programme is attached to this report, and the progress made has been added in the final column..

2.2 Members will note that at the time of writing this report the government has not issued any further consultation on or information about the proposed revised Code of Conduct which it was understood was intended to be implemented in June 2009. Members will also note that the proposed internal ethical governance survey has not yet been undertaken. The other items due for consideration at this meeting appear elsewhere on the agenda.

2.3 The work programme is a living document and can be updated as and when required.

3.0 Details of Consultation

3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

4.1 The report is for noting, although It is open to the Committee to make amendments to the work programme.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

None directly arising from this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

None directly arising from this report.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:

STANDARDS COMMITTEE – WORK PROGRAMME 2009

NO	ACTION	MEETING DATE	PROGRESS
1.	Consider any further government consultation on proposed revised Code of Conduct	9th April 2009 (or special meeting to coincide with consultation)	At the time of writing this report, no further consultation had been issued.
2.	Consider revised Code of Conduct and arrangements for implementation	9th April 2009 or June 2009, or special meeting depending on timing	At the time of writing this report, no further information is available about the proposed revised Code of Conduct.
3.	Consider training requirements on new Code of Conduct for city and parish councillors	June 2009 or special meeting depending on timing	No progress with revised Code of Conduct.
4.	Receive information about number of Code of Conduct complaints received and action taken	April and September 2009	Reported in April 2009.
5.	Annual review of registration of interests	June 2009	Report on this agenda
6.	Consider Protocol for dealing with press inquiries about Code of Conduct complaints	April 2009	Approved April 2009
7.	Review complaint form and information for complainants	22nd January 2009 and June 2009	Minor amendments to the complaint form were approved on the 22nd January 2009. Report on this agenda
8.	Review local assessment criteria, pre-hearing, hearing and investigation procedures	June 2009	Report on this agenda
9.	Review procedure for considering allegations of breach of Protocols	June 2009	Report on this agenda
10.	Receive report on previous Annual Assembly and consider future attendance	January 2009 and annually	Committee on the 22nd January 2009 decided not to send a member delegate to the 2009 Assembly

NO	ACTION	MEETING DATE	PROGRESS
11.	Consider any consultation on new Regulations relating to Joint Committees and Dispensations and/or contents of new Regulations	As required	Report on this agenda
12..	Dealing with requests for dispensations	As and when required	
13.	Dealing with Code of Conduct complaints	Sub-Committees as and when required	
14.	Review Whistleblowing Policy and its operation	January 2009 and annually	Revised policy approved January 2009
15.	Review Planning Protocol	September 2009	
16	Review result of ethical governance survey	April 2009	Survey to be undertaken by Internal Audit in conjunction with the Monitoring Officer. Preparatory work is still being undertaken to ensure maximum benefit from the survey

STANDARDS COMMITTEE**STANDARDS BOARD FOR ENGLAND – ANNUAL RETURN
18th June 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To inform the Committee of the annual return required by the Standards Board.

This report is public

RECOMMENDATIONS

(1) That the report be noted

1.0 Report

- 1.1 Since the implementation of the new regime for the consideration of Code of Conduct complaints locally, the Monitoring Officer has been required to complete a quarterly statistical return to the Standards Board with regard to the complaints received and their outcome. In addition, the Standards Board has now introduced a requirement for an annual return to be completed, providing further information about the work of the Standards Committee during the preceding year. The first such return was issued on the 20th April 2009, and was required to be completed online by the 15th May 2009.
- 1.2 A copy of the completed return is appended to this report for Members' information. The Chairman was consulted in the preparation of the document.
- 1.3 The Standards Board recommends that a copy be placed on the Council's website, and it is intended that this will be done following this meeting.
- 1.4 The report is for noting.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

None directly arising from this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

None directly arising from this report.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:



Wednesday 29 April 2009



Confidence in local democracy

Annual return

Summary

show all

<u>Section 1</u>	Independent overview		show <input checked="" type="checkbox"/>
<u>Section 2</u>	Standards committee - annual report		show <input checked="" type="checkbox"/>
<u>Section 3</u>	Standards committee - promoting standards		show <input checked="" type="checkbox"/>
<u>Section 4</u>	Standards committee - training		show <input checked="" type="checkbox"/>
<u>Section 5</u>	Leadership		show <input checked="" type="checkbox"/>
<u>Section 6</u>	Complaints		show <input checked="" type="checkbox"/>
<u>Section 7</u>	Member officer - relations		show <input checked="" type="checkbox"/>
<u>Section 8</u>	Registering member interests		show <input checked="" type="checkbox"/>
<u>Section 9</u>	Officer conduct		show <input checked="" type="checkbox"/>
<u>Section 10</u>	Optional questions		show <input checked="" type="checkbox"/>

Independent overview

Does the standards committee have Terms of Reference?

Yes

What help do members receive on following the Code of Conduct?

Members receive training as part of the induction process and/or when a revised Code of Conduct is adopted, and refresher training where appropriate. Members are aware that the Monitoring Officer and the Deputy Monitoring Officer are always available to answer individual questions on Code of Conduct issues (subject to any conflict issues in the event that a complaint is being dealt with). Where Cabinet or Council are to consider issues where it is known that there are particular Code of Conduct issues, written advice is generally circulated in advance to the relevant elected members.

Does the standards committee have a forward work plan?

Yes

If yes, who outside of the standards committee is involved in agreeing the forward work plan? Please explain below.

The work plan is prepared by the Monitoring Officer in consultation with the Chief Executive and Deputy Monitoring Officer, and approved by the Committee.

Is the standards committee given a role in reviewing amendments to the Authority's Constitution (or Standing Orders where appropriate)?

Yes

If yes, when was the last review undertaken and what was the standards committee's role in the review? Please explain below.

The Standards Committee's role is limited to reviewing local Protocols relating to the conduct of Members and the Council's Whistleblowing Policy. The Whistleblowing Policy was reviewed in January 2009, and the Planning Protocol in September 2007. Other amendments to the Constitution are within the terms of reference of the Audit Committee and the Council Business Committee

Standards committee meetings.

Please use the table below to indicate how many times between 01/04/2008 and 31/03/2009 the standards committee has met and for what reasons.

Reason for meeting	Number of times met between 01/04/2008 and 31/03/2009
General meeting of whole standards committee	4
Training	1
Assessment sub-committee	5
Review sub-committee	1
Consideration meeting	0
Hearing	0
Other	0



Standards committee - annual report

Does the standards committee produce an annual report on its own work?

Yes

Is the annual report received by a meeting of the full authority?

Yes

Is the annual report sent to all members?

Yes

Is the annual report sent to all senior officers?

No

How is the annual report publicised to the general public?

Through publication of the agenda of the Council meeting at which it is considered.



Standards committee - promoting standards

What else does the standards committee do to communicate the role of the standards committee and the importance of high standards internally within the authority to members and officers?

The Chairman attends the meeting of full Council at which the annual report is considered, in order to present the report and answer questions from Members. Independent Members of the Committee attend member training on the Code of Conduct and induction for new members. The Chairman and the Committee have made it known to the Chief Executive that they are happy to champion standards jointly with him where this would be helpful. However, it has not been necessary to meet with the Chief Executive over the last twelve months.

What else has the standards committee done to promote confidence in local democracy to the wider public?

Information about the Committee's work and in particular the new regime for the local consideration of complaints has been publicised in the Council's magazine which is circulated to all households in the district. In May 2008, information was circulated to libraries, universities and Citizens Advice Bureaux about the new procedure for dealing with complaints.

Has the authority, or the standards committee in particular, considered how it will monitor and ensure high standards of behaviour when the authority is working in partnership with other organisations?

Yes

Please provide examples.

The Council's internal auditors have taken the lead in developing a framework for the performance management and scrutiny of the Council's major partnerships, including a 'mapping' exercise to identify the number and type of existing partnerships and the introduction of a Partnership Development and Evaluation Toolkit aimed at evaluating the effectiveness of individual partnerships and the Council's involvement in them. Conduct issues will be considered in this context.



Standards committee - training

Between 01/04/2008 and 31/03/2009, has the authority assessed the training and development needs of members in relation to their responsibilities on standards of conduct?

Yes

What training needs were identified?

The Standards Committee considered training needs in June 2008, mindful that considerable training for city and parish councillors had been undertaken in May/June 2007 following the council elections and adoption of the new Code of Conduct, and that further training was not immediately required. It suggested contacting the parish councils to establish whether they would welcome training arranged in geographical groups. Unfortunately there was no positive response from the parish councils. It was also envisaged that refresher training would be offered to city councillors prior to a Council meeting. However, this had been deferred in anticipation that a revised Code of Conduct would have been ready for implementation at this time.

Please provide a list of training and development opportunities that have been provided to members and officers in the

period from 01/04/2008 and 31/03/2009, that are relevant to ensuring high standards. Your list should include any training that relates to the operation of the local standards framework, e.g. local assessment, hearings etc.

Standards Committee members received training on the new framework by considering cases from the SBE's local filter pilot in June 2008. (Other cases had been considered at a training session in January 2008). The formal meeting of the Committee that adopted the assessment procedures and criteria was in effect a training session on the new regime. The Chairman and Deputy Monitoring Officer attended the Annual Standards Assembly in October 2008. The Vice-Chairman and the Monitoring Officer attended a training event in January 2009 run by Cumbria County Council at which the Standards Board was represented.



Leadership

How often has the standards committee, or its chair, met the chief executive to discuss ethical issues in the last 12 months (from 01/04/2008 to 31/03/2009)?

None

Please also provide an overview of what the meetings were about.

Whilst the Chairman has made it known to the Chief Executive that he is happy to champion standards jointly where this would be helpful, a meeting has not been necessary in the last twelve months.

How often has the standards committee, or its chair, met the leader of the council to discuss ethical issues in the last 12 months (from 01/04/2008 to 31/03/2009)?

None

Please also provide an overview of what the meetings were about.

How often has the standards committee, or its chair, met the other party group leaders to discuss ethical issues in the last 12 months (from 01/04/2008 to 31/03/2009)?

None

Please also provide an overview of what the meetings were about.

Does the standards committee, or its chair, have regular access to the monitoring officer? How regular?

Access is available whenever required.

How many times in the last 12 months (from 01/04/2008 to 31/03/2009) has the standards committee chair been invited to address a full authority meeting?

None

Does the monitoring officer sit on the Corporate Management Team, or equivalent?

Yes

Has an executive member (or senior member where appropriate) been given portfolio responsibility for standards?

No



Complaints

Can the public access information, from the authority website, about how to make a complaint against a member?

Yes

What else has the authority done to advertise the complaint process on member conduct to the general public?

Information in the Council's magazine circulated to all households in the district. Press release. Notices were posted in the City Council's Customer Service Centres, and all libraries, universities, Citizens Advice Bureaux and parish councils in the district were requested to display the notice.

Has the authority sought feedback from any of those people involved in an allegation of member misconduct about their satisfaction with the member conduct complaint process (for example the complainant, witnesses or person against whom the allegation was made)? Please choose from responses below.

No, have not sought feedback

How does the authority communicate the outcome of investigations into member conduct to:

a) members

The Council has not yet had any investigations, but the outcome of a hearing would be notified to the subject member in accordance with the Regulations. The outcome of the hearing would be included in the summary of all complaints, which is submitted at six monthly intervals to the Standards Committee, and in the annual report to Council.

b) officers

The outcome would only be notified to relevant officers -eg Chief Executive, Deputy Monitoring Officer, and democratic and legal officers as appropriate.

c) the general public

The Council has not yet had any hearings, but would comply with the notice requirements as set out in the Regulations, and would issue a press release. The Standards Committee has adopted a protocol for dealing with press enquiries.

How does the authority communicate the outcome of allegations into member conduct which have NOT resulted in an investigation (for example those allegations which have not been referred for investigation and those allegations which have resulted in other action) to:

a) members

Subject member and complainant notified formally in writing immediately. Six monthly summary of all complaints and outcomes is presented to Standards Committee, and annual report to Council includes summary of complaints and outcomes.

b) officers

Only to relevant officers -eg Chief Executive, Deputy Monitoring Officer, and democratic and legal officers as appropriate.

c) the general public

The summary of the Assessment Sub-Committee is available for inspection by the public in accordance with the Regulations. The Standards Committee has adopted a protocol for dealing with press enquiries.



Member officer relations

Does the authority have a protocol for relations between members and officers?

Yes

How is the protocol communicated to officers and members?

The Protocol is included in the Council's Constitution, and is brought to the attention of individual members or officers, as required, by the Chief Executive or Monitoring Officer.

What is the mechanism for reviewing the effectiveness of this protocol?

This is within the terms of reference of the Standards Committee.

Does the authority include training on the importance of high standards of behaviour in the inductions of new members and

officers?

Yes

Does the authority have informal mechanisms for dealing with member/officer and member/member disputes?

Yes

Please provide details of any mechanisms and, if possible, provide an example where this has been used.

Informal discussions between the Chief Executive or Corporate Director and individual member and/or group leader. An example is where a member had criticised an officer in the press, and this was resolved informally.



Registering member interests

Is the member register of interests accessible to the public on the authority website?

No

Please briefly explain whether there is any particular reason why not.

It is not considered that this would meet the requirements of the Data Protection Act 1998, and in particular the data protection principles. Publishing the register on the website would go considerably further than making it available for public inspection, and poses far wider risks of misuse.

Is the register of gifts and hospitality available to the public on the authority website?

No

What does the authority do to signal to members the importance of declaring interests and completing the register of interests and the register of gifts and hospitality?

The Monitoring Officer conducts an annual review whereby members are required to complete either a change form or a declaration that there have been no changes since the last form was completed. The outcome of the review is reported to the Standards Committee. Parish clerks are also requested annually to remind their councillors of the need to keep the register up to date. Written advice is given to members where there are particular issues arising in relation to interests, and oral advice is given as appropriate at meetings.



Officer conduct

Does the authority have a code of conduct for senior officers?

Yes

Does the authority compile a register of senior officers' interests?

Yes

If yes, is the register of senior officers' interests available to the public on the authority website?

No

Does the authority compile a register of senior officers' gifts and hospitality?

Yes

If yes, is the senior officers' register of gifts and hospitality available to the public on the authority website?

No



Optional questions

The following questions are optional; you do not have to complete them if you do not wish to. However, this information would be useful to us in helping us to raise ethical standards.

On what issues, if any, would you appreciate more support or guidance on from the Standards Board for England?

The Standards Board for England, the Improvement and Development Agency and the Audit Commission have developed a toolkit that authorities can use to assess the ethical governance arrangements in their authority, and also to identify improvements.

Has your authority used the ethical governance toolkit?

No

If no, has your authority considered using the ethical governance toolkit?

Yes



The Standards Board for England © 2008

STANDARDS COMMITTEE**THE STANDARDS COMMITTEE (FURTHER PROVISIONS)
(ENGLAND) REGULATIONS 2009
18th June 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To inform the Committee of new Regulations taking effect from the 15th June 2009.

This report is public

RECOMMENDATIONS

(1) That the report be noted

1.0 Introduction

1.1 New Regulations were made on the 18th May 2009, coming into force on the 15th June 2009. The Regulations cover three areas: they enable the Standards Board for England (Standards Board) to suspend a local authority standards committee's power to undertake the initial assessment on allegations of misconduct, make provision for two or more local authorities to establish a joint standards committee, and replace the existing provisions relating to dispensations.

1.2 A copy of the Regulations is attached to this report.

2.0 Details of the Regulations**Suspension of Standards Committee's assessment powers**

2.1 The Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007, established the Standards Board as a strategic regulator. The Standards Board monitors the performance of authorities in operating the conduct regime by requiring authorities to complete quarterly online returns in relation to the cases they handle, and an annual return.

2.2 The legislation provides the Standards Board with the power to remove a standards committee's function to assess complaints of breach of the Code of Conduct. The Regulations set out how these powers will be exercised, and in particular empower the Standards Board to direct that a local authority's standards committee's initial assessment functions are suspended where:

- the standards committee has failed to comply with the Standards Board's guidance on the conduct regime;
- the standards committee has failed to comply with a direction given by the Standards Board;
- the standards committee or the monitoring officer has failed to carry out functions in relation to the conduct of members in a timely or appropriate manner; or
- the authority or the standards committee has invited the Standards Board to give a direction.

2.3 The Standards Board's decision on whether to suspend a standards committee's initial assessment functions will be taken on a case by case basis, and informed by information gathered by the Standards Board about the performance of standards committees and the authority's monitoring officer. If the Standards Board is satisfied that any of the circumstances above apply, it may suspend the initial assessment function of that authority. Before a direction is given, the Standards Board must give notice to the authority of its intention to give such a direction, and a copy of the notice must be sent to the chairman of the standards committee and the monitoring officer.

2.4 Where a direction is in place, either the Standards Board, or, with its consent, the standards committee of another authority, will undertake the initial assessment functions on behalf of the standards committee which is the subject of the suspension. The Regulations make detailed provision for the Standards Board or the other authority to deal with an allegation itself or to refer it to the monitoring officer of the "suspended" standards committee for investigation or other action. This is done by adapting the provisions of the Standards Committee (England) Regulations 2008 to meet the relevant scenario.

Joint Standards Committees

2.5 The Regulations make provision for two or more relevant authorities to establish a joint standards committee to exercise their functions under the devolved conduct regime.

2.6 The Regulations provide that such a joint standards committee may exercise any, or all, of the functions of dealing with Code of Conduct complaints, or the function of the granting and supervision of exemptions from political restrictions imposed under the Local Government and Housing Act 1989. This provides flexibility for authorities to decide which functions they wish to be exercised by a joint standards committee, based on their own needs and circumstances. This may involve discharging only the initial assessment functions jointly, or all of the standards committee's functions.

2.7 The Regulations set out requirements for the terms of reference of joint standards committees.

2.8 Guidance on joint committees is to be issued by the Standards Board but is not available at the time of writing this report. It will be circulated to members if it is available before the meeting.

2.9 When the question of joint committees has been considered by this Committee as part of various consultation exercises in the past, the view has always been taken that a joint committee would not be desirable as it would detract from the principle of the local assessment of complaints. There has been no indication that any of the neighbouring councils would be interested in forming a joint committee.

Dispensations

- 2.10 The Regulations revoke the previous Dispensation Regulations, and replace them with new provisions to clarify the rules which apply to standards committees when granting dispensations to local authority members. If a member acts in accordance with a dispensation, any participation in business prohibited by the mandatory provisions of the Code of Conduct will not constitute a failure to comply with the Code.
- 2.11 The circumstances where a standards committee may grant a dispensation to a member or co-opted member are:
- where more than 50% of the members who would, but for the granting of any dispensations in relation to that business, be entitled to vote at a meeting, are prohibited from voting; or
 - where the number of members that are prohibited from voting at a meeting would, but for the granting of any dispensations in relation to that business, upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.
- 2.12 A request for a dispensation must be submitted in writing to the standards committee. As previously, a dispensation can only be granted in respect of business arising in the period of four years following the grant of the dispensation.

3.0 Details of Consultation

3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

4.1 The report is for noting.

**CONCLUSION OF IMPACT ASSESSMENT
(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None arising from this report.

FINANCIAL IMPLICATIONS

None directly arising from this report. If a joint committee were to be considered in the future, any financial implications would be reported at that time.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

None directly arising from this report.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:

STATUTORY INSTRUMENTS

2009 No. 1255

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Standards Committee (Further Provisions) (England)
Regulations 2009**

<i>Made</i> - - - -	<i>18th May 2009</i>
<i>Laid before Parliament</i>	<i>21st May 2009</i>
<i>Coming into force</i> - -	<i>15th June 2009</i>

The Secretary of State, in exercise of the powers conferred by sections 53(6), 56A(1), 57D(1) and (6), 81(5) and 105(2) of the Local Government Act 2000(a), makes the following Regulations:

PART 1

GENERAL

Citation, commencement and application

1.—(1) These Regulations may be cited as the Standards Committee (Further Provisions) (England) Regulations 2009 and shall come into force on 15th June 2009.

(2) Parts 1 and 4 apply to relevant authorities in England and police authorities in Wales.

(3) Parts 2 and 3 apply to relevant authorities in England.

Interpretation

2. In Parts 2 to 4 of these Regulations—

“the Act” means the Local Government Act 2000;

“authority” means a relevant authority within the meaning given to that expression by section 49(6) of the Act (principles governing conduct of members of relevant authorities) but—

(i) in Parts 2 and 3 it does not include parish councils; and

(ii) in Part 3 it also includes any local authority specified in regulations made under section 3A(8)(b) of the 1989 Act.

“the 1989 Act” means the Local Government and Housing Act 1989(c);

“monitoring officer”, in relation to an authority which is a relevant authority for the purposes of section 5 of the 1989 Act (designation and reports of monitoring officer)(d), means the

(a) 2000 c. 22. Section 56A was inserted by section 189 of the Local Government and Public Involvement in Health Act 2007 (c. 28). Section 57D was inserted by section 185 of that Act.

(b) Section 3A was inserted by section 202 of the Local Government Public Involvement in Health Act 2007.

(c) 1989 c. 42.

(d) There have been amendments to section 5 which are not relevant.

monitoring officer designated under subsection (1) of that section and includes any person for the time being nominated by the monitoring officer as deputy for the purposes of that section and any person nominated under section 82A(2) or (3) of the Act^(a) to perform any function;

“Standards Board” means the Standards Board for England constituted under section 57 of the Act.

PART 2

SUSPENSION OF INITIAL ASSESSMENT FUNCTIONS

Prescription of circumstances in which power to suspend certain functions of standards committee may be exercised

3.—(1) The circumstances which are prescribed, under the power conferred on the Secretary of State by section 57D(1) and (8) of the Act, for the purpose of the exercise by the Standards Board of the power conferred on it by section 57D(1) to give a direction in accordance with that subsection, are those listed in paragraph (2) of this regulation.

(2) The circumstances mentioned in paragraph (1), in which the Standards Board may exercise the power mentioned in that paragraph, are any one or more of the following—

- (a) The standards committee of the specified authority has failed to have regard to guidance issued by the Standards Board with respect to the exercise of functions under Part 3 of the Act or regulations made under that Part.
- (b) The standards committee of the specified authority has failed to comply with a direction issued by the Standards Board with respect to the exercise of functions under Part 3 of the Act or regulations made under that Part.
- (c) The standards committee of the specified authority has failed to carry out within a reasonable time period or in a reasonable manner, one or more functions under Part 3 of the Act or regulations made under that Part.
- (d) The monitoring officer of the specified authority has failed to carry out within a reasonable time period or in a reasonable manner, one or more functions under Part 3 of the Act or regulations made under that Part.
- (e) The specified authority has invited the Standards Board to exercise the power under section 57D(1) of the Act.
- (f) The standards committee of the specified authority has invited the Standards Board to exercise the power under section 57D(1) of the Act.

(3) Where any authorities have established a joint standards committee, the Standards Board may exercise the power under section 57D(1) of the Act to give a direction in respect of that joint standards committee, and this Part shall apply in respect of such joint standards committees with all necessary modifications.

(4) Before exercising the power to give a direction, the Standards Board must comply with any applicable requirements of regulation 5.

Revocation of direction

4.—(1) Where the Standards Board has given a direction under section 57D(1) of the Act, it may revoke that direction if, on reviewing the relevant circumstances, it is satisfied that those circumstances no longer apply.

(a) Section 82A was inserted by section 113(2) of the Local Government Act 2003 (c. 26). Subsection (1) was amended by section 194(9) of the Local Government and Public Involvement in Health Act 2007 (c. 28).

(2) In this regulation “relevant circumstances” means such circumstances, as prescribed by regulation 3(2), as the Standards Board considered gave reason for the exercise of the power to give the direction in question.

Notice of intention to serve direction

5.—(1) Where the Standards Board intends to give a direction under section 57D(1) of the Act, it must give notice of that intention, in accordance with the provisions of this regulation, to the authority which it considers should be specified in the direction.

(2) The notice shall be given in writing and shall—

- (a) state the intention of the Standards Board to give a direction under section 57D(1) of the Act;
- (b) give the reasons why the Standards Board intends to give such a direction; and
- (c) set a date no later than 6 months from the date on which the notice is served, before which a direction may be given.

(3) The Standards Board shall send a copy of the notice served under paragraph (2) to the chair of the standards committee and to the monitoring officer of the authority.

(4) The notice served under paragraph (2) shall give the authority no less than 28 days in which to submit observations to the Standards Board.

(5) The Standards Board shall take account of any observations received and any other relevant evidence before deciding whether to proceed to give a direction.

(6) If no direction is given before the date specified in a notice served under paragraph (2), the Standards Board must serve a fresh notice under that paragraph before it may give a direction.

(7) This regulation does not apply—

- (a) where a direction is given pursuant to an invitation under regulation 3(2)(e) or (f) to the Standards Board to suspend any functions of a standards committee; or
- (b) to a further direction given under regulation 7.

Service and contents of direction

6.—(1) Where the Standards Board decides to give a direction under section 57D(1) of the Act, it shall serve the direction on the specified authority in writing.

(2) The Standards Board shall send a copy of the direction to the chair of the standards committee and to the monitoring officer of the specified authority concerned, and to the chair of the standards committee of any other authority which is referred to in the direction.

(3) The direction shall specify—

- (a) the date from which it is to take effect;
- (b) the reasons why it has been given; and
- (c) the identity of the body which will deal with the initial assessment of any written allegations received by the standards committee.

(4) The direction shall require the specified authority to arrange for details of the direction to be published—

- (a) in at least one newspaper circulating in that authority’s area;
- (b) if considered appropriate by the Standards Board, on that authority’s web page; and
- (c) if considered appropriate by the Standards Board, in any other publication.

Amendment to direction

7.—(1) Where—

- (a) the Standards Board has served a direction under section 57D(1) of the Act on a specified authority in accordance with regulation 6(1), and
- (b) that direction has not been revoked,

the Standards Board may serve a further direction on the authority in writing specifying a different body to deal with the initial assessment of any written allegations received by the standards committee.

(2) The Standards Board shall send a copy of any direction served under paragraph (1) to the chair of the standards committee and to the monitoring officer of the specified authority concerned, and to the chair of the standards committee of any other authority which is referred to in the direction.

(3) A direction under paragraph (1) shall specify the date from which allegations made to the standards committee of the authority must be sent to the different body.

Service and contents of notice of revocation

8.—(1) Where the Standards Board decides, under regulation 4, to revoke a direction under section 57D(1) of the Act, it shall serve notice of its decision in writing on the specified authority.

(2) The Standards Board shall send a copy of the notice to the chair of the standards committee and to the monitoring officer of the specified authority, and to the chair of the standards committee of any other authority which is referred to in the direction.

(3) The notice shall specify the date from which the revocation of the direction is to take effect and shall require the specified authority to arrange for details of the revocation of the direction to be published—

- (a) in at least one newspaper circulating in that authority's area;
- (b) if considered appropriate by the Standards Board, on that authority's web page;
- (c) if considered appropriate by the Standards Board, in any other publication.

Assessment of allegations by Standards Board

9.—(1) This regulation applies where a direction under section 57D(1) of the Act is in force and specifies the Standards Board as the body to whom relevant allegations and relevant requests should be referred.

(2) Section 57A(4), and section 57C(2) and (3) of the Act^(a) shall apply as if, for references in those subsections to “the standards committee”, there were substituted references to “the Standards Board”.

(3) Section 58 of the Act (allegations referred to Standards Board)^(b) shall apply to an allegation referred by a standards committee to the Standards Board under section 57D(1)(b) of the Act, as it applies to an allegation referred under section 57A(2)(b) of the Act, but with the modifications set out in paragraph (4) of this regulation.

(4) The modifications to section 58 of the Act mentioned in paragraph (3) are that—

- (a) subsection (1) shall apply as if for paragraph (c) of that subsection, there were substituted “refer the allegation to the monitoring officer of the authority (or, if appropriate, of another authority), to be dealt with as if it had been referred by a standards committee under section 57A(2)(a)”; and
- (b) subsections (3) and (4) are omitted.

(5) Regulations 11, 13, 14 and 16 of the Standards Committee (England) Regulations 2008^(c) shall apply in respect of matters referred to monitoring officers under section 58(1)(c) of the Act

(a) Sections 57A and 57C were inserted by section 185 of the Local Government and Public Involvement in Health Act 2007 (c. 28).

(b) Section 58 was substituted by section 185 of the Local Government and Public Involvement in Health Act 2007.

(c) SI 2008 No. 1085.

as modified by paragraph (4) of this regulation, as they apply to matters referred under section 57A(2) or (3) of the Act, with the modifications set out in paragraph (6) of this regulation.

- (6) The modifications mentioned in paragraph (5) are that—
- (a) Regulation 11 (modification of duty to give written summary) shall apply as if—
 - (i) references in that regulation to “the standards committee” were references to “the Standards Board”; and
 - (ii) the references to section 57C(2) of the Act were references to that section as applied by paragraph (2) of this regulation.
 - (b) Regulation 13 (referral of matters to monitoring officer for steps other than investigation) shall apply as if—
 - (i) the reference in paragraph (1)(a) to “a standards committee” and the references in paragraphs (3)(c), (5) and the first reference in paragraph (6) to “the standards committee”, were each a reference to “the Standards Board”;
 - (ii) the reference in paragraph (1)(a) to “section 57A(2)(a) or 57A(3) of the Act” were a reference to section 58(1)(c) of the Act as modified by paragraph (4)(a) of this regulation;
 - (iii) paragraph (2) were omitted; and
 - (iv) for paragraph (4)(c)(i) there were substituted “where the matter was referred to the monitoring officer under section 58(1)(c) of the Act, to the Standards Board with a copy also being sent to the standards committee”.
 - (c) Regulation 14 (referral of matters to monitoring officer for investigation) shall apply as if—
 - (i) the references in paragraph (1) to section 57A(2)(a) and 57A(3) were a reference to section 58(1)(c) as modified by paragraph (4)(a) of this regulation;
 - (ii) the first reference to “the standards committee” in paragraph (2) were a reference to “the Standards Board”; and
 - (iii) at the end of paragraph (8)(c) there were added “and to the Standards Board”.
 - (d) Regulation 16 (references back from monitoring officer) shall apply as if—
 - (i) after the reference in paragraph (1) to section 57A(2)(a), there were inserted “or section 58(1)(c)”;
 - (ii) for the words “refer that matter back to the standards committee concerned” in paragraph (1) there were substituted “refer the matter to, or back to, the Standards Board”;
 - (iii) in the full-out after paragraph (1)(a)(ii), after “section 57A(2) of the Act” there were inserted “or the Standards Board when it made its decision under section 58(1)(c) of the Act”;
 - (iv) in paragraph (1)(a)(iii) after the words “standards committee” there were inserted “or Standards Board, as the case may be,”;
 - (v) for paragraph (2) there were substituted “If a matter is referred to, or back to, the Standards Board under this regulation, the Standards Board shall make a decision as if the allegation had been made to the standards committee under section 57A(1) of the Act”; and
 - (vi) for paragraph (4) there were substituted “Where the Standards Board considers a matter referred to it, or back to it, under this regulation, it may direct that the matter should not be referred to it a further time.”.

Assessment of allegations by standards committee of another authority

10.—(1) This regulation applies where a direction under section 57D(1) of the Act is in force and specifies the standards committee of another authority in England as the body to whom relevant allegations and relevant requests should be referred.

- (2) For the purposes of this regulation and the modifications which it makes—
- (a) the standards committee of the authority given the direction is called “the suspended standards committee”; and
 - (b) the standards committee of the other authority specified as mentioned in paragraph (1) is called “the specified body”.
- (3) Section 57A(2) to (4) of the Act shall apply as if—
- (a) references in those subsections to a “standards committee” were to the “specified body”;
 - (b) in section 57A(2), for the words “under subsection (1)” there were substituted “by virtue of a direction under section 57D(1)”; and
 - (c) at the end of section 57A(2)(a) there were added “or to the monitoring officer of the specified body”.
- (4) Section 57C(2) to (4) of the Act shall apply as if references in those subsections to “the standards committee” were to “the specified body”.
- (5) Regulations 11, 13, 14 and 16 of the Standards Committee (England) Regulations 2008 shall apply in respect of matters referred to monitoring officers under section 57A(2)(a) or (3) of the Act as modified by paragraph (3) of this regulation, with the modifications set out in paragraph (6) of this regulation.
- (6) The modifications mentioned in paragraph (5) are that—
- (a) Regulation 11 shall apply as if the references to section 57C(2) of the Act were to that section as modified by paragraph (4) of this regulation, and as if for the words “standards committee” in that regulation there were substituted the words “the specified body”.
 - (b) Regulation 13 shall apply as if—
 - (i) for the words “standards committee” in each place where they occur in paragraphs (1)(a), (2), 3(c) and (5) and in the first place in which they occur in paragraph (6), there were substituted the words “specified body”;
 - (ii) the reference in paragraph (1)(a) to “section 57A(2)(a) or 57A(3) of the Act” were to those provisions as modified by paragraph (3) of this regulation; and
 - (iii) for paragraph (4)(c)(i) there were substituted “where the matter was referred to the monitoring officer under section 57(A) to the specified body, with a copy also being sent to the standards committee.”.
 - (c) Regulation 14 shall apply as if—
 - (i) the references in paragraph (1) to section 57A(2)(a) and 57A(3) of the Act were a reference to those provisions as modified by paragraph (3) of this regulation;
 - (ii) in paragraph (2), for the words “standards committee” in the first place in which they occur, there were substituted the words “specified body”;
 - (iii) at the end of subparagraph (8)(c) there were added “and to the specified body”; and
 - (iv) for paragraph (8)(d)(i) there were substituted “either the suspended standards committee or the specified body”.
 - (d) Regulation 16 shall apply as if—
 - (i) the reference in paragraph (1) to section 57A(2)(a) of the Act, were to that provision as modified by paragraph (3) of this regulation;
 - (ii) for the words “refer that matter back to the standards committee concerned” in paragraph (1) there were substituted “refer the matter to, or back to the specified body”;
 - (iii) in the full-out after paragraph (1)(a)(ii), and in paragraph (1)(a)(iii), after the words “standards committee” there were inserted “or the specified body”; and
 - (iv) for the words “standards committee” in each place in which they occur in paragraphs (2) and (4) there were substituted the words “specified body”.

Reviews of decisions not to act

11.—(1) This regulation applies where a direction under section 57D(1) of the Act is in force and a person makes a request under section 57B(2) of the Act(a) for the review of a decision as provided for by that subsection.

(2) Subject to paragraph (3), the body specified in the direction shall review the decision as if it were an allegation made under section 57A of the Act, as modified by regulation 9 or 10 (as the case may be).

(3) No individual who took part in the making of the decision shall take part in the review of that decision.

(4) If by virtue of paragraph (2) a decision is made that no action should be taken in respect of an allegation, section 57B of the Act does not apply in relation to that decision.

Consultation with ombudsmen

12.—(1) If a standards committee of an authority in relation to which a direction under section 57D(1) of the Act is in force, is consulted by a Local Commissioner under section 67(2) of the Act (consultation with ombudsmen)(b) or by the Public Services Ombudsman for Wales under section 67(2A) of the Act(c), that committee shall—

- (a) inform the Local Commissioner or Public Services Ombudsman for Wales, as the case may be, that it has been given a direction under section 57D(1) of the Act; and
- (b) provide contact details of the body specified in the direction.

(2) A Local Commissioner and the Public Services Ombudsman for Wales may consult the body specified in paragraph (1)(b) about the investigation.

Service of documents

13. Any notice or direction under this Part served by the Standards Board shall be deemed to have been effectively served 2 days after it has been sent unless the contrary is proved.

PART 3

JOINT STANDARDS COMMITTEES

Establishment and functions etc. of joint standards committees

14.—(1) Two or more authorities may establish a joint standards committee to exercise such functions falling within paragraph (2) as may be determined by those authorities.

(2) A joint standards committee may exercise any function conferred by or under Part 3 of the Act or Part 1 of the 1989 Act and subject to paragraph (5), enactments conferring such functions shall be construed accordingly in relation to such a committee and as though any reference to a standards committee were to a joint standards committee.

(3) Any function exercisable by a joint standards committee shall be exercisable only by that committee and not by a standards committee of any of the individual authorities which established that joint committee.

(4) Where a joint standards committee has responsibility for the exercise of all the functions of a standards committee under the enactments mentioned in paragraph (2), that joint standards committee is to be treated as the committee required to be established by section 53(1) of the Act

(a) Section 57B was inserted by section 185 of the Local Government and Public Involvement in Health Act 2007 (c.28).

(b) Section 67 was amended by section 196 of the Local Government and Public Involvement in Health Act 2007.

(c) Subsection (2A) was inserted into section 67 by the Public Services Ombudsman (Wales) Act 2005 (c. 10) section 35, Schedule 4, paragraph 8.

(standards committees)(a) in relation to each authority which established that joint standards committee.

(5) In their application in relation to a joint standards committee, the enactments mentioned in sub-paragraphs (a) to (f) shall have effect in accordance with those sub-paragraphs—

- (a) nothing in Part 3 of the Act or in any regulations made under that Part, shall require a joint standards committee to give any notification or document relating to an allegation of misconduct to any parish council except where that joint standards committee is considering a matter relating to a member of that parish council;
- (b) nothing in any regulations made under Part 3 of the Act shall authorise the inclusion, in the membership of the joint standards committee, of a member of the executive of more than one of the authorities which has established the joint standards committee;
- (c) section 53(4)(a) of the Act shall be treated as requiring at least one member from each authority establishing the joint standards committee to be a member of the joint standards committee;
- (d) regulation 5(1) of the Standards Committee (England) Regulations 2008(b) shall be treated as authorising the authorities establishing the joint standards committee to appoint independent members separately or jointly in accordance with the terms of reference agreed under regulation 15 of these Regulations, and—
 - (i) if such appointments are made separately, the requirements of regulation 5(1) apply in respect of each authority;
 - (ii) if such appointments are made jointly, the requirements of regulation 5(1) apply in respect of the authorities jointly;
- (e) regulation 7(3) of the Standards Committee (England) Regulations 2008 shall be treated as requiring at least one member of any of the authorities establishing the joint standards committee to be present where a joint standards committee discharges any function specified in an enactment mentioned in that provision; and
- (f) regulation 7(4) of the Standards Committee (England) Regulations 2008 shall be treated as requiring at least one member of a parish council for which any of the authorities establishing the joint standards committee is responsible, to be present where a joint standards committee discharges any function specified in an enactment mentioned in that provision.

Terms of reference of joint standards committees

15.—(1) All of the authorities which together establish a joint standards committee must agree the terms of reference of the joint standards committee and must send a statement which sets out those terms of reference and any revision of those terms of reference, to the Standards Board.

(2) The terms of reference specified in paragraph (1) must—

- (a) identify the functions which are to be discharged by the joint standards committee;
- (b) make provision for the administrative arrangements of the joint standards committee;
- (c) specify, for each authority that is involved in the establishment of the joint standards committee, which committee is the standards committee to which written allegations under section 57A(1) of the Act may be sent;
- (d) specify the number of members to be appointed to the joint standards committee by the authorities establishing that committee and make provision for the terms of office of those members;
- (e) make provision for the appointment of members, by the joint standards committee, to sub-committees of that committee;

(a) There has been an amendment to section 53 which is not relevant to these regulations.

(b) SI 2008 No. 1085.

- (f) specify what provision is made for the payment of allowances to members of the joint standards committee;
- (g) make provision for the procedure for an authority to withdraw from the joint standards committee upon service of notice.

(3) The expenses incurred by a joint standards committee shall be defrayed by the authorities establishing that committee in such proportions as they may agree or in case of disagreement by a single arbitrator agreed on by the appointing authorities.

PART 4 DISPENSATIONS

Interpretation

16. In this Part—

“dispensation” means such a dispensation as is mentioned in section 81(4) of the Act (disclosure and registration of members interests etc);

“mandatory provisions” means the mandatory provisions of a model code of conduct which for the time being applies to an authority;

“meeting” includes any meeting of an authority, of the executive of the authority, of any committee or sub-committee of the authority or its executive, of any joint committee or sub-committee of a joint committee, or of any area committee;

“member” means a member or co-opted member of an authority or a councillor appointed under section 16A of the Local Government Act 1972 (appointed councillors)(a).

Circumstances in which dispensations may be granted

17.—(1) The standards committee of an authority may, subject to paragraph (2) below, grant a dispensation to a member in the following circumstances—

- (a) where the transaction of business of the authority would, but for the grant of any other dispensation in relation to that business, on each occasion on which the dispensation would apply, otherwise be impeded by, or as a result of, the mandatory provisions because—
 - (i) the number of members of the authority prohibited from voting on the business of the authority at a meeting exceeds 50% of those members that, but for the granting of any dispensations relating to that business, would otherwise be entitled to vote on that business; or
 - (ii) the number of members prohibited from voting on the business of the authority at a meeting would, but for the granting of any dispensations relating to that business, upset the political balance of that meeting to such an extent as to prejudice the outcome of voting in that meeting;
- (b) the member has submitted to the standards committee a written request for a dispensation explaining why it is desirable; and
- (c) the standards committee concludes that having regard to the matters mentioned in sub-paragraph (a) above, the written request made pursuant to sub-paragraph (b) above, and to any other relevant circumstances of the case, it is appropriate to grant the dispensation.

(2) Nothing in paragraph (1) above shall permit a dispensation to be granted—

(a) 1972 c. 70. Section 16A was inserted by section 76(4) of the Local Government and Public Involvement in Health Act 2007 (c. 28).

- (a) in respect of participation in business of the authority conducted more than four years after the date on which the dispensation is granted; or
- (b) where the effect of the mandatory provisions from which a dispensation is sought is that—
 - (i) a member is prohibited from voting on a matter at a meeting of an overview and scrutiny committee of an authority relating to a decision made by any body of which that person was a member at the time the decision was taken; or
 - (ii) a member of the authority's executive is prohibited from exercising functions which are the responsibility of the executive of the authority and which would otherwise be discharged by that member solely.

Records of dispensations

18. The standards committee of an authority must ensure that—

- (a) the existence, duration and nature of any dispensation is recorded in writing; and
- (b) such record is kept with the register of interests established and maintained under section 81(1) of the Act.

Revocation

19. The Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002(a) are revoked.

Signed by authority of the Secretary of State for Communities and Local Government

18th May 2009

John Healey
Minister of State
Department for Communities and Local Government

(a) SI 2002 No. 339.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 53 of the Local Government Act 2000 (“the Act”) requires relevant authorities in England and Wales (defined in section 49(6) of the Act) to establish standards committees to exercise functions conferred under Part 3 of the Act and Part 1 of the Local Government and Housing Act 1989 (“the 1989 Act”).

Section 57A of the Act enables people to make written allegations to the standards committee of a relevant authority in England that a member or co-opted member (or former member or former co-opted member) of the authority has failed to comply with the authority’s code of conduct. Section 57B of the Act makes provision for reviews of decisions by standards committees to take no action in respect of an allegation. Section 57C makes provision for information to be given to the subject of an allegation by the standards committee. The Standards Committee (England) Regulations 2008 (SI 2008/1085) make provision for dealing with such allegations.

Section 81 of the Act requires the mandatory provisions of a model code of conduct applicable to relevant authorities to prevent or restrict the participation of a member or co-opted member of a relevant authority in any business in which that person has an interest which that person is required to register in the authority’s register of members’ interests. Subsection (5) of that section enables the making of regulations to prescribe circumstances in which standards committees may grant dispensations to permit a member or co-opted member to participate in business notwithstanding the existence of an interest.

These Regulations make further provision in respect of standards committees. Part 2 provides for the Standards Board for England (“the Standards Board”) to give a direction to a standards committee to suspend its functions under sections 57A(2) to (4), 57B(4) and 57C(2) to (4) (“the initial assessment functions”) and to provide for those functions to be exercised either by the Standards Board or by the standards committee of another authority. Part 3 makes provision enabling relevant authorities to establish joint standards committees with other relevant authorities to discharge any or all of their functions under Part 3 of the Act or Part 1 of the 1989 Act. Part 4 revokes the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002 (SI 2002/339) and replaces them with new provisions.

Regulations 1 and 2 contain citation, commencement, application and interpretation provisions.

Regulation 3 prescribes the circumstances in which the Standards Board may exercise the power in section 57D(1) of the Act to give a direction which has the effect of suspending the initial assessment functions of standards committees. The circumstances are:—

- the standards committee has failed to have regard to guidance issued by the Standards Board;
- the standards committee has failed to comply with a direction issued by the Standards Board;
- the standards committee or monitoring officer has failed to carry out functions in relation to the conduct of members within a reasonable time or in a reasonable manner; or
- the authority or standards committee has invited the Standards Board to give a direction.

Regulation 4 prescribes the circumstances in which the Standards Board may revoke a direction.

Regulations 5 to 8 make provision as to the process for the giving of a direction to a standards committee and for the amendment to, or revocation of, a direction. They also impose an obligation on the Standards Board to give standards committees the opportunity to make representations and to take account of those representations before giving a direction.

Regulations 9 to 11 apply provisions in Part 3 of the Act and in the Standards Committee (England) Regulations 2008 with some modifications, in situations when a direction under section 57D(1) is in force. Regulation 9 applies when the direction specifies the Standards Board as the body which performs the initial assessment functions of the standards committee which has

received the direction. Regulation 10 applies where the direction specifies the standards committee of another relevant authority as the body which performs those initial assessment functions. Regulation 11 applies to reviews of decisions by standards committees, or the Standards Board to take no action in respect of an allegation, when a direction is in force.

Regulation 12 requires standards committees which have been given a direction suspending their initial assessment functions, to respond to consultation by a Local Commissioner or the Public Services Ombudsman for Wales by providing details of the body which has taken over the initial assessment of allegation functions.

Regulation 13 makes provision as to service of documents.

Regulations 14 and 15 enable two or more relevant authorities to establish joint standards committees to perform any functions under Part 3 of the Act or regulations made under the Act or the function of the grant and supervision of exemptions from political restrictions imposed by Part 1 of the 1989 Act. They permit relevant authorities to decide which functions they wish to be exercised by a joint standards committee and require terms of reference to be agreed and sent to the Standards Board specifying which functions are to be exercised by the joint standards committee. They also provide that other enactments applicable to standards committees apply, with necessary modifications, to functions performed by joint standards committees and specify how certain modifications are to apply.

Regulations 16 and 17 prescribe the circumstances in which standards committees may grant dispensations to members or co-opted members who would otherwise be prohibited from engaging in the business of a relevant authority. If a member or co-opted member acts in accordance with the grant of a dispensation, any participation in business prohibited by the mandatory provisions of a model code of conduct issued under section 50(1) of the Act is not a failure to comply with the authority's code of conduct.

The circumstances in which a standards committee may grant a dispensation are:—

- where, but for the grant of any other dispensation in relation to that business, more than 50% of the members who would otherwise be entitled to vote at a meeting are prohibited from voting; or
- where, but for the grant of any other dispensation in relation to that business, the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting.

Regulation 17(2) provides that a dispensation can only be granted in respect of business conducted during the period of 4 years after the date on which the dispensation is granted. It also specifies that the circumstances in which dispensations can be granted do not extend to allowing a member of an overview and scrutiny committee to participate in the scrutiny of a decision in which that member was involved, or to allow an individual member of the executive of an authority to exercise executive functions solely.

Regulation 18 requires standards committees to keep records of dispensations granted under regulation 17. Regulation 19 revokes the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2000.

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

£5.50

STANDARDS COMMITTEE**STANDARDS BOARD GUIDANCE ON “OTHER ACTION”
18th June 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider recent Guidance published by the Standards Board for England.

This report is public

RECOMMENDATIONS

- (1) **That the report be noted and that Members consider whether they wish to amend the Assessment Criteria for “other action” in the light of the Guidance.**

1.0 Report

1.1 As Members will be aware, when an Assessment Sub-Committee considers a complaint, the options open to it are to take no action, to refer the matter to the Standards Board, or to refer the matter to the Monitoring Officer. If the Sub-Committee refers a complaint to the Monitoring Officer, it can direct the Monitoring Officer to investigate the matter or to take steps other than carrying out an investigation. This is known as “other action”.

1.2 The Standards Board has recently issued new Guidance for Standards Committees on “other action”, and this is appended to the report at Appendix 1.

1.3 In the light of the new Guidance, the Committee may wish to consider amending its Assessment Criteria for “other action”. Suggested amendments are set out (with the amendments tracked) in Appendix 2.

2.0 Details of Consultation

2.1 There has been no consultation.

3.0 Options and Options Analysis (including risk assessment)

3.1 The report is for noting, although the Committee is asked to consider making amendments to the Assessment Criteria.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

None directly arising from this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

None directly arising from this report.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:

OTHER ACTION GUIDANCE

contents

introduction	2
what is other action?	3
what might other action involve?	4
deciding on other action	5
when is other action appropriate	7
adjournment	8
role of the monitoring officer	10
consideration of the monitoring officer's report	11
what if other action does not work?	12
why other action closes the opportunity to investigate	13

introduction

- 1) This guidance on other action is aimed at members of standards committees. It is not mandatory but has been written to help describe what other action is, when it might be used, and how the process can be managed.
 - Although there is no formal route for dealing with a member who refuses to comply with other action, failure to cooperate may amount to bringing the authority into disrepute.
- 2) Advice for monitoring officers on carrying out other action is available in the Standards Board's guidance, **Local Investigations and Other Action and How to Conduct an Investigation**.
- 3) The Standards Board's key messages on other action are:
 - Complaints should not be referred for other action when an investigation is in the public interest, when an allegation challenges the member's honesty or integrity, or where if proven to be true, the alleged conduct would undoubtedly warrant a sanction.
 - A referral for other action closes the opportunity to investigate.
 - A decision to refer a complaint for other action makes no finding of fact, and the action decided on must not imply that the subject of the complaint has breached the Code of Conduct.
 - Assessment sub-committees cannot direct the subject member or any other party to take action. The direction is to the monitoring officer.

what is other action?

- 4) An assessment sub-committee has **three** options when dealing with a complaint that a member has failed or may have failed to comply with the Code of Conduct. The Local Government Act 2000, as amended, states that it can decide to refer the complaint to the monitoring officer of the authority concerned, refer it to the Standards Board, or take no action.
- 5) If the assessment sub-committee decides to refer a complaint to the monitoring officer, it can direct them to investigate the matter. Alternatively, it can direct them to take steps other than carrying out an investigation. This is known as other action.
- 6) Generally, there are **two** indicators for other action. The **first** is when there is evidence of poor understanding of the Code of Conduct and/or the authority's procedures. The **second** indicator for other action is when relationships within the authority as a whole have broken down to such an extent that it becomes very difficult to conduct the business of the council.
- 7) The Standards Committee (England) Regulations 2008 explain that the steps a standards committee can direct a monitoring officer to take are:
 - arranging for the member to attend a training course
 - arranging for the member and complainant to engage in a process of conciliation
 - any other steps (not including an investigation) which appear appropriate
- 8) Suggestions as to types of training courses a member might attend, and other steps a standards committee might consider appropriate, are listed in the next section (**What might other action involve?**).

what might other action involve?

- 9) The Standards Committee (England) Regulations 2008 specifically provide that a referral for other action may consist of a direction to the monitoring officer to arrange for the member to attend a training course. Training may be in anything the assessment sub-committee deems appropriate, such as:
- chairing skills
 - working with external bodies and partnerships
 - governance issues
 - the Code of Conduct
 - council procedures and protocols
 - legal matters
 - planning and licensing
 - working with officers
 - use of council resources
- 10) In general, other action may take the form of directing the monitoring officer to arrange for the:
- redrafting of council procedures or policies
 - training of members of the council as a whole
 - mentoring of a member or members, or whole council
 - management of conflict
 - development of council protocols
 - implementation of a council complaints procedure
- 11) A referral for other action does not mean that the member has been found to have done anything wrong (see the next section ‘**Deciding to take other action**’). It is therefore very important that the action proposed does not imply this. Other action cannot, for example, take the form of requiring the subject member to apologise. Of course, in those cases where the member has admitted the breach and offered an apology, the assessment sub-committee may decide that no further action is necessary.
- 12) **It is particularly important to remember that an assessment sub-committee can only direct a monitoring officer to take other action. It has no power to direct anyone else to do so.**

deciding on other action

- 13) A decision to refer a complaint for other action – like all assessment decisions – does not involve making any findings of fact. All parties should understand that a decision to take other action means that no conclusion has been reached about what happened. Furthermore, no decision has been made about whether the subject member failed to comply with the Code.
- 14) Similarly, everyone involved in a decision to take other action must understand that the purpose of such a referral is not to find out whether the member breached the Code of Conduct. This is regardless of how simple it may be to establish the facts. A decision to direct the monitoring officer to take other action is an alternative to an investigation. It cannot ever result in a finding that the member has or has not failed to comply with the Code.
- 15) The assessment sub-committee needs to be satisfied that even if the specific allegation had occurred as alleged, it would not be behaviour which would necessarily require the subject member to face one of the sanctions it could impose. This excludes training, which can be other action decided on at assessment stage, and a sanction following a hearing. The assessment sub-committee should also be satisfied that other action could assist the proper functioning of the council.
- 16) Other action is not intended to be a quick and easy means of dealing with matters which the assessment sub-committee considers to be too trivial or time-consuming to investigate. Genuinely trivial cases are better dealt with by a decision to take no action. While other action can be a cost-effective way of getting a matter resolved, it is not a quick-fix. Furthermore, other action should not be seen as a routine or cheap way of disposing of an allegation, as it can sometimes be a drawn out, costly and time-consuming process.
- 17) Standards committees should take care to avoid it appearing to the complainant that deciding to take other action is sweeping matters under the carpet. The decision should demonstrate to the complainant that their complaint is being addressed and being taken seriously, although perhaps as part of a wider issue.
- 18) Importantly, if a complaint merits being investigated, then it should be referred for investigation. For example, complaints should not be referred for other action when an investigation would be in the public interest. Other action should also be avoided where the allegation fundamentally challenges the member's honesty or integrity. It should additionally be avoided where the allegation, if proven, would warrant any of the sanctions (apart

deciding on other action

from training) available to a standards committee after a hearing.

- 19) Assessment sub-committees must not refer an allegation for other action without consulting the monitoring officer, who will often be present at the assessment meeting. If the monitoring officer is not present, and has not given any indication of their views on other action, the assessment meeting may need to be adjourned.
- 20) The monitoring officer may be able to advise the assessment sub-committee how viable the proposed other action is, by providing information on the resources available to them. They may be able to tell the assessment sub-committee how much any proposed other action might cost. They might also be able to advise whether, for example, the authority has access to the facilities or resources needed to accomplish it, such as trained mediators.

when is other action appropriate?

- 21) The first stage in assessing a complaint is to determine whether it is within jurisdiction. In other words, the assessment sub-committee needs to decide whether, if what the complainant alleges were true, the Code of Conduct would apply. If the Code would not apply to the alleged conduct, the only decision an assessment sub-committee is able to make is to take no action. Other action will never be appropriate in these cases.
- 22) In general, the Standards Board believes that other action is most beneficial when used to deal with systemic problems rather than individual ones. The action proposed does not have to be limited to the subject of the complaint. Several members, or indeed a whole authority, could be included in the action the monitoring officer is asked to take.
- 23) Matters which standards committees might consider referring for other action include:
- a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the council
 - misunderstanding of procedures or protocols
 - misleading, unclear or misunderstood advice from officers
 - lack of experience or training
 - interpersonal conflict
 - allegations and retaliatory allegations from the same members
 - allegations about how formal meetings are conducted
 - allegations that may be symptomatic of governance problems within the council, which are more significant than the allegations in themselves
- 24) We advise standards committees to draw up assessment criteria which detail the matters they will take into account when deciding what action, if any, to take. Every decision to take other action – like all assessment decisions – can then be made with reference to these criteria.
- the same particular breach of the Code by many members, indicating poor understanding of the Code and the authority's procedures

adjournment

- 25) Some assessment sub-committees are reluctant to refer a complaint for other action without knowing whether the subject member and other members of the authority will cooperate with the proposed approach.
- 26) One way of dealing with this issue is by adjourning the assessment of a complaint that the assessment sub-committee considers might be suitable for other action. The standards committee can then ask the monitoring officer to find out whether the member or members will cooperate. Although this option is not specifically provided for by the legislation, we do not consider that it is prohibited. Meetings may also be adjourned to enable the monitoring officer to find out more information about the complaint.
- 27) It is up to each authority to decide whether their assessment of a particular complaint should be adjourned. They should consider the advantages and disadvantages of adjournment when making this decision. They should also bear in mind that we advise that assessment decisions should be made within an average of 20 working days, and that an adjournment may mean that that the average assessment time increases.
- 28) Advantages of adjournment are:
- Those sitting on the assessment sub-committee will know what the members think about the proposed solution, and may therefore be more confident in making their decision.
 - Members may be likely to cooperate if they are made aware of the options available.
 - When members indicate that the action would be ineffective, the sub-committee still have the option of deciding to refer the complaint for investigation.
 - Further information obtained by the monitoring officer may mean that the complaint is effectively resolved, enabling the sub-committee to decide to take no action.
- 29) Disadvantages of adjournment are:
- Finding out members' views runs the risk of putting the decision about what action to take into the hands of the member, rather than the sub-committee.
 - The authority of the standards committee may be undermined if other action is agreed through negotiations between the monitoring officer and the member or members.
 - By making further enquiries, the monitoring officer may end up starting an investigation before the assessment decision is made.

adjournment

- The member or members may try to pass on more information to the monitoring officer, to persuade the sub-committee to take no action.
- 30) As an alternative to adjourning the assessment meeting, the standards committee could agree that the monitoring officer seeks views on other action when they receive a complaint.

role of the monitoring officer

- 31) When a matter has been referred for other action, it is the monitoring officer's duty to give notice to the relevant parties. These relevant parties are:
- the subject member
 - the person who made the allegation
 - the standards committee of any other authority concerned
 - any parish council concerned
- 32) If the standards committee issues a decision notice that goes to all these parties, the Standards Board considers that the monitoring officer's responsibility is met.
- 33) Whoever notifies the parties of the decision should take care over how the decision is conveyed. It is important that the wording does not imply that the member is culpable. It is also important that members do not feel they have been found guilty without an investigation of the allegation. Note that both parties could end up potentially feeling dissatisfied. This is because complainants and subject members do not have the right to have the decision to refer a matter for other action reviewed under Section 57B of the Local Government Act 2000.
- 34) When a monitoring officer receives a referral with a direction to take other action, they must deal with it in accordance with the direction. They do not have discretion to take a different course of action and should make every attempt to ensure that the action specified is carried out successfully.
- 35) Information and advice for monitoring officers on carrying out other action is available in the Standards Board's guidance, **Local investigations and other action** and **How to conduct an investigation**.
- 36) The monitoring officer must submit a written report to the standards committee within three months of receiving the direction, or as soon as possible after that. This report must give details of the action taken or the action proposed to comply with the direction.

consideration of the monitoring officer's report

- 37) The standards committee or an appropriate sub-committee should consider the monitoring officer's report and decide whether it is satisfied with the action described. The meeting at which the report is considered is subject to the general notice and publicity requirements under regulation 8 of the Standards Committee (England) Regulations 2008.
- 38) The monitoring officer's report can be considered by the same members who initially assessed the complaint, by another sub-committee, or by the standards committee as a whole. This is a decision to be made by each authority, and will depend on the way in which the committee has been set up, what sub-committees it has and the terms of reference of each body.
- 39) The advantage of the same members considering the report is that they will be aware of the details of the original complaint. However, some authorities may consider that convening a sub-committee simply for this purpose is not a good use of time and resources. They might instead choose to include consideration of the monitoring officer's report as an item on the agenda of the regular meeting of the standards committee.
- 40) If the standards committee or sub-committee **is** satisfied with the action described in the monitoring officer's report, it should give notice of this to all of the following:
- the subject member
 - the person who made the allegation
 - the standards committee of any other authority involved
 - any parish council concerned
- The matter is then closed.
- 41) If the standards committee or sub-committee is **not** satisfied, it must give another direction to the monitoring officer, which must again be to take some kind of other action. The standards committee cannot at this stage decide that the matter should be investigated. This is discussed further in the section below.
- 42) If the report describes action which has been proposed but not yet taken, the standards committee should decide whether this is satisfactory. If it has doubts about whether the action will take place, it should consider whether or not to give a further direction to the monitoring officer. The standards committee or sub-committee may also consider making a further direction where the report indicates that the member has refused to cooperate, has done so unwillingly or inadequately, or has not engaged with the process.

what if other action does not work?

- 43) Each time a standards committee or sub-committee directs a monitoring officer to take other action, the monitoring officer must submit a written report detailing the action taken or proposed. If dissatisfied, the standards committee can direct the monitoring officer to take further other action.
- 44) In theory, if a standards committee continues to be dissatisfied, it can continue to issue directions until it is satisfied. However, standards committees should be proportionate and reasonable in their directions. We believe that the process should be drawn to a close after a limited number of attempts by the monitoring officer to bring about other action – even where this has not occurred in accordance with the direction.
- 45) There is no formal route for dealing with a member who categorically refuses to comply with other action. However, the Standards Board believes that deliberate and continued failure to cooperate with a monitoring officer who is trying to carry out the directions of a standards committee may potentially amount to conduct which brings the office of councillor into disrepute. Furthermore, an assessment sub-committee may take this into account when deciding what action to take if they are assessing a complaint about a member who has previously failed to cooperate.
- 46) If a standards committee receives a complaint that a member did not cooperate with other action in relation to a previous complaint, they should only assess the complaint about the failure to cooperate. They should not take into account the conduct which led to the original complaint.
- 47) If the complaint is accepted for investigation then it is vitally important that any investigation focuses on the lack of cooperation and not the original complaint that led to the other action. Otherwise there is a danger that the original complaint will be resurrected. This is particularly important where the member says that the lack of cooperation was because they had done nothing wrong.

why other action closes the opportunity to investigate

- 48) Once an assessment sub-committee has decided to refer a matter for other action, this becomes the way forward in that particular case. If a standards committee is not satisfied that the action taken has not achieved the aim of the direction to take other action, it cannot then decide the matter should be investigated. The assessment sub-committee needs to be clear at the outset that should other action be unsuccessful or only partially successful, that it would still then remain the preferred course of action.
- 49) The legislation is clear on this issue. Once an allegation is referred under Section 57A(2) of the Local Government Act 2000 to the monitoring officer to take steps other than investigation, those steps are the ones referred to in regulation 13(3) of the Standards Committee (England) Regulations 2008. They are limited to arranging for training, a process of conciliation or such other steps – not including investigation – which the standard committee considers to be appropriate. There is no power that allows the case to be referred on for investigation if these options under regulation 13(3) are perceived to have failed.
- 50) Regulation 14(1) of the same regulations says that regulation 14 applies only if regulation 13 is not applied. If other action has been attempted, regulation 13 has been applied.
- 51) As well as being set out in statute, there are sound reasons why complaints which have been referred for other action should not then be investigated. Firstly, there are difficulties in deciding why the action has ‘failed’; whether it has failed and if so, why an investigation is thought to be needed. This subjective judgment has the potential to increase the complainant or the subject member’s dissatisfaction with the process. In some circumstances, it may also risk deliberate non-cooperation with the action prescribed in order to secure an investigation.
- 52) An investigation should not be viewed as something that can take place after other action has been attempted and is not to the satisfaction of one of the parties. There is a risk that other action will not be taken seriously if it is seen merely as a precursor to an investigation.

why other action closes the opportunity to investigate

- 53) The issue of timeliness is also key for all parties when dealing with an allegation of misconduct. It is questionable as to how fair the process would be, for both the subject member and complainant, if it is extended for the duration of the other action taking place and the investigation that follows it. Where other action is undertaken before an investigation, there is the risk that the case will be prejudiced. Witnesses may become prejudiced, there may be problems obtaining evidence, and an investigation may be jeopardised if the issues are discussed in detail as part of a mediation process.

Appendix 2

C. Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for training, conciliation or other steps as appear appropriate to the Standards Committee

Note This approach may be appropriate where the Sub-Committee believes that the conduct, if proven, may amount to a failure to comply with the Code, and that some action should be taken in response to the complaint. If this approach is taken, the purpose of the action is NOT to find out whether the subject member breached the Code, and no conclusion will have been reached on whether the subject member failed to comply with the Code. It should be noted that this approach may only be taken after consultation with the Monitoring Officer

C1 Where the complaint suggests that there is a wider problem throughout the authority, for example of a poor understanding of the Code of Conduct, or the Council's protocols or procedures, and it is appropriate to extend the action to other members who are not the subject of the complaint

C2 Where it is apparent that there is a lack of experience or training, or where the allegation if proven would not warrant any of the sanctions (apart from training) that would be available after a hearing, subject of the allegation is relatively inexperienced as a Member, or has admitted making an error and the matter would not warrant a more serious sanction

~~C3 Where it appears that even if the allegation were fully investigated, and a breach of the Code of Conduct upheld, training or conciliation would be the appropriate remedy~~

C3 Where the complaint indicates a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it is becoming difficult to conduct the business of the Council.

C4 Where there appears to have been misleading, unclear or misunderstood advice from officers.

C5 Where there are allegations and retaliatory allegations from the same members.

C6 Where there are allegations that may be symptomatic of governance problems within the Council, which are more significant than the allegations in themselves.

STANDARDS COMMITTEE**ANNUAL REVIEW OF REGISTRATION OF INTERESTS
18th June 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise the Committee of the continuing monitoring of the registration of personal interests by City and Parish Councillors.

This report is public

RECOMMENDATIONS

(1) That the report be noted

1.0 Introduction

1.1 As Members are aware, there is a requirement in the Code of Conduct for any changes to members' interests to be notified to the Monitoring Officer within twenty eight days. It is the Monitoring Officer's practice to undertake an annual review of registrations.

2.0 Proposal Details

2.1 At the end of April 2009, a letter was sent to all Members of the City Council reminding them of the need to register any changes, and requesting either a signed declaration to the effect that there has been no change, or the return of a completed "change" form.

2.2 The letter requested a reply by the end of May 2009, by which time fifteen replies had been received. However, the Monitoring Officer is aware that some appointments to outside bodies, which need to be included in the register of interests, will not be made until Cabinet and Overview and Scrutiny Committee have met in June. In reminding Members of the need to reply, the Monitoring Officer has acknowledged that those Members affected should wait until the relevant appointment have been made. Information about the number of replies received will be updated at the meeting.

2.3 With regard to the parish councils, by virtue of the very number of councillors and the frequency of resignations and co-options, it is extremely difficult for the Monitoring Officer to ensure that the register contains an up to date registration form completed by each and every parish councillor. A check was undertaken last year, and in order

to ensure that the registrations of parish councillors are kept up to date, the Monitoring Officer has written to the clerks of all the parish councils within the district, requesting them to draw to the attention of their councillors the requirement to register any changes to their personal interests, and enclosing copies of the change form.

2.4 It is hoped that these actions will ensure that city and parish councillors maintain accurate register entries of their personal interests.

3.0 Conclusion

3.1 The Committee is asked to note the report.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

LEGAL IMPLICATIONS

Registration of personal interests is a requirement of the Members' Code of Conduct.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her role as adviser to the Standards Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S. Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref: ST

STANDARDS COMMITTEE**PROCEDURE FOR CONSIDERING ALLEGATIONS OF
BREACH OF THE COUNCIL'S PROTOCOLS
18th June 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider whether or not to amend its procedure for dealing with complaints of breach of the Council's protocols.

This report is public

RECOMMENDATIONS

(1) That the Committee consider whether or not to amend its procedure for dealing with complaints of breach of the Council's Protocols.

1.0 Introduction

1.1 A report considered by the Committee at its meeting in June 2008 is attached to this report.

1.2 Having considered that report, the Committee resolved that any allegations of breach of the Council's Protocols continue to be investigated by the Monitoring Officer, with her report then being referred to the Standards Committee (or a Sub-Committee) in accordance with the investigation, pre-hearing and hearing procedures adopted by the Committee for Code of Conduct complaints. The Committee further resolved that this be reviewed after twelve months. Minute 11 refers.

2.0 Proposal Details

2.1 No allegations of breach of Protocol have been received in the last twelve months, and the options open to the Committee remain as set out in paragraphs 2.1 and 2.2 of the previous report.

2.2 The Monitoring Officer remains of the view that it would be simpler and preferable for the time being to continue as at present, with the Monitoring Officer investigating any complaint of alleged breach of Protocol, and the report then being considered in accordance with the investigation, pre-hearing and hearing procedures. To have a parallel, but inevitably different, assessment process for Protocol complaints would appear to be unnecessarily bureaucratic.

3.0 Details of Consultation

3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

4.1 The options open to the Committee are to maintain the current procedure or to introduce a filtering process for allegations of breach of Protocol.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

None directly arising from this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

None directly arising from this report.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref:

STANDARDS COMMITTEE

**PROCEDURE FOR CONSIDERING ALLEGATIONS OF
BREACH OF THE COUNCIL'S PROTOCOLS**

19th June 2008

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider the procedure to be followed for dealing with allegations that a Member has failed to comply with one of the Council's Protocols.

This report is public

RECOMMENDATIONS

- (1) That the Committee consider the procedure to be followed for dealing with allegations that a Member has failed to comply with one of the Council's Protocols, and for the time being maintain the current procedure of investigation by the Monitoring Officer, with the Monitoring Officer's report then being considered in accordance with the investigation, pre-hearing and hearing procedures.

1.0 Introduction

- 1.1 The Council has a number of Protocols which supplement the Code of Conduct. These are the Protocol on Planning, the Protocol on Member/Officer Relations and the Protocol on Publicity for Allegations of breach of the Code of Conduct (referred to elsewhere in this agenda).
- 1.2 The Terms of Reference of the Committee include dealing with allegations of breach of the Protocols. However, the Protocols do not form part of the Code of Conduct, and any breach does not therefore constitute a breach of the Code of Conduct. The provisions of the Local Government Act 2000 (as amended) and the Standards Committee (England) Regulations 2008 do not apply to complaints relating to the Protocols, and the sanctions of the Committee in the event of a finding of breach of Protocol would be limited to the "naming and shaming" of the member, or the offering of advice to the member. It would also be open to the Committee to suggest more general changes to working practices to prevent such a problem or complaint arising in the future.
- 1.3 Whilst the Protocols are included in the Council's Constitution, they are generally for internal use only, and it is anticipated that any allegation of breach would be made by

another Member of the Council rather than by a member of the public. Over the past few years, only one formal complaint of breach of Protocol has been received.

- 1.4 At its meeting on the 23rd February 2007, the Committee resolved that its procedure for considering reports on investigations relating to alleged breaches of Protocol be similar to the statutory procedure for considering reports on investigations initiated by the Standards Board. That decision needs to be reviewed in the light of the new arrangements for Code of Conduct complaints.

2.0 Proposal Details

- 2.1 The decision of the 23rd February 2007 presupposed that all complaints of alleged breach of Protocol would be investigated by the Monitoring Officer. It would be possible to continue on this basis, with any complaint received being investigated by the Monitoring Officer, and her report then being referred to the Standards Committee (or a Sub-Committee) in accordance with the investigation, pre-hearing and hearing procedures adopted by the Committee for Code of Conduct complaints.

- 2.2 However, this would mean that there would be no filtering process for breach of Protocol complaints as there is for Code of Conduct complaints. The consequence would be that all breach of Protocol complaints would be investigated. The Committee might wish to introduce a filtering process, along the lines of the assessment process for Code of Conduct complaints. However, this could not be the same process, as the options available on assessment would not be the same, and the ordinary access to information rules would apply to any assessment sub-committee dealing with Protocol breaches.

- 2.3 The Monitoring Officer would recommend that, in view of the infrequency of Protocol complaints to date, it would be simpler and preferable for the time being to continue as at present, with the Monitoring Officer investigating any complaint, and the report then being considered in accordance with the investigation, pre-hearing and hearing procedures. To have a parallel, but inevitably different, assessment process for Protocol complaints would appear to be unnecessarily bureaucratic and complicated, especially at this early stage when we have no experience of how the statutory assessment filter will work in practice. The position could then be reviewed in the future

3.0 Consultation

- 3.1 The Monitoring Officer has consulted other Monitoring Officers on how they intend to deal with breaches of Protocol. It would appear that many authorities do not have protocols or have never had occasion to consider allegations of breach of Protocol, and they do not therefore see this as an issue for them. The few that have considered the issue are intending not to apply any assessment/filter process to Protocol complaints.

4.0 Options

- 4.1 The options open to the Committee are as set out in paragraphs 2.1 and 2.2 above. The Monitoring Officer would recommend for the time being the option set out in 2.1.

5.0 Conclusion

- 5.1 The Committee's views are sought.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

FINANCIAL IMPLICATIONS

There are no financial implications as a result of this report.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments to add.

LEGAL IMPLICATIONS

Legal Services have been consulted and have no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her role as adviser to the Standards Committee.

BACKGROUND PAPERS

None

Contact Officer: Mrs S. Taylor

Telephone: 01524 582025

E-mail: STaylor@lancaster.gov.uk

Ref: ST

STANDARDS COMMITTEE**REVIEW OF COMPLAINT DOCUMENTATION AND
ASSESSMENT CRITERIA AND INVESTIGATION AND
HEARING PROCEDURES
18th June 2009****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider whether any amendments are needed to the forms and procedures approved in May and June 2008 following the implementation of the new regime for complaints to be made locally.

This report is public

RECOMMENDATIONS

- (1) **That the Committee consider whether it wishes to make any amendments to the documents attached to the report.**

1.0 Introduction

- 1.1 Following the implementation in May 2008 of the new regime for Code of Conduct complaints to be made and dealt with locally, the Committee in May and June 2008 approved its complaints form and guidance, assessment procedure and criteria and investigation, pre-hearing and hearing procedures. These have now been in place for a year, and it would seem an appropriate time for the Committee to consider whether any amendments need to be made to the documents in the light of the experience of the last year.

2.0 Proposal Details

- 2.1 Attached to this report are the following documents:

- Complaint Form
- Guidance for Complainants
- Assessment Procedure and Criteria
- Investigation Procedure
- Pre- hearing Procedure (including Forms A-D)
- Hearing Procedure

- 2.2 The documents have been slightly amended to incorporate decisions of the Committee over the last year, for example to emphasise on the complaint form that full information is required, to provide for the Monitoring Officer to inform a subject

member about a complaint if it is clear that the press are aware of the member's identity, and to enable the original Assessment Sub-Committee to consider a report on "other action". As part of another item on this agenda, the Committee has the opportunity to consider amendments to the Assessment Criteria for "other action".

2.3 Members are asked to consider whether any further amendments are needed to the documents. It should perhaps be noted that the suitability of the investigation, pre-hearing and hearing procedures, has not yet been tested, as until recently no complaint had been referred for investigation.

3.0 Details of Consultation

3.1 There has been no consultation.

4.0 Options and Options Analysis (including risk assessment)

4.1 It is open to the Committee to make any appropriate amendments to the documents.

<p>CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</p> <p>None arising from this report.</p>	
<p>FINANCIAL IMPLICATIONS</p> <p>None directly arising from this report.</p>	
<p>SECTION 151 OFFICER'S COMMENTS</p> <p>The Section 151 Officer has been consulted and has no further comments.</p>	
<p>LEGAL IMPLICATIONS</p> <p>None directly arising from this report.</p>	
<p>MONITORING OFFICER'S COMMENTS</p> <p>The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.</p>	
<p>BACKGROUND PAPERS</p> <p>None</p>	<p>Contact Officer: Mrs S Taylor Telephone: 01524 582025 E-mail: STaylor@lancaster.gov.uk Ref:</p>



STANDARDS COMMITTEE COMPLAINT FORM

Before completing this form, you are advised to read the Council's "Guidance on Making a Complaint to the Standards Committee." This is available on the Council's website or on request from the Monitoring Officer, tel 01524 582025.

Your details

1. Please provide us with your name and contact details

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

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

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament

- Local authority monitoring officer
- Other council officer or authority employee
- Other ()

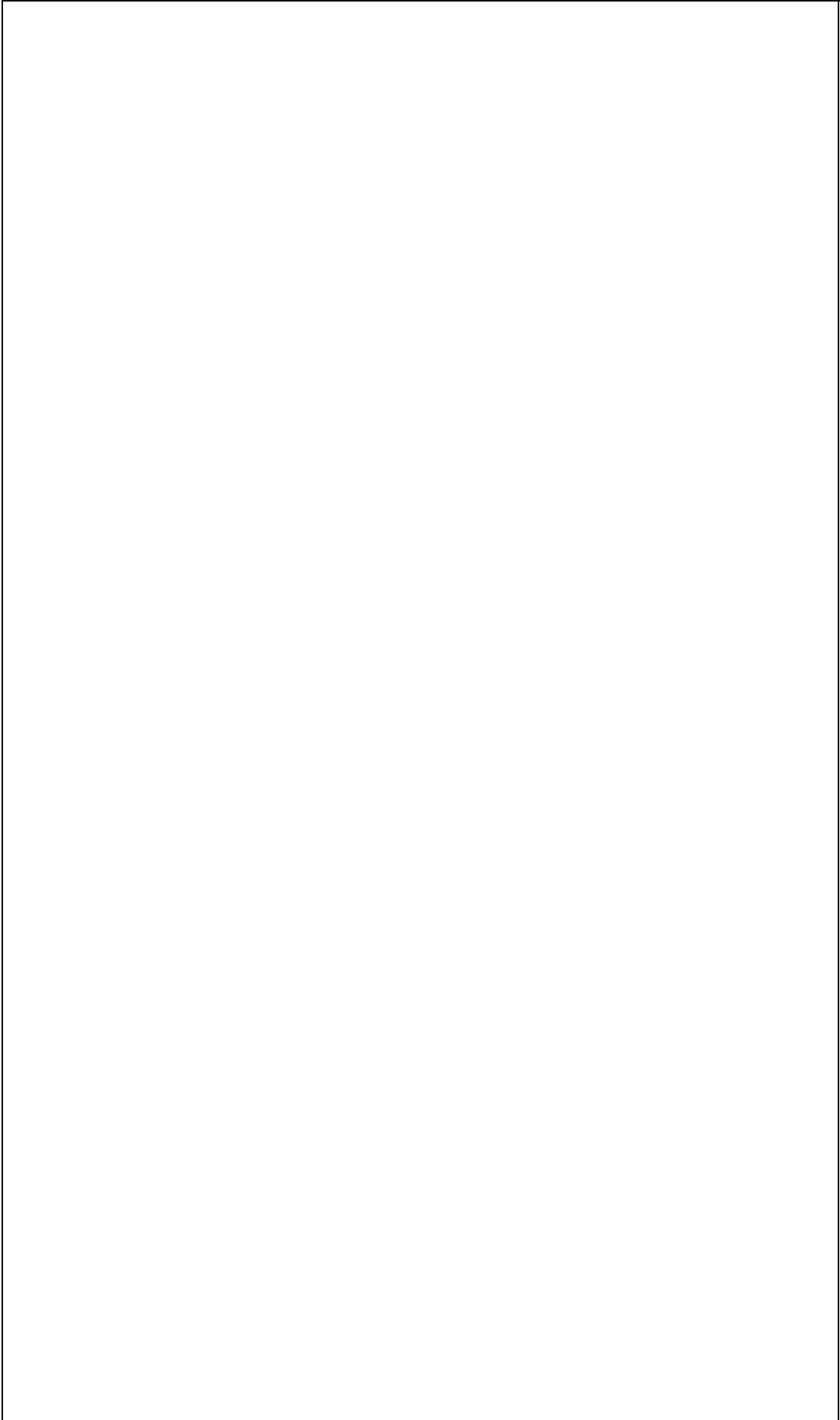
Making your complaint

3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Please explain in this section (*and/or* on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct. **Before completing this section, you are recommended to read the section headed “How you should set out your complaint” in the Council’s “Guidance on making a complaint to the Standards Committee”.**

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form. **It is important that you provide as much information as possible at this stage**



Only complete this next section if you are requesting that your identity is kept confidential (please see Guidance Notes)

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

Equality Monitoring information

We are required to monitor ethnic or national origin to ensure that we do not inadvertently discriminate against members of a particular group. It would, therefore be helpful if you would complete the ethnic monitoring section of the form, although this is not compulsory.

The answers will be removed and kept entirely separate from your complaint and will be completely confidential. They will be used for statistical purposes only, and individuals will not be identified.

Your ethnic origin

Asian or Asian British	
Black or Black British	
Chinese	
White: British	
White: Irish	
White: Other	

**LANCASTER CITY COUNCIL
GUIDANCE ON MAKING A COMPLAINT TO THE STANDARDS
COMMITTEE**

This Guidance should be read before completing the Lancaster City Council Standards Committee Complaint Form.

If you have any queries, please contact the Council's Monitoring Officer, Mrs Sarah Taylor, telephone 01524 582025, or email STaylor@lancaster.gov.uk

Is this the correct form?

The points listed below will help you decide whether this is the correct form to use when making your complaint.

If you submit a complaint, an Assessment Sub-Committee of the Standards Committee will make the decision about what action, if any, to take.

In order for the Sub-Committee to consider your complaint:

- Your complaint must be about one or more named members of the following authorities: Lancaster City Council or a parish or town council within its district. These are Arkholme-with-Cawood, Bolton-le-Sands, Caton-with-Littledale, Cloughton, Cockerham, Ellel, Gressingham, Halton-with-Aughton, Heaton-with-Oxcliffe, Hornby-with-Farleton, Ireby and Leck, Melling-with-Wrayton, Middleton, Morecambe, Nether Kellet, Over Kellet, Over Wyresdale, Overton, Quernmore, Scotforth, Silverdale, Slyne-with-Hest, Tatham, Thurnham, Warton, Wennington, Whittington, Wray-with-Botton, Yealand Conyers and Yealand Redmayne parish councils and Carnforth Town Council.
- Your complaint must be about conduct that occurred while the member(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the authority, or after they have resigned or otherwise ceased to be a member, cannot be considered by the Assessment Sub-Committee
- Your complaint must be that the member(s) has, or may have, breached the relevant Code of Conduct. A copy of the City Council's Code of Conduct is available on the Council's website www.lancaster.gov.uk/complaints and frequently asked questions about the Code of Conduct are available at www.standardsboard.gov.uk. You may also contact the Monitoring Officer, contact details above, if you require further information or a copy of the Code of Conduct adopted by any of the parish councils within the district. These are also available from the relevant parish or town council clerk.

- Your complaint must be in writing. If a disability prevents you from making your complaint in writing you may contact the Monitoring Officer (contact details as above) for assistance. We can also help if English is not your first language. We may be able to transcribe your oral complaint, and produce a written copy for approval by you or your representative.

What complaints cannot be made on this form?

Complaints about Council employees, or about a decision or action of the Council or one of its committees, or about a service provided by the Council or about the Council's procedures, do not fall within the jurisdiction of the Standards Committee. These are dealt with within the Council's general complaints procedure, and further information on this is available on the Council's website www.lancaster.gov.uk/complaints or from Information and Customer Services.

What happens once you submit your complaint?

When you submit your complaint we will write to you to let you know we have received it. At this stage the member(s) that you are complaining about will not be informed of the complaint, and we would ask that you should keep the matter confidential and not make your complaint public.

The Assessment Sub-Committee, which is chaired by a person independent of the City Council and of the parish and town councils, will meet to consider your complaint. This will happen as soon as possible, and in any event within an average of 20 working days of the date we receive your complaint. Meetings of the Assessment Sub-Committee are 'closed', which means that you will not be able to attend. It is therefore very important that you set your complaint out clearly and provide at the outset all the information you wish the Assessment Sub-Committee to consider.

The Assessment Sub-Committee will decide what action, if any to take, using referral criteria which are available on the Council's website www.lancaster.gov.uk/complaints or from the Monitoring Officer. The Sub-Committee may decide to refer your complaint for investigation or for other action, or may decide not to take any action on your complaint

If the Assessment Sub-Committee decides not to refer your complaint for investigation or other action, we will inform you in writing, within five working days, giving you the reasons for this decision. We will also inform the member(s) you have complained about, and, if appropriate the parish or town clerk. We will also explain your right to ask for the decision to be reviewed.

If the Assessment Sub-Committee decides to refer your complaint for investigation or other action, we will inform you in writing. At the same time we write to you, we will also write to the member(s) you have complained about and the parish or town clerk (if applicable). We will send these letters within five working days of the Assessment Sub-Committee reaching its decision. The decision of the Assessment Sub-Committee is made available for public

inspection once the member the complaint is about has been given a summary of the complaint. In very limited situations the member may not be given this summary immediately and if so any public inspection will not happen until the member does get the summary.

If the Assessment Sub-Committee refers your complaint for investigation, you will be contacted by the Investigating Officer. In very serious cases, the Assessment Sub-Committee may ask the Standards Board for England to carry out the investigation.

What is meant by 'other action'?

The Assessment Sub-Committee may decide to refer your complaint for 'other action' instead of referring it for investigation. Other action is a deliberately broad term that may include options such as requiring the person you have complained about to apologise, or undertake training or mediation. The Assessment Sub-Committee will carefully consider the circumstances surrounding your complaint when deciding whether other action is appropriate. If the Assessment Sub-Committee decides to refer your complaint for other action we will explain what this involves.

How should you set out your complaint?

It is very important that you set your complaint out fully and clearly, and provide all the information at the outset. You should also provide any documents or other material that you wish the Assessment Sub-Committee to consider, where possible.

We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are sending supporting documentation please cross-reference it against the summary of your complaint.

You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate that you have reasonable grounds for believing that the member(s) complained about has breached the Code of Conduct.

Wherever possible, you should be specific about what you are alleging the member(s) said or did, and the dates of the alleged incidents. You should also confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.

Who will be told about your complaint?

The Monitoring Officer and the Assessment Sub-Committee will receive the details of your complaint when it is received. Following the meeting of the

Assessment Sub-Committee, your name and a summary of your complaint will be given to the member(s) you have complained about and to the parish or town clerk (if applicable). If the member you have complained about is also a member of another authority such as the County Council or the Police Authority, it may be necessary for your complaint to be passed to the Monitoring Officer or Standards Committee of that authority.

If you have serious concerns about your name and/or the details of your complaint being passed on in this way, you should complete Part 5 of the complaint form. This will be considered by the Assessment Sub-Committee.

The interests of fairness and natural justice generally require that members complained of have a right to know who has made the complaint and what that complaint is. We are unlikely to withhold your identity or the details of your complaint unless there are exceptional reasons for doing so. Such reasons might be that you would be at risk of physical harm or other victimisation or harassment, or less favourable treatment in terms of any service provision or other contractual relationship with the Council if your identity were disclosed, or that there would be medical risks (supported by medical evidence). Reasons for withholding details of your complaint might be a serious risk of intimidation of witnesses, or a serious risk that evidence may be compromised or destroyed.

If the Assessment Sub-Committee does not grant your request for confidentiality, we will usually allow you the option of withdrawing your complaint. However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation and disclose your name even if you have expressly asked us not to.

What to do when you have completed the form

The completed Complaint Form should be sent by post or electronically to the Monitoring Officer, Mrs Sarah Taylor, Town Hall, Lancaster LA1 1PJ.
STaylor@lancaster.gov.uk

LANCASTER CITY COUNCIL STANDARDS COMMITTEE

PROCEDURE FOR THE INITIAL ASSESSMENT OF COMPLAINTS OF BREACH OF THE CODE OF CONDUCT

Introduction

1. This procedure applies when a complaint is received that a City Councillor, Co-opted Member or Parish Councillor has or may have failed to comply with the relevant Code of Conduct.
2. The person making the complaint will be referred to as the complainant and the person against whom the complaint is made will be referred to as the subject member.
3. The procedure will also apply if a complaint is referred back to the Standards Committee by the Standards Board for England.
4. No Member or officer will participate in any stage of the assessment process if they have any personal conflict of interest in the matter.

Assessment Sub-Committee

5. Upon receipt of a complaint that a City Councillor, Co-opted Member or Parish Councillor has or may have failed to comply with the Code of Conduct, the Monitoring officer will liaise with the Head of Democratic Services or her representative to convene as soon as possible and in any event within 20 working days a meeting of an Assessment Sub-Committee.
6. The Assessment Sub-Committee will comprise three members of the Standards Committee, including an Independent Member who will act as Chairman, and a City Councillor. Where the complaint relates to a Parish Councillor, the Assessment Sub-Committee will include a parish member of the Standards Committee. The Sub-Committee will be convened on an ad hoc basis, and members will be appointed by the Head of Democratic Services or her representative on a rotational basis, taking account of availability, and on the basis that so far as possible the Assessment Sub-Committee will not include a city councillor of the same group as the Subject Member or the Complainant.
7. The Assessment Sub-Committee will be advised by the Monitoring Officer, the Deputy Monitoring Officer or another legal officer. The meeting will not be open to the public, and the subject member will not be informed of the complaint at this stage. However, if a press enquiry is received about a complaint which has not yet been considered by the Assessment Sub-Committee, and it is clear that the press are aware of the identity of the subject of the complaint, the Monitoring Officer is authorised to inform the subject member of the complaint immediately, but, if in doubt, may consult the Chairman or Vice-Chairman, depending on their availability.
8. The purpose of the Assessment Sub-Committee will be to decide whether any action should be taken on the complaint – either an investigation or some other action. The Assessment Sub-Committee will not make any findings of fact.

9. The Assessment Sub-Committee will receive in advance of the meeting a copy of the complaint, together with a report prepared by the Monitoring Officer or her representative which will set out the following details:
- Whether the complaint is within the jurisdiction of the Standards Committee
 - The paragraphs of the Code of Conduct the complaint might refer to, or the paragraphs the complainant has identified
 - A summary of key aspects of the complaint if it is lengthy or complex
 - Any further information that the officer has obtained to assist the Assessment Sub-Committee with its decision. This may include minutes of meetings, a copy of a member's entry in the register of interests, information from Companies House or the Land Registry, or other easily obtainable documents
 - Any clarification obtained by the officer from the complainant if the complaint was unclear

It should be noted, however, that pre-assessment inquiries will be limited, and will not be carried out in such a way as to amount to an investigation.

The Assessment Process

10. The Assessment Sub-Committee will first consider whether the complaint meets the following tests:

- The complaint is against one or more named members of the City Council or a parish council within its district
- The subject member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- The complaint, if proven, would be a breach of the Code under which the subject member was operating at the time of the alleged misconduct

If the complaint fails one or more of these tests, then the decision of the Assessment Sub-Committee must be that no further action will be taken.

11. If the complaint meets the above tests, then the Assessment Sub-Committee will proceed to consider whether to refer it to the Monitoring Officer, to refer it to the Standards Board for England, or whether no action should be taken. In making its decision, the Sub-Committee will take account of the Assessment Criteria at Appendix 1, which have been approved by the Standards Committee, and which will from time to time be reviewed by the Committee.
12. The Assessment Sub-Committee will, unless there are exceptional circumstances, reach a decision within 20 working days of receipt of the complaint.
13. If the Assessment Sub-Committee decides to take no action over a complaint, then it will arrange for notice of that decision, including the reasons for it, to be given to the complainant, the subject member, and, if the subject member is a parish councillor, to the clerk to the relevant parish council. This will be done within 5 working days after the date of the meeting.
14. If the Assessment Sub-Committee decides to refer the complaint to the Monitoring Officer or to the Standards Board for England, it will arrange for a summary of the complaint to be sent to the complainant and the subject member stating what the allegation is, and the type of referral that has been made. This

will be done within 5 working days after the date of the meeting. The decision notice will explain why a particular referral decision has been made.

15. However, the Assessment Sub-Committee may decide not to give the subject member a summary of the complaint if it considers that doing so would be against the public interest or would prejudice any future investigation. In considering this, the Sub-Committee will take advice from the Monitoring Officer, and will consider in particular whether it is likely that the subject member may intimidate the complainant or any witnesses involved or whether early disclosure of the complaint may lead to evidence being compromised or destroyed. The Sub-Committee will balance whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member.

The Review Process

16. If the Assessment Sub-Committee decides not to take any action on a complaint, then the Complainant has a right to request a review of that decision, and will be so advised when notified of the decision.
17. When a request for review is received, the Monitoring Officer will liaise with the Head of Democratic Services or her representative to convene as soon as possible and in any event within 20 working days a meeting of a Review Sub-Committee.
18. The Review Sub-Committee will comprise three members of the Standards Committee, including an Independent Member who will act as Chairman, a city councillor, and, where the matter relates to a parish councillor, a parish representative. None of these Members will have been members of the Assessment Sub-Committee that considered the original complaint. The Sub-Committee will be convened on an ad hoc basis, and members will be appointed by the Head of Democratic Services or her representative on a rotational basis, taking account of availability, and on the basis that so far as possible the Review Sub-Committee will not include a city councillor of the same group as the Subject Member or the Complainant.
19. In addition to the documents referred to in paragraph 9 above, the Review Sub-Committee will have a copy of the Assessment Sub-Committee's decision notice, but will consider the complaint afresh, using the Assessment Criteria at Appendix 1. The Review Sub-Committee has the same decisions available to it as the Assessment Sub-Committee and will follow the procedure outlined above in paragraphs 10-15.
20. Where on a request for review further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint, the Review Sub-Committee will consider if it is more appropriate to pass this to an Assessment Sub-Committee as a new complaint. In this instance, the Review Sub-Committee will make a formal decision that the review request will not be granted.

Withdrawing Complaints

21. If a complainant asks to withdraw the complaint prior to the Assessment Sub-Committee having made a decision on it, the Assessment Sub-Committee will

decide whether or not to grant the request. In making its decision, the Sub-Committee will consider:

- Whether the public interest in taking some action on the complaint outweighs the Complainant's wish to withdraw it
- Whether the complaint is such that action can be taken on it without the complainant's participation
- Whether there is an identifiable underlying reason for the request to withdraw the complaint, and in particular whether there is any evidence that the Complainant may have been pressured by the subject member or other person to withdraw the complaint

Confidentiality

22. If a Complainant has asked for their identity to be withheld, this request will be considered by the Assessment Sub-Committee at the same time as it considers the complaint.
23. As a matter of fairness and natural justice, the subject member should usually be told who has complained about them. However, in exceptional circumstances, the Assessment Sub-Committee may grant confidentiality if it is satisfied that the Complainant has reasonable grounds for believing that they will be at risk of physical harm or other victimisation or harassment, or less favourable treatment in terms of any service provision or other contractual relationship with the Council if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.
24. The Assessment Sub-Committee will also take into account whether it would be possible to refer the complaint without making the Complainant's identity known, and in particular whether the Complainant's participation would be required if the complaint were referred.
25. If the Assessment Sub-Committee decides to refuse a request any a Complainant for confidentiality, it may offer the Complainant the option to withdraw, rather than proceed with their identity being disclosed. The Assessment Sub-Committee will balance whether the public interest in taking action on a complaint may outweigh the complainant's wish to have their identity withheld from the subject member

Complaints about Members of more than one Authority

26. Where a complaint is received about a city or parish councillor who is known to be a member of another authority, for example the County Council or police authority, the Monitoring Officer will before the meeting of the Assessment Sub-Committee establish whether a similar allegation has been made to the other authority. In the light of information from and in co-operation with the other authority, the Assessment Sub-Committee will consider which authority should deal with the complaint.

“Other Action”

27. If an Assessment Sub-Committee or a Review Sub-Committee refers a complaint to the Monitoring Officer for action other than investigation, the Monitoring Officer's subsequent report under Regulation 13(4)(c) will be considered by the

same Assessment Sub-Committee or Review Sub-Committee that made the referral.

APPENDIX 1

LANCASTER CITY COUNCIL STANDARDS COMMITTEE – ASSESSMENT CRITERIA

A. Circumstances where the Assessment Sub-Committee may decide that no action should be taken in respect of the allegation:

A1 Where the complaint is about someone who is no longer a member of the city council or a parish council

A2 Where the information provided by the complainant is not sufficient to enable the Sub-Committee to make a decision as to whether the complaint should be referred for investigation or other action

However, the complainant will be advised that it is possible to resubmit the complaint with further information.

A3 Where a substantially similar allegation has previously been made by the complainant to the Standards Board or the Standards Committee, or the complaint has been the subject of an investigation by another regulatory authority (except where a Review Sub-Committee has taken the view that a request for review contains new information and should be considered by an Assessment Sub-Committee rather than the Review Sub-Committee)

The Sub-Committee will only refer the complaint for investigation or other action if it considers that there is a compelling reason to do so

A4 Where the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now.

It is acknowledged, however, that where a delay has arisen as a result of criminal or other legal proceedings, it may be appropriate to refer the complaint for investigation or other action.

A5 Where the allegation is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter

A6 Where the allegation discloses a potential breach of the Code of Conduct, but the Committee considers that the complaint is not serious enough to warrant further action

A7 Where the complaint appears to be malicious, politically motivated or tit-for-tat, unless a serious matter is raised in the complaint

B. Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for investigation

B1 Where the allegation discloses a potential breach of the Code of Conduct that the Committee considers sufficiently serious to justify the cost of an investigation

C. Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for training, conciliation or other steps as appear appropriate to the Standards Committee

Note This approach may be appropriate where the Sub-Committee believes that the conduct, if proven, may amount to a failure to comply with the Code, and that some action should be taken in response to the complaint. If this approach is taken, the purpose of the action is NOT to find out whether the subject member breached the Code, and no conclusion will have been reached on whether the subject member failed to comply with the Code. It should be noted that this approach may only be taken after consultation with the Monitoring Officer

C1 Where the complaint suggests that there is a wider problem throughout the authority and it is appropriate to extend the action to other members who are not the subject of the complaint

C2 Where it is apparent that the subject of the allegation is relatively inexperienced as a Member, or has admitted making an error and the matter would not warrant a more serious sanction

C3 Where it appears that even if the allegation were fully investigated, and a breach of the Code of Conduct upheld, training or conciliation would be the appropriate remedy

D. Circumstances where the Standards Committee may decide to refer an allegation to the Standards Board

D1 Where the Assessment Sub-Committee believes that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for the Standards Committee to deal with the complaint. For example if the complaint is about the Leader of the Council or a Group Leader, or a member of the Cabinet or Standards Committee

D2 Where the Assessment Sub-Committee believes that the status of the complainant(s) would make it difficult for the Standards Committee to deal with the complaint. For example if the complainant is a group leader, member of Cabinet or the Standards Committee, or the Chief Executive or a statutory officer.

D3 Where the Assessment Sub-Committee considers that there is a potential conflict of interest of so many members of the Standards Committee that it could not properly deal with the matter itself

D4 Where the Assessment Sub-Committee believes that that there is a potential conflict of interest of the Monitoring Officer or other officers, and that suitable alternative arrangements cannot be put in place to address the conflict

D5 Where the case is so serious or complex that it cannot be handled locally

D6 Where the complaint will require substantial amounts of evidence beyond that available from the authority's documents, its members or officers

D7 Where the complaint relates to long-term or systematic member/officer bullying which could be more effectively investigated by someone outside the Council

D8 Where the allegation raises significant or unresolved legal issues on which a national ruling would be helpful

D9 Where the public might perceive the Council to have an interest in the outcome of a case. For example if the authority could be liable to be judicially reviewed if the complaint were upheld

LANCASTER CITY COUNCIL STANDARDS COMMITTEE

PROCEDURE FOR CASES REFERRED FOR INVESTIGATION BY THE MONITORING OFFICER

1. When an allegation is referred to the Monitoring Officer by the Assessment Sub-Committee or by an Ethical Standards Officer (ESO) for investigation, the Monitoring Officer will within five working days, unless otherwise directed by the Assessment Sub-Committee of the Standards Committee or the ESO, inform the member who is the subject of the allegation of failure to comply with the code of conduct, ("the Subject Member"), the person who made the allegation ("the Complainant"), the clerk to any parish council concerned, and the standards committee of any other authority concerned, that the matter has been referred for investigation.
2. Unless the Assessment Sub-Committee or ESO have directed that it would be contrary to the public interest or prejudicial to the investigation, the Monitoring Officer will at the same time provide the Subject Member with a written summary of the allegation.
3. The Monitoring Officer will appoint an Investigating Officer who may be an officer of the Council, or an external investigating officer. The Investigating Officer may appoint persons to assist him/her in the conduct of the investigation, and may obtain such professional advice as may be necessary. The Monitoring Officer will advise the Subject Member and the Complainant of the appointment of the Investigating Officer. The appointment will set out the responsibilities delegated by the Monitoring Officer to the Investigating Officer. The Monitoring Officer will maintain the function of overseeing the investigation.
4. In carrying out the investigation, the Investigating Officer shall have regard to any relevant guidance issued by the Standards Board, and shall comply with any relevant direction given by the Standards Board.
5. The Investigating Officer may make such inquiries as he/she thinks necessary or expedient for the purposes of conducting the investigation, and may require any person to give such information or explanation as the Investigating Officer thinks necessary or expedient for the purpose of conducting the investigation. The Investigating Officer may require any of the relevant authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation, and to provide reasonable access to such documents in the possession of that authority as appear to the Investigating Officer to be necessary for the purpose of conducting the investigation.
6. Statements will be prepared and agreed with each person interviewed during an investigation, including the Subject Member. The Subject Member will be advised that he/she may be accompanied by a professional representative or advisor, a Group colleague or friend during the interview. Any other person interviewed may be accompanied by a friend or representative if they so wish.
7. The Investigating Officer will complete the investigation within a reasonable period of time according to the nature of the complaint and the extent of the investigation required.

8. Where during the course of the investigation, as a result of new evidence or information, the Investigating Officer forms an opinion that the matter is materially more serious or materially less serious than may have seemed apparent to the Assessment Sub-Committee, when it made its decision to refer the matter for investigation, and that it would have made a different decision had it been aware of the new evidence or information, or where the Subject Member has died, is seriously ill or has resigned from the authority concerned, and the Investigating officer is of the opinion that in the circumstances it is no longer appropriate to continue with the investigation, the matter shall be referred to a new Assessment Sub-Committee. The Assessment Sub-Committee shall consider the matter as if it were a new allegation.
9. The Investigating Officer, having concluded the investigation, will consider whether to produce a draft report before the final report. A draft report may be appropriate where the facts are complex or ambiguous, or where the facts are disputed. Any draft report will be issued to the Subject Member and the Complainant for review and comment, and will indicate that it does not necessarily represent the Investigating Officer's final finding.
10. If the Investigating Officer issues a draft report, he/she will consider whether the responses reveal a need for further investigation or for changes to the report. In some complex cases, the Investigating Officer may wish to issue a second draft report before the final report.
11. The Investigating Officer's final report will commence with a statement of the Investigating Officer's finding. The finding will be either that there has been a failure to comply with the code of conduct of the authority concerned, or as the case may be any other authority concerned ("a finding of failure"), or that there has not been a failure to comply with the code of conduct of the authority concerned, or as the case may be, of any other authority concerned ("a finding of no failure"). A copy of the report will be sent to the Subject Member and referred to the original Assessment Sub-Committee (which will be referred to as the Assessment (Regulation 17) Sub-Committee) and to the Standards Committee of any other authority of which the Subject Member is a member, if that other authority so requests.
12. When the Assessment (Regulation 17) Sub-Committee considers the finding of the Investigation Officer, it shall make one of the following findings:
 - That it accepts the finding of no failure ("a finding of acceptance")
 - That the matter should be considered at a hearing by a Hearings Sub-Committee of the Standards Committee, or
 - That the matter should be referred to the Adjudication Panel for determination (but only if it has determined that the action it could take against the Subject Member would be insufficient were a finding of failure to be made, and the president or deputy president of the Adjudication Panel has agreed to accept the referral)
13. Where there is a finding of acceptance, written notice of that finding shall be given to the Subject Member, the Complainant, any parish council concerned, any ESO concerned and the Standards Committee of any other authority concerned, and notices shall be published as required by the relevant Regulations, unless the Subject Member requests otherwise.

14. Where the Assessment (Regulation 17) Sub-Committee decides to hold a hearing, this shall be conducted in accordance with the Committee's Pre-hearing and Hearing Procedures.

LANCASTER CITY COUNCIL STANDARDS COMMITTEE

PRE-HEARING PROCEDURE

1. Where an Assessment (Regulation 17) Sub-Committee has made a finding that a matter should be considered at a hearing, the following procedure shall apply.
2. A Hearing Sub-Committee shall be convened in accordance with the principles set out in Appendix 1 hereto.
3. The Subject Member will be asked for a written response within fifteen days, which response shall set out the Subject Member's reply to the Investigating Officer's report and shall state whether he/she
 - disagrees with any of the findings of fact in the report, giving the reasons for any disagreement
 - wishes to be represented by a solicitor or barrister, or with the consent of the Sub-Committee by any other person
 - wishes to give evidence to the Sub-Committee, either orally or in writing
 - wishes to call relevant witnesses to give evidence to the Committee
 - wishes any part of the hearing to be held in private
 - wishes any part of the Investigating Officer's report or other relevant documents to be withheld from the public

Forms A-D appended hereto will be provided for this response.

4. The Subject Member shall be informed that if, at the meeting of the Sub-Committee, he/she seeks to dispute any matter contained in the Investigating Officer's report without having previously notified the intention to do so, the Sub-Committee may refuse to allow the disputed matters to be raised unless satisfied that there are good reasons why they have not been raised beforehand.
5. Upon receipt of the Member's response, the Investigating Officer shall be invited to comment on it within ten working days, and to say whether or not he/she
 - wishes to call relevant witnesses to give evidence or submit written or other evidence to the Sub-Committee
 - wishes any part of the hearing to be held in private
 - wishes any part of the report or other relevant documents to be withheld from the public
6. Upon receipt of the Investigating Officer's response, the Chairman of the Sub-Committee and the Monitoring Officer or other legal adviser will consider the responses of the Subject Member and the Investigating Officer and set a date for the hearing in consultation with the Head of Democratic Services.
7. The Member and the Investigating Officer are entitled to request that any witnesses they want should be called. However, the Chairman of the hearing may limit the number of witnesses to be called, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Sub-Committee to reach its decision.
8. Nothing in this procedure shall limit the Chairman of the hearing from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Sub-Committee to reach its decision.

9. The Monitoring Officer/Legal Adviser, in consultation with the Chairman, will:
 - confirm a date, time and place for the hearing, which must be within three months from the date on which the Investigating Officer's report was completed and not less than fourteen days after the report was sent to the Subject Member
 - confirm the main facts of the case that are agreed
 - confirm the main facts that are not agreed
 - provide copies of any written evidence to the relevant parties
 - confirm which witnesses will be called by the parties
 - provide the parties with copies of the proposed procedure for the hearing, specifying which parts of the matter, if any, may be considered in private

APPENDIX 1 COMPOSITION OF THE HEARING SUB-COMMITTEE

1. The Sub-Committee shall comprise five Members drawn from the full members of the Standards Committee, and of these, at least two shall be Independent Members.
2. The membership of the Sub-Committee will vary for each individual hearing, and will be determined by the Head of Democratic Services on the principles set out below.
3. Where the matter for determination relates to a City Councillor, the Sub-Committee will include no more than two City Councillors. The other members of the Sub-Committee will be either two Independent Members and one Parish Member, or three Independent Members.
4. Where the matter for determination relates to a parish council matter, the Sub-Committee will comprise two Independent Members, and either one Parish Member and two City Councillors, or two Parish Members and one City Councillor.
5. The Chairman of the Standards Committee will generally be a member of the Sub-Committee and its Chairman. Otherwise, another Independent Member will be the Chairman of the Sub-Committee.
6. In selecting the membership of a Sub-Committee, the Head of Democratic Services will endeavour to ensure that members are selected in rotation, taking into account their availability for the proposed hearing date, and any possible conflicts of interest. Wherever possible, members of the Assessment (and if relevant the Review) Sub-Committee which considered the complaint will not be appointed to the Hearing Committee, but it is recognised that there are occasions when this may be necessary provided that there is no conflict of interest. Wherever possible there should be a gender balance on the Sub-Committee.
7. City Councillors shall wherever possible (and it is acknowledged that this will not always be possible) be selected on the following principles:
 - a Member of the Sub-Committee should not be a member of the same Group as the Member who is the subject of the hearing.
 - if the complainant is a City Councillor, a member of the Sub-Committee should not be a member of the same Group as the complainant.
 - If the Sub-Committee includes two City Councillors, they should not be Members of the same Group.

Subject to these principles, the Head of Democratic Services will endeavour to ensure that elected members of the Committee are selected in rotation, taking into account their availability for the proposed hearing date, and any possible conflicts of interest.

8. Once a Sub-Committee has been selected for a hearing, if a Member becomes unavailable to attend, the Head of Democratic Services will select a substitute from the membership of the Standards Committee, in accordance with the above principles.

9. The quorum of the Sub-Committee meeting shall be three members, of whom one must be an Independent Member, and no more than one should be a City Councillor. If the hearing concerns a parish matter, a Parish Member must be present.

Please enter the number of any paragraph where you disagree with the findings of fact in the Investigating Officer's report, and give your reasons and your suggested alternative.

Member's response to the evidence set out in the Investigating Officer's report

Para. No. from MO's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Please attach separate sheets if necessary.

NAME:

SIGNED:

DATE:

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

Other evidence relevant to the allegation

Para. No.	Details of the evidence
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

NAME:

SIGNED:

DATE:

Arrangements for the Standards Committee Hearing

Please tick the relevant boxes.

1	<p>The proposed date for the Standards Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>If "No", please explain why.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Reason:
2	Are you going to present your own case?	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
3	If you are not presenting your own case, will a representative present it for you?	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Name:
4	<p>Is your representative a practising solicitor or barrister?</p> <p>If "Yes", please give his or her legal qualifications. Then go to question 6.</p> <p>If "No", please go to question 5.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Qualifications:
5	<p>Does your representative have any connection with the case?</p> <p>If "Yes", please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Details:

NAME

SIGNATURE

DATE

<p>6</p>	<p>Are you going to call any witnesses? If "Yes", please fill in Form D.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	
<p>7</p>	<p>Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)? If "Yes", please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>8</p>	<p>Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)? If "Yes", please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Details:</p>
<p>9</p>	<p>Do you want any part of the hearing to be held in private? If "Yes", please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reasons:</p>
<p>10</p>	<p>Do you want any part of the relevant documents to be withheld from public inspection? If "Yes", please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>Reasons:</p>

NAME

SIGNATURE

DATE

Details of proposed witnesses to be called

	Name of witness or witnesses	1	
		2	
		3	
WITNESS 1			
a	Will the witness give evidence about the allegation? If "Yes", please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence:
b	Will the witness give evidence about what action the Standards Committee should take if it finds that that the Code of Conduct has not been followed?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence:
WITNESS 2			
a	Will the witness give evidence about the allegation? If "Yes", please provide an outline of the evidence the witness will give.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence
b	Will the witness give evidence about what action the Standards Committee should take if it finds that that the Code of Conduct has not been followed?	Yes <input type="checkbox"/> No <input type="checkbox"/>	Outline of evidence

WITNESS 3			
a	<p>Will the witness give evidence about the allegation?</p> <p>If "Yes", please provide an outline of the evidence the witness will give.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence
b	<p>Will the witness give evidence about what action the Standards Committee should take if it finds that that the Code of Conduct has not been followed?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Outline of evidence

NAME

SIGNED

DATE

LANCASTER CITY COUNCIL STANDARDS COMMITTEE

HEARING PROCEDURE

1. The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such variation is necessary in the interests of fairness.
2. The Subject Member may be represented or accompanied during the meeting by a solicitor or barrister, or with the permission of the Sub-Committee, another person. It is the responsibility of the Subject Member to arrange any representation.
3. The Sub-Committee may take legal advice from its legal adviser at any time during the hearing or during its deliberations. The substance of any advice given to the Sub-Committee will be shared with the Subject Member and Investigating Officer if they are present at the hearing.
4. At the start of the hearing, the Chairman shall introduce each of the members of the Sub-Committee, the Subject member (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Sub-Committee will follow in the conduct of the hearing.
5. The Sub-Committee shall then confirm that it is quorate, and deal with any disclosures of interests.
6. If the Subject Member is not present at the start of the hearing:
 - The Chairman will ask the Monitoring Officer/Legal Adviser whether the Subject Member has indicated his/her intention not to attend the hearing
 - The Sub-Committee shall then consider any reasons which the Subject Member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend
 - If the Sub-Committee is satisfied with such reasons, it shall adjourn the hearing to another date
 - If the Sub-Committee is not satisfied with such reasons, or if the Subject Member has not given any such reasons, the Sub-Committee shall decide whether to consider the matter and make a determination in the absence of the Subject Member, or to adjourn the hearing to another date.
7. After the preliminary procedures, the Sub-Committee will consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report.
8. If there is disagreement, the Investigating Officer will present the evidence which is relevant to the facts in dispute. With the permission of the Sub-Committee, witnesses can be called to give relevant evidence. The Subject Member and the Sub-Committee members may ask questions of the Investigating Officer or any witness.
9. The Subject Member or his/her representative will then present the evidence that is relevant to the facts in dispute. With the permission of the Sub-Committee, witnesses can be called to give relevant evidence. The Investigating Officer and the Sub-Committee members may ask questions of the Subject Member or any witnesses.

10. If the Subject Member disagrees with any relevant fact in the report without having given prior notice, he or she must give good reasons for not mentioning it before the hearing. After considering the Subject Member's explanation, the Sub-Committee may continue with the hearing, relying on the information in the report, may allow the Subject member to make representations about the issue and invite the Investigating Officer to respond and call any witnesses as necessary, or may postpone the hearing to arrange for appropriate witnesses to be present.
11. The Sub-Committee will consider in private all the evidence which it has heard in order to establish its findings of fact, and to reach a conclusion as to whether there has been a failure to comply with the Code of Conduct.
12. At any stage in the consideration of the matter, the Sub-Committee may return to ask further questions of the Investigating Officer or the Subject Member or seek further information. The other party will be given an opportunity to comment upon the questions asked or the responses made.
13. At the conclusion of the Sub-Committee's deliberations, the Chairman will advise the Subject member and the Investigating Officer of their findings.
14. If the Sub-Committee concludes that the Subject Member has failed to comply with the Code of Conduct, the Chairman will invite representations from the Investigating Officer and the Subject Member as to what action, if any, it should take. The Sub-Committee may ask questions of the Subject Member and the Investigating Officer. The Subject Member will be invited to make any final relevant points.
15. The Sub-Committee shall then consider in private whether to impose a sanction, and, if so, what sanction to impose and when that sanction should take effect.
16. The sanctions open to the Sub-Committee are:
 - censure of the Subject Member
 - restriction for a period not exceeding six months of the Subject Member's access to the premises of the authority or use of the resources of the authority, provided that those restrictions are reasonable and proportionate to the nature of the breach and do not unduly restrict the person's ability to perform the functions of a member
 - partial suspension of the Subject Member for a period not exceeding six months;
 - suspension of the Subject Member for a period not exceeding six months
 - that the Subject Member submits a written apology in a form specified by the Sub-Committee
 - that the Subject Member undertakes such training as the Sub-Committee specifies
 - partial suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member submits a written apology in a form specified by the Sub-Committee
 - partial suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has undertaken such training or has participated in such conciliation as the Sub-Committee specifies

- suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has submitted a written apology in a form specified by the Sub-Committee
 - suspension of the Subject Member for a period not exceeding six months or until such time as the Subject Member has undertaken such training or has participated in such conciliation as the Sub-Committee specifies
 - any combination of the above sanctions
17. Any sanction imposed by the Sub-Committee shall commence immediately unless the Sub-Committee directs that a sanction shall commence on another date within six months from the imposition of the sanction.
18. In deciding to impose a sanction, the Sub-Committee shall consider all the relevant circumstances and shall have regard to any relevant Guidance issued by the Standards Board
19. The Chairman will announce the decision of the Sub-Committee. Written notice of the findings of the Sub-Committee will be given as soon as is reasonably practicable to the Subject Member, the Standards Board, the Standards Committee of any other authority concerned, any parish council concerned, and any person who made an allegation that gave rise to the investigation. Public notices shall be given in accordance with the Regulations.
20. Where the Sub-Committee determines that the Subject Member has failed to comply with the Code of Conduct, the Chairman shall inform the Subject Member of the right to seek permission to appeal against the Sub-Committee's finding or any sanction imposed by sending a notice in writing to the President of the Adjudication Panel for England at 23 Victoria Avenue, Harrogate, HG1 5RD within 21 days of receipt of the written notice of findings.
21. The Sub-Committee may consider making any recommendations to the authority concerned with a view to promoting higher standards of conduct among its members.