



Committee: STANDARDS COMMITTEE
Date: THURSDAY, 16TH JUNE 2005
Venue: LANCASTER TOWN HALL
Time: 10.00 A.M.

A G E N D A

1. Appointment of Vice-Chairman.
2. Apologies for Absence.
3. Declaration of Interests.
4. Urgent Business.
5. Minutes of the meeting held on 19th November 2004 (Copy attached) (Pages 1 - 6).
6. Consultation Paper on the Review of the Code of the Conduct for Members - report of the Corporate Director (Central Services) (Pages 7 - 12).
7. Review of the Planning Protocol - report of the Corporate Director (Central Services) (Pages 13 - 24).
8. Indemnities Regulations - report of the Corporate Director (Central Services) (Pages 25 - 28).
9. Granting of Dispensations - report of the Corporate Director (Central Services) (Pages 29 - 38).
10. Standards Board Case Referrals 2005/06 - report of the Corporate Director (Central Services) (Pages 39 - 46).
11. Fourth Annual Assembly of Standards Committees - report of the Corporate Director (Central Services) (Pages 49 - 60).
12. Standards Training for Cumbrian Authorities - report of the Corporate Director (Central Services) (Pages 61 - 64).
13. Behaviour Protocol - report of the Corporate Director (Central Services) (Pages 65 - 66).
14. The Good Governance Standard for Public Services - report of the Corporate Director (Central Services) (Pages 67 - 74).

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Stephen Lambley (Chairman), Joe Ravetz, Keith Budden, Fiona Humphreys, Paul Gardner, David Kerr, Janie Kirkman and Roger Mace.
2 Independent Members to be appointed.

(ii) Substitute Membership

Councillors Susie Charles, Jean Dent, John Harrison and Pat Quinton.

(iii) Queries regarding this Agenda

Please contact Stephen Metcalfe, Administration Services, telephone (01524) 582073, or alternatively email SMetcalfe@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone (01524) 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN
CHIEF EXECUTIVE
TOWN HALL,
LANCASTER LA1 1 PJ

Published on Tuesday, 7th June, 2005.

STANDARDS COMMITTEE

2.00 P.M.

19TH NOVEMBER 2004**PRESENT: -** Independent Membership:

Mr. S. Lamley (Chairman), Mr. S. Clarke, Brigadier J. Dennis and
Mrs. F. Humphreys

Council Membership:

Councillors J. Ravetz (Vice-Chairman), P. Gardner, D. Kerr, J. E. Kirkman
and J. R. Mace.

Officers in attendance:

Corporate Director (Central Services)/Monitoring Officer
Head of Legal Services
S. Metcalfe – Senior Democratic Support Officer

Apologies for absence:

Councillors E. Archer and E. Heath.

21 MINUTES

The Minutes of the meeting held on the 6th May, 2004 were signed by the Chairman as a correct record.

22 ITEMS OF URGENT BUSINESS

The Chairman advised that he had accepted the following items of urgent business, as decisions were required prior to the next meeting of the Committee.

(i) ITEM OF URGENT BUSINESS - CONDUCT AT COUNCIL MEETINGS

The Corporate Director (Central Services) reported verbally at the meeting upon a letter he had received from Councillor Harrison regarding the conduct of certain Members of Council at the last meeting of Full Council. It was noted that Councillor Harrison had consulted with the Corporate Director, in his role as Monitoring Officer, for advice upon how to proceed with this matter. After discussing this issue fully, Councillor Harrison had requested that the matter be raised with this Committee. Members were asked to consider whether they wished to: -

- Write, to all Councillors advising that the conduct of certain Councillors at the recent meeting of full Council was not to the expected standard;
- Consider whether a Protocol, which would inform Members of a minimum standard of behaviour, should be drafted for consideration by this Committee.

Members voiced their concerns regarding this matter and of the need for action to be taken.

It was moved by Councillor J. Kirkman and seconded by Councillor D. Kerr: -

“(1) That a Protocol, which informs Members of a minimum standard of behaviour, be drafted for consideration at the next meeting of the Committee.

- (2) That a letter be prepared, signed by the Chairman of the Committee, and distributed to all Members of Council advising that the conduct of certain Councillors at the recent meeting of full Council was not to the expected standard.
- (3) That the Committee requests the Corporate Director (Central Services)/Monitoring Officer to write to the 3 Councillors involved in the incidents at the recent meeting of full Council advising of the views of this Committee that their actions were inappropriate and requesting that a formal apology should be given by them to the Deputy Mayor.”

(ii) ITEM OF URGENT BUSINESS - INDEMNITIES

The Head of Legal Services advised the Committee of draft Regulations on indemnities, which had been discussed by a Standing Committee in Parliament on the 20th October 2004, and which may become effective by the end of the year. Of particular interest to the Committee was the provision in the draft Regulations for an indemnity for a Member defending an allegation of a breach of the Code of Conduct. However, the Member would be required to reimburse any sums paid if subsequently found to have breached the Code. Members were advised that a full report would be submitted when the Regulation had been finalised.

Councillor Kerr requested a copy of the Draft Regulations and it was noted that if any other Member of the Committee required a copy they should contact the Corporate Director (Central Services) who would make the necessary arrangements.

Members agreed to note the verbal report of the Head of Legal Services and requested a full report when the Regulations had been finalised.

(iii) ITEM OF URGENT BUSINESS - LOCAL PROTOCOLS

The Corporate Director (Central Services), referring to Minute 15, reported verbally at the meeting and circulated a draft Protocol on Publicity for Allegations of Breach of the Code of Conduct made to the Standards Board. It was noted that the draft Protocol had been amended since previously being considered by the Committee, as full Council had requested that certain amendments be made. Members were advised that the amended draft version provided for a Member in certain circumstances to make public comment on a complaint that had been brought into the public domain by a member of the public. The Committee was requested to consider the amended Protocol and make recommendations for consideration by full Council.

It was moved by Councillor J. Kirkman and seconded by Councillor D. Kerr: -

“That the Draft Protocol be submitted to full Council for adoption, subject to amendments to make it clear that a Member would only be in breach of the Protocol if the Member was aware of a complaint to the Standards Board.”

Resolved: -

That with regard to Minute 22 (i):

- (1) That a Protocol, which informs Members of a minimum standard of behaviour, be drafted for consideration at the next meeting of the Committee.
- (2) That a letter be prepared, signed by the Chairman of the Committee, and distributed to all Members of Council advising that the conduct of certain Councillors at the recent meeting of full Council was not to the expected standard.

- (3) That the Corporate Director (Central Services)/Monitoring Officer write to the 3 Councillors involved in the incidents at the recent meeting of full Council advising of the views of this Committee that their actions were inappropriate and requesting that a formal apology should be given by them to the Deputy Mayor.

That with regard to Minute 22 (ii):

- (4) That the verbal report of the Head of Legal Services be noted and that a full report be submitted when the new Regulations are finalised.

That with regard to Minute 22 (iii):

- (5) That the Draft Protocol on Publicity for Allegations of Breach of the Code of Conduct be submitted to full Council for adoption, subject to amendments to make it clear that a Member would only be in breach of the Protocol if the Member was aware of a complaint to the Standards Board.

23 PREAMBLE TO THE CODE OF CONDUCT

The Corporate Director (Central Services) presented a report, which advised the Committee of a draft Preamble to the Code of Conduct, following discussions at previous meetings.

It was recalled, that at the meeting of the Committee in November 2003, there was a lengthy debate on a proposal moved by Councillor Heath to amend the Council's Code of Conduct by adding a new obligation for Members to have regard to the interests of the whole community.

It was agreed that the Chairman would discuss further with Councillor Heath, the possibility of a new provision regarding the interests of the whole local community being included as a preamble to the Code of Conduct, or elsewhere within the Constitution, and that this would be considered by the Committee at a future meeting. (Minute 13(2) refers).

Following the meeting, officers sought advice from the Standards Board for England on the possible contents of a preamble, and on the basis of that advice, the document appended to the report had been drafted.

Bulletin 15, published by the Standards Board in December 2003 referred to the public interest issue, and stated that this might be raised by the Standards Board with the Office of the Deputy Prime Minister when the Model Code of Conduct was reviewed, but that in the meantime Councils were not permitted to reduce the scope of the Code of Conduct, for example by inserting a public interest clause.

The specific advice given to officers by the Standards Board was that any Preamble should make it absolutely clear that only breaches of the Code of Conduct itself were enforceable by the Standards Board. Whilst there was no objection to having a Preamble which refers to the statutory Principles of good conduct with which the Code was required to be consistent, it should be made clear that the Principles themselves were not enforceable, and also that all ten Principles were equally important, and that there was no one overarching duty arising from the Principles.

In the context of having regard to the interests of the community, therefore, whilst the first Principle states that "Members should serve only the public interest", this was only one of the Principles, and it was not overriding.

Should the Committee be minded to approve the draft Preamble in the form, submitted as an Appendix to the report, officers were satisfied that the Standards Board would not object to its contents.

It was moved by Councillor P. Gardner and seconded by Councillor D. Kerr: -

“That the Preamble to the Code of Conduct be approved and be submitted to full Council, as set out in the recommendations of the report.”

Resolved: -

That the Monitoring Officer be requested to recommend to full Council that the draft Preamble to the Code of Conduct, annexed to the report, be included in the Constitution.

24 LOCAL INVESTIGATIONS OF MISCONDUCT ALLEGATIONS

The Corporate Director (Central Services) presented a report to enable the Committee to consider new Regulations dealing with the local investigation of allegations of misconduct and a proposed investigation and pre-hearing procedure for dealing with such matters.

Members were advised that, with regard to a time limit for conducting investigations, all cases were different and it would be impossible to give a specific timescale for all cases to be completed within.

It was moved by Councillor J. Ravetz and seconded by Councillor D. Kerr: -

“That the recommendations, as set out within the report, be approved and that these matters be reported to full Council and that a letter and copy of the report be submitted to all Parish and Town Council Clerks to inform them of this matter.”

Resolved: -

- (1) That the Committee note the provisions of the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004.
- (2) That the Committee approve investigation and pre-hearing procedures for matters referred to the Monitoring Officer for local investigation and subsequent local determination.
- (3) That with regard to (1) and (2) above that these issues be reported to full Council.
- (4) That a letter and copy of the report be submitted to all Parish and Town Council Clerks to inform them of this matter.

25 STANDARDS BOARD CASE REFERRALS 2003/04

The Corporate Director (Central Services) submitted a report that updated the Committee on both the national and local position of the Standards Board workload.

The statistics of the Standards Board caseload for the first six months of the year were now available, and showed that a total of 1,825 cases had been referred to the Standards Board. There was an 8% increase on the same period from last year.

An analysis of the allegations for 2004/05 was attached as Appendix A to the report and was summarised as follows: -

Complaints received April 2004 to September 2004	1,825	
Complaints passed to investigator	456	(25%)

47% of those received were in respect of Parish Councils and 28% in respect of District

Councils.

It seemed that all the procedures were becoming well known outside Councils in that 59% of the allegations (51% last year) were made by members of the public. Allegations from fellow Councillors accounted for 32% of the total.

An analysis of the nature of the allegations investigated showed that the most common areas for complaint concern were: -

- Bringing the authority into disrepute (19%);
- Non-declaration of a prejudicial interest (19%);
- Non-declaration of a personal interest (18%).

Of those cases that had been investigated in 2004/05 only 10%, or 46 cases, had been referred to the Adjudication Panel, 67% required no further action, 19% there was no evidence of a breach and only 4% had been referred back to the Monitoring Officer.

Locally, the Standards Board had received a total of 32 allegations of misconduct in respect of City and Parish Councillors. A summary of the position was provided as set out below: -

	City	Parish
Allegations Received	23	9
Proceed to Investigation	15	6
Resolved to Date	13	6
- No breach	7	--
- Breach but No Action Required	5	6
- Breach Referred to Adjudication Panel	1	--

It was noted that there were currently two cases being investigated by Ethical Standards Officers.

It was moved by Councillor D. Kerr and seconded by Councillor J. Ravetz: -

“That the report be noted.”

Resolved: -

That the report be noted.

26 THIRD ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Corporate Director (Central Services) submitted a report that provided feedback to the Committee from the Third Annual Assembly and alerted the Committee of the dates for the Fourth Annual Assembly, which were the 17th and 18th October 2005.

The Chairman and Monitoring Officer had recently attended the Third Annual Assembly of Standards Committees in Birmingham on the 13th and 14th September, 2004. Over the two days a total of 750 delegates attended the Conference and its workshops. The theme of the Assembly was “Cracking the Code”. A verbal feedback of the event was provided by the Chairman and the Monitoring Officer who had represented the Council at the Assembly and by Mr Clarke who had attended in another capacity.

At the request of Members of the Committee it was noted that a report be submitted to the next meeting reviewing the Council’s Planning Protocol.

It was moved by Councillor J. Ravetz and seconded by Councillor J. Kirkman: -

“That the report be noted.”

Resolved: -

That the report be noted and that a report be submitted to the next meeting reviewing the Council’s Planning Protocol.

.....
Chairman

(The meeting closed at 3.33 p.m.)

**Any queries regarding these Minutes, please contact
Stephen Metcalfe, Senior Democratic Support Officer,
on 01524 582073, or alternatively e-mail
SMetcalfe@lancaster.gov.uk**

Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: CDCS/HLS

Title: CONSULTATION PAPER ON THE REVIEW OF THE CODE OF CONDUCT FOR MEMBERS

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To enable the Committee to consider a Standards Board Consultation Paper on a review of the Code of Conduct, and determine whether Members wish to respond.

RECOMMENDATIONS

The Committee is asked to note the report and to consider whether it wishes to respond to the Consultation Paper.

REPORT

Introduction

The Code of Conduct was introduced in November 2001 and came into force across all local authorities in May 2002. The Standards Board for England is now reviewing the Code of Conduct, and has issued a Consultation Paper. The full Consultation Paper is available on the Standard Board's website – www.standardsboard.co.uk – and should be read in conjunction with the Code of Conduct.

The deadline for responses is the 17th June 2005.

The purpose of the consultation is to review the effectiveness of the Code of Conduct, and explore ways in which it could be simplified, clarified and improved. The Standards Board wishes to use the consultation exercise as an opportunity to ask whether the Code of Conduct captures all the conduct it should, and to focus on areas of the Code of Conduct which are contentious or may need clarification.

The Consultation Paper asks twenty nine questions, under ten separate headings. These headings are followed in this report, which attempts to summarise the salient points of the Consultation Paper.

The General Principles

The Code of Conduct is required by Section 50(4)(a) of the Local Government Act 2000 to be consistent with the general principles of conduct in public life, which are set out in a

Statutory Instrument. These are selflessness; honesty and integrity; objectivity; accountability; openness; personal judgment; respect for others; duty to uphold the law; stewardship; and leadership.

The Standards Board considers that these principles should be included as the preamble to a revised Code of Conduct. The Board does not believe that failure to adhere to the general principles should be considered as specific grounds for investigation, but believes inclusion would serve to clarify the Code of Conduct

The questions asked under this heading are:

- 1. Should the ten general principles be incorporated as a preamble to the Code of Conduct?**
- 2. Are there any other principles which should be included in the Code of Conduct?**

Members may wish to note that this Council has already adopted its own preamble to the Code of Conduct, which sets out the ten principles.

Disrespect and Freedom of Speech

Under the Code of Conduct, a Member must treat others with respect. The Standards Board's experience is that what is perceived as disrespect often varies widely between individuals and between ethnic and local and regional cultures. However, making the definition of disrespect more specific may mean that it would paradoxically become more inflexible and could not seek to reflect a variety of views on what is respectful. The Standards Board recognises that members must have a right to comment on matters of public concern, provided their comments do not breach discrimination legislation or cross the line into overly personal attacks.

The Standards Board believes that a new provision specifically addressing bullying would be of significant symbolic and practical value to the local government community, as it would show that bullying is an issue which should be specifically dealt with.

The questions asked under this heading are:

- 3. Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?**
- 4. Should the Code of Conduct include a specific provision on bullying? If so, is the ACAS definition of bullying appropriate for this?**

That definition is that "bullying may be characterised as a pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine an individual or a group of individuals, gradually eroding their confidence and capability, which may cause them to suffer stress."

Confidential Information

Under the Code of Conduct, a Member must not disclose information given to him in confidence, or which he believes is of a confidential nature.

The Standards Board is aware that there is an argument that releasing confidential information in the public interest should be recognised as a defence to a breach of the Code.

Under the Freedom of Information Act 2000, in considering whether to disclose information, a local authority must seek to balance the need to maintain confidentiality with the public interest in disclosing the information.

- 5. Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?**
- 6. Do you think the Code of Conduct should cover only information which is in law “exempt” or “confidential”, to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?**

Disrepute and Private Conduct

The Code provides that a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute. This raises questions about whether and to what degree the actions of members in their private lives should be scrutinised.

The Standards Board believes that the provision should continue to link a member’s conduct in their private life to its relevance to the performance of their public office.

In deciding whether to refer complaints for investigation, the Standards Board has generally looked at three areas of private conduct:

- cases of unlawful behaviour that would be sanctioned by the courts, such as criminal convictions and cautions
- whether the member’s private behaviour brings into question the member’s fitness to carry out their official duties
- whether the member’s private behaviour has undermined the public’s confidence in the member’s ability to carry out their official duties

- 7. Should the provision related to disrepute be limited to activities undertaken in a member’s official capacity or should it continue to apply to certain activities in a member’s private life?**
- 8. If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?**

Misuse of Resources

The Code provides that when using the resources of the authority, a member must act in accordance with the authority’s requirements and ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate the discharge of the authority’s functions or the member’s office.

The phrase “political purposes” was intended to complement Section 2 of the Local Government Act 1986 which prohibits the publication of material designed to affect public support for a political party.

The Standards Board believes that there should be allowed a low threshold for some resource use, while leaving further regulation of resources to individual authorities.

The Standards Board believes that with regard to use of resources for “political purposes” this provision of the Code should address three issues as breaches:

- a breach of the 1986 code of publicity
- a breach of any local protocol
- misuse of resources, in particular officer time, for inappropriate political purposes

9. Do you agree that the Code of Conduct should address the three areas set out above?

10. If so, how could we define “inappropriate political purposes”?

11. Do you agree that the Code should not distinguish between physical and electronic resources?

Duty to report breaches

The Code of Conduct requires members who have a reasonable belief that a fellow member has breached the Code of Conduct to make a complaint to the Standards Board.

The Standard Board considers that this provision should be retained because it gives effect to the principles of openness and accountability. Deleting the provision would not stop frivolous or malicious complaints, as members would still be able to report alleged breaches.

Members might be deterred from making false and malicious allegations if it was a breach of the Code to do so. However, such a provision could also act as a deterrent for members making complaints where they have legitimate concerns, in case subsequent investigation finds the complaint to be unfounded.

12. Should paragraph 7 be retained in full, removed altogether or somehow narrowed?

13. If you believe the provision should be narrowed, how would you define it? For example, should it only apply to misconduct in a member’s public capacity, or only to significant breaches of the Code?

14. Should there be a further provision about making false, malicious or politically motivated allegations?

15. Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?

Personal Interests

The definition of a personal interest in the Code includes the terms “friend” and “wellbeing” neither of which are defined, although the Standards Board has issued guidance on their interpretation.

Paragraph 10(2) of the Code sets out certain circumstances where members who have a personal and prejudicial interest may, but not necessarily should, regard themselves as not having a prejudicial interest, and may therefore participate in decision making. In particular this applies where the member is a member also of other public bodies. This paragraph has not been easy to interpret, and the Standards Board believes that it has been misconstrued.

The Standards Board proposes a new “public service interest” for members who serve on other public bodies. This would be subject to the prejudicial interest test, but where a public service interest was not prejudicial, it would not need to be declared at a meeting. Where it was prejudicial, the member could participate in debate, and would be required to withdraw only when the vote was taken.

The Standards Board also proposes similar rules for interests arising from membership of charities and lobby groups.

- 16. Do you think the term “friend” requires further definition in the Code of Conduct?**
- 17. Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority’s area?**
- 18. Should a new category of “public service interests” be created which is subject to different rules of conduct?**
- 19. If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?**
- 20. Do you think paragraph 10(2)(a-c) should be removed from the Code?**
- 21. Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?**

Prejudicial Interests

In the case of *R. (on the application of Richardson) v North Yorkshire CC*, it was held that a member who had a prejudicial interest was not entitled to attend a meeting even in his personal capacity.

There is an argument that members should have the same right to make representations as members of the public. However, the Code was drafted to give effect to the principle that members undoubtedly have, or are perceived to have, a greater influence than ordinary members of the public.

- 22. Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?**
- 23. Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote?**

Registration of Interests

The Standards Board is aware that many members feel that there is a lack of clarity in the Code around the nature and scope of the organisational memberships that must be registered.

- 24. Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?**
- 25. Should members be required to register membership of private clubs and organisations? If so, should it be limited to organisations within or near an authority’s area?**

Gifts and Hospitality

- 26. Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?**
- 27. Should members also need to declare offers of gifts and hospitality that are declined?**
- 28. Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?**
- 29. Is £25 an appropriate threshold for the declaration of gifts and hospitality?**

Conclusion

If Members formulate their response at the meeting, this can be passed on to the Standards Board to meet the deadline.

FINANCIAL IMPLICATIONS/SECTION 151 OFFICER'S COMMENTS

There are no financial implications, and the Section 151 Officer has no further comments.

LEGAL IMPLICATIONS/MONITORING OFFICER'S COMMENTS

The report has been prepared in conjunction with the Head of Legal Services, and there are no further comments.

BACKGROUND PAPERS

Code of Conduct.

Standards Board Consultation Paper.

Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: CDCS/HLS

Title: REVIEW OF THE PLANNING PROTOCOL

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To enable the Committee to review the Planning Protocol which forms part of the Council's Constitution.

RECOMMENDATIONS

The Committee is asked to consider the revised Planning Protocol attached to the report, and to make recommendations to Council as to the content of the Protocol, which forms part of the Constitution.

REPORT

At its last meeting on the 19th November 2004, the Committee requested that a report be submitted to the next meeting reviewing the Council's Planning Protocol. Minute 26 refers.

The Head of Legal Services and the Head of Planning and Building Control have reviewed the existing Protocol, which is included in the Council's Constitution.

A suggested amended version of the Protocol is appended to this report for Members' consideration. The "tracking" identifies where changes have been made to the current version.

The review has taken account of good practice recommended by the Association of Council Secretaries and Solicitors (ACSeS), guidance from the Standards Board for England, and recent case law. In addition, the opportunity has been taken to include or expand on guidance on issues that have arisen or caused difficulties since the original document was drafted.

Members are asked to consider the amended version, and any other amendments that they may wish to make, with a view to recommending Council to adopt a revised version for inclusion in the Constitution.

FINANCIAL IMPLICATIONS/SECTION 151 OFFICER'S COMMENTS

There are no financial implications and the Section 151 Officer has no further comments.

LEGAL IMPLICATIONS/MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in conjunction with the Head of Legal Services, and there are no further comments.

BACKGROUND PAPERS

ACSeS Model Members' Planning Code of Good Practice.
Lobby groups, dual-hatted members and the Code of Conduct – Standards Board Guidance for Members.

PART 5, SECTION 4

- PROTOCOL ON PLANNING PROCEDURE

1 Introduction

The purpose of this protocol is to provide Members with guidance regarding their role in determining planning applications, in particular, when interacting with applicants, objectors or developers. Ward members, who are not members of the Planning Regulatory Committee but who want to address the Committee, also require guidance on interaction over their contact with applicants developers and objectors.

The protocol is designed to offer that guidance and help Members understand their role and the responsibilities associated with that role.

In addition, District Audit has also raised the need for a protocol on planning in their document, "Probity in Planning".

2 Natural Justice

These principles apply throughout public administration. They are fundamental principles of administrative law and should be adhered to when determining any planning application.

The two principles of Natural Justice are :-

1. (a) The rule against bias

2. (b) The duty to act fairly/duty to hear both sides or the other side.

3 The Rule Against Bias

The first principle means that no Member should remain and be a party to a decision which affects his or her own interests. This is largely the process by which Members declare interests.

In addition to the common law rule against bias, Members must be mindful of the provisions of the Council's Code of Conduct with regard to personal and prejudicial interests, referred to below.

If Members in a Committee Meeting are in any doubt about the interest they are advised to err on the side of caution and leave the chamber. If a Member does not take this action it can lead to criticism or a challenge to the decision on the basis that a Member with an interest remained within the Council Chamber and tainted the integrity of the decision.

4 The duty to act fairly/hear both sides or the other side

Both sides should have an opportunity to put their view forward and the decision making body must consider both sides - applicant and objector - before coming to its decision. The Member's mind should not be closed until the final decision is made. A Member's mind will be closed if he or she has already come to a decision on an application prior to entering the Council Chamber.

5 Example of Maladministration

The Local Ombudsman recently made a finding of maladministration against a Merseyside Council because a Member failed to declare an interest and leave the meeting. The Member had a house that was situated near to and affected by a planning proposal. The Member did not declare an interest and remained in the Chamber and voted on the application.

It is important to the integrity of the Planning process and to open and honest governance that justice must not only be done to the planning application – but also that it is seen to be done, thereby giving the public confidence in the system.

There have also been examples of maladministration where Members have encouraged their colleagues to set aside the advice of professional officers by introducing factors which do not amount to material planning considerations. These can include personal circumstances, or land ownership issues. Members should always be cautious and stick only to valid planning considerations.

6. Declarations of Interest and Leaving the Chamber

Under the Council's Code of Conduct, where a decision would affect the well-being or financial position of a Member, or a relative or friend of theirs, the Member must declare a personal interest. The word "friend" is not defined in the Code, but implies more than a passing acquaintance or knowledge.

Where a Member has a personal interest as set out in the Code of Conduct, he or she must give careful consideration as to whether that interest is also a prejudicial interest (that is, one which a member of the public with knowledge of the facts would reasonably regard as so significant that it is likely to prejudice the Member's judgment of the public interest). In considering whether the interest is prejudicial, Members are advised to err on the side of caution. However, simply knowing the Applicant does not equate to a prejudicial interest. If the personal interest is not a prejudicial interest, the interest must be disclosed to the meeting.

Where a Member has a personal interest which is also a prejudicial interest under the Code of Conduct, they must leave the chamber – they are not permitted to return to the public gallery for the debate and they should not be seen by other Members when they are making the decision. This is a requirement of the Code of Conduct. If a Member who had declared an interest was present or could be seen to watch the proceedings, this could in any event be sufficient to taint the process.

Because of the quasi-judicial, regulatory nature of the work of the Planning Regulatory Committee, and the requirements of natural justice, Members are advised to err on the side of caution when considering the matter of interests.

Dispensations from the Standards Committee are available in limited circumstances, where the existence of prejudicial interests would mean that the political balance principles could not otherwise be complied with.

It should be noted that the Court of Appeal case of Richardson –v- North Yorkshire County Council confirmed that a member of a Council who is not a member of the Planning Committee, but who has a personal and prejudicial interest in an application being considered by the Committee, may not participate and is required to withdraw from the meeting. This means that a Member may be placed in a more disadvantageous position than ordinary members of the public in regard to participating in or observing at meetings.

When declaring interests at meetings, Members should make it clear what level of interest they are declaring, and whether the interest prevents them from taking part in the decision making process.

7.6 Party Politics

A Member must not blindly follow the recommendations of their political party. A decision on a particular planning application should not be dictated to by party politics. Party whips should never be used. The Member is part of the decision making body. As far as planning applications are concerned the decision making body is the Planning Regulatory Committee. That Committee sits in a quasi-judicial manner and each decision is made on its own merits, within the Development Plan framework, supported by legislation, government advice and other Council land use policies. Therefore each decision has to be made on the information put before the Committee and should take into account the

development plan, the impact of the individual development and any individual site characteristics – not party politics.

8.7 — **Allegations of Bias**

As a Member of the Planning Regulatory Committee the time for decision making is after the Members(s) has/have heard all relevant considerations i.e. after the application has been presented to the Members in the Committee meeting and when the presentation of the application is completed. Therefore, a decision should not be made before the agenda is sent out, at a site visit or immediately before the meeting begins. If a Member has made his or her mind up before the application is fully presented then this renders the application–decision open to challenge. This would be on the basis that the application was predetermined, was not considered fairly and that the Member's conduct showed bias. To predetermine an application flies in the face of the principle of the rule 'to hear both sides'.

Where the Council is the landowner, developer or applicant, or the proposal has been discussed or supported by another Committee of the Council, a Member who has expressed strong views on the matter is likely to have fettered his discretion if his involvement could make him perceived by the public as being no longer able to act impartially or to determine the proposal purely on its planning merits.

In most cases, however, the fact that a Member has been involved in a decision to promote the development of land in the public interest, does not prevent them from making decisions on the matters of detail. Members approving specific land use allocations in a Local Development Framework for example, would not be prevented from deciding subsequent planning applications. They would be expected to use their decision making abilities to ensure that schemes conform with the requirements of the Framework.

9.8 — **Media Exposure**

A Member should never make any public declaration on an application until the application has been determined. If a Member makes an announcement (that is one sided) prior to the application being determined then that Member is at risk from an allegation of bias i.e. they have not kept their mind open until all matters are before them. In these circumstances the Member may be advised to refrain from taking part in the decision making process to ensure the decision is not tainted. This will be particularly important where there is adverse public reaction to a planning application in the local press some time before the application has received a recommendation from Officers.

10. Parish Councillors

A Member of the Planning Regulatory Committee who is also a parish councillor may speak and vote at both parish and City Council level on the same planning issue. Members who take this course of action will need to declare membership of the parish council as a personal interest at City Council level.

As indicated above, Members are under an obligation to approach decision-making with an open mind, prepared to listen to all sides of the argument. Dual-hatted Members who choose to speak and vote at parish and City Council level will need to make it very clear that their vote at parish level represents a preliminary view and that they will reconsider the matter afresh at City Council level. Failure to do so may result in a challenge on the grounds of predetermination.

Different considerations will apply if the parish council is the applicant in relation to a particular planning application. In that situation a parish councillor would be likely to have a prejudicial interests at the Planning Regulatory Committee.

It must always be remembered that debate at parish council meetings takes place without professional advice from a Chartered Town Planner. It is likely, therefore, that considerations may involve matters not properly restricted to planning considerations. City Council Members involved in such discussions should take specific care to qualify their views accordingly.

11. Lobby Groups

A Member of the Planning Regulatory Committee who is a member of a lobbying group which has publicly expressed support for or against a planning application will need to consider whether he/she has a personal and prejudicial interest. If the matter will have a direct impact on the lobby group, the Member is likely to have a prejudicial interest. If the matter relates only indirectly to the lobby group, the Member may have a personal or prejudicial interest in it, and will need to consider in particular the nature of the Member's involvement with the lobby group, the publicly expressed views of the lobby group, and what the Member has said or done in relation to the particular issue.

Further guidance can be obtained from the Standards Board publication "Lobby groups, dual-hatted members and the Code of Conduct"

912.—Contact by an Applicant Agent Developer or Objector

It is inevitable that Planning Regulatory Committee Members will be approached frequently by a variety of people during the planning process. It is therefore important that Members are clear on the nature of the advice and the comments that they give.

MEMBERS SHOULD AVOID GIVING ANY COMMITMENT OR THE IMPRESSION OF ANY COMMITMENT OR VIEW that is held regarding any particular planning application yet to be determined or any matter that may result in the submission of a planning application. It is inappropriate for a Member to meet with the Applicant or Developer to discuss the proposals. Instead they should be directed to the Chief Head of Planning and Building Control Officer and his staff. Equally, any Member requiring further information about the application should contact the Chief Head of Planning and Building Control Officer and his staff.

If a meeting or telephone call does takes place then Members are advised to avoid comments which infer predetermination such as:

- 'I am completely against any development there'
- 'I am all for any kind of economic regeneration'
- 'The developer X normally builds to a high standard'

In the very rare circumstances where a meeting does take place between a Member and the Applicants or Developers it essential that an officer is present and the meeting properly minuted. The Audit Commission states that in these circumstances "all meetings should be attended by officers, fully minuted and reported to Committee in order to ensure transparency". Therefore those minutes should be reported to the Planning Regulatory Committee prior to any decision being made.

Any significant contact with the applicant or other parties should be reported to the Head of Planning and Building Control, explaining the nature and purpose of the contacts and the member's involvement in them.

13. Presentations by applicants/developers

A Member should not attend a planning presentation unless an officer is present and/or it has been organised by officers. A Member should be aware that a presentation is a form of lobbying and should not express any strong view or state how he or other Members might vote.

Where a public meeting is arranged by a developer to present to local residents a scheme which the developer intends to submit, there is nothing to prevent Members attending to obtain information, but they should not make any comment.

4014. **Approach by a Constituent**

If a constituent approaches a Member about an application Members can give advice on planning procedure rules and policy so far as they are able but it is always advisable to direct the constituent to staff of the Planning Service in any event. When speaking to constituents Members must not give any impression of any commitment to the application itself.

145 **Approach by a Non-Constituent**

If a non-constituent approaches a Member, Members can advise the person on planning procedure rules and policy as far as they are able or alternatively ask them to contact their own Ward Member or the ~~Chief Head of Planning and Building Control Officer~~ and his staff.

162 **Disclosure of Information**

It is important that Members are clear on what information is a matter of public record and what information is not. Details contained within the planning application are open to the public and the planning process and planning policies are all within the public domain. However, informal observations of the Planning staff will not be information available to the public. If a Member wishes to rely on the observations or comments of the officer then the Member must ask the officer if the information is of a public or confidential nature. If the Member intends to refer such information to a member of the public i.e. not a Council Member, they must make this clear to the officer.

173 **Hospitality Offered to Members**

It is advisable in all circumstances to simply refuse any hospitality. To accept creates the risk that there has been undue influence on the planning process. In the rare event that the hospitality is accepted it must be declared to the Council in accordance with paragraph 17 of the Council's Code of Conduct.

18. **Lobbying of Planning Officers**

Members must recognise that they are part of the organisation which employs professional staff who will make their recommendations on planning applications. Public confidence in the planning system is dependant on planning officers being able to reach open and impartial recommendations on applications, based on lawful planning considerations only, without being improperly influenced in reaching their conclusions by political pressure. Whilst it is entirely proper for Members to enquire about progress on applications and to ask for clarification about the reasons for any recommendation, they must take particular care to ensure that they do not give the impression of applying pressure to officers to make any changes to their recommendations. To do so would leave them open to accusations of applying inappropriate pressure in the form of lobbying.

4419. **Lobbying of the Planning Regulatory Committee by other Members**

~~The same principles apply.~~ Members should not give an impression of any commitment or view on the application itself and Planning Regulatory Committee Members must consider all matters before forming a view. If the lobbying Member is an applicant the Committee Member must critically assess their relationship to the Applicant-Member. The test is to ask yourself 'is the relationship such that a reasonable person would consider that remaining in the Planning Regulatory Committee meeting when the decision is made would give the impression of bias'. Simply being a member of the same political party does not necessarily equate to a personal or prejudicial interest but Members must ask themselves about their relationship, e.g. Are they friends outside the political arena? Do they socialise with each other? . Members are advised to err on the side of caution.

4520. **Social Contact**

Members of the Planning Regulatory Committee should minimise their direct social contact with known Developers and Agents, especially when developments are contemplated or applications are being proposed or when controversial decisions are likely to be needed.

4621. **Site Visits – Informal or Formal**

Again, if Members of the Planning Regulatory Committee, whether or not on a site visit, enter any premises which –

- are the subject of/ affected by a planning application or
- are known to be likely to become subject to or affected by a planning application

for any purpose in connection with such an application/proposed application, the Member should be careful to use the inspection purely as a fact-finding exercise and not express any opinion on the merits of the application. Members must not give any kind of indication of what their views of the application are at this stage as they would be at risk of predetermining the issue.

4722. **Purpose of Formal Visits**

The purpose of a Committee site visit is to give Members the opportunity to see the prospective development site and to see it in context, in relation to the surrounding areas and the neighbouring uses. The Planning Officer will normally identify the site and make a short factual presentation explaining the proposed development and perhaps highlighting issues which initially prompted the site visit. The Planning Officer will answer, where possible, questions raised by the Committee.

Site visit are not intended to pre-empt the debate. Questions should therefore relate to matters of factual information about the site, the development and the surrounding area rather than a detailed debate regarding the principle or merits of the proposal. Any detailed debate regarding the above should await the formal Committee meeting when all Members of the Committee and members of the public who attend can hear the arguments in a proper setting.

4823. **Public Attendance at Formal Site Visits**

Members will often be met by numbers of local residents at a site visit as they are often high profile cases which are under consideration. It is important that the Planning Officer or the Committee Clerk explains clearly the purpose of the site visit to residents before the site visit commences. Members of the public can listen to the officers' presentation but should not join in any subsequent discussion. Public views or objections will be fully presented or reported at the Committee meeting and should properly form part of the overall debate and discussion at that time.

Members should avoid getting into individual dialogue with local residents, although it is appreciated this can be difficult to avoid. The Chairman can invite a spokesperson for the residents to answer any specific questions Members may have but this should not become a general debate about the proposal. If there is a request to visit the site from a particular position or location this can be undertaken at the Chairman's discretion. If it is agreed, all Members should accompany the Chairman if possible.

The applicant or his representative will also be invited to attend the site visit. They ~~is~~ are present simply to answer any questions the Committee Members may have but should not address the Members on the general merits of the case. Again the Planning Officer or Chairman should explain this situation to the applicant or representative if necessary.

None of the above text on site visits is intended to stifle debate or prevent local residents from having their say. The proper place for such a debate is however at the Committee meeting when

neighbour/local views will be properly reported and a proper discussion in a public forum can take place.

1924. **Ward Members Speaking at Planning Regulatory Committee who are Not Members of the Planning Regulatory Committee – Contact by the Applicant, Developer or Objector**

When a Ward Member speaks at a Committee it is important that they make it clear whose views they are expressing. Are they speaking for themselves only? Are they speaking on behalf of their Ward? Are they speaking on behalf of a group of residents? An important difference between Planning Members and Ward Councillors who are not Members of the Planning Regulatory Committee is that Ward Members are permitted to express a view prior to entering the Council Chamber. Also, a Ward Member can inform other Members of their own view. If they are asked to meet with a party who has an interest in an application it should be made clear to that party that the Ward Member cannot lobby Members of the Planning Regulatory Committee – they can inform the Members of their concerns etc but they cannot lobby.

If the applicant/objector/third 3rd party asks for information Members should advise them to contact the Planning Service staff. The Ward Member can comment on how they would like the decision to be determined but must not give any impression of interfering with the normal democratic process. Comments like 'I will have a quiet word with the Chairman' 'the Group will all vote together' or 'it will be sorted' are unacceptable. They infer predetermination and interference, which at the very least is against an open and transparent planning system.

Instead the Member should make it quite clear that they are able to express an opinion to the Committee but the final decision will be made by the Members when they have considered all matters including the Local Development Plan.

When a non Planning Regulatory Committee Member addresses the Committee, it is advisable that they disclose to the Committee any contact they have had with the applicant and/or agent and/or interested party. For example if a Ward Member meets with a Developer and is in favour of an application they should state 'I am the Ward Member and I am here to represent my own views on this matter. I have spoken to the Developer and I have looked at the plans in detail. I am for the application and consider the benefits are ...'. Or 'I am the local Ward Councillor and I am here to represent the views of what I consider is the majority of the residents of my Ward. I have had numerous telephone calls and letters complaining about this. I have met with local resident groups and I am unhappy with the proposal before Members because ...'

A member of the Planning Regulatory Committee may take the opportunity to exercise separate speaking rights as a Ward Councillor where the Member has fettered his/her discretion to participate in the decision making, but does not have a personal and prejudicial interest. However, the Member should make it clear before commencement of the item that he/she is speaking in this capacity, and should remove him/herself from the Committee seating area for the duration of that item.

2025. **The Public Participation Process**

With the introduction of the public participation process members of the public now have the opportunity to address the Planning Regulatory Committee. Each individual has 3 minutes to speak. Ideally the person would refer only to planning issues. However realistically speaking this is unlikely to occur and in practice they may refer to non-planning and land use matters.

Planning Regulatory Committee Members need to sift through such presentations and concentrate on the land use principles, distinguishing between issues that are and are not relevant to the planning decision. Issues that are not planning matters need to be dismissed or given very little weight, while land use issues should be taken into account and given great weight.

Personal circumstances and financial details are rarely, if ever, determining issues. Members have to give proper weight to the Development Plan and other material land use considerations.

21 Declarations of Interest and Leaving the Chamber

~~Under the Council's Code of Conduct, where a decision would affect the well-being or financial position of a Member, or a relative or friend of theirs, the Member must declare a personal interest. The word "friend" is not defined in the Code, but implies more than a passing acquaintance or knowledge.~~

~~Where a Member has a personal interest as set out in the Code of Conduct, they must give careful consideration as to whether that interest is also a prejudicial interest (that is, one which a member of the public with knowledge of the facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest). In considering whether the interest is prejudicial, Members are advised to err on the side of caution. However, simply knowing the Applicant does not equate to a prejudicial interest. In the district of Lancaster and Morecambe, it is highly likely that a Member will have some knowledge of an Applicant at some time.~~

~~If the personal interest is not a prejudicial interest, the interest must be disclosed to the meeting.~~

~~Where a Member has a personal interest which is also a prejudicial interest under the Code of Conduct, they must leave the chamber — they are not permitted to return to the public gallery for the debate and they should not be seen by other Members when they are making the decision. This is a requirement of the Code of Conduct. If a Member who had declared an interest was present or could be seen to watch the proceedings, this could in any event be sufficient to taint the process.~~

~~Because of the quasi-judicial, regulatory nature of the work of the Planning Regulatory Committee, and the requirements of natural justice, Members are advised to err on the side of caution when considering the matter of interests.~~

~~Dispensations from the Standards Committee are available in limited circumstances, where the existence of prejudicial interests would mean that the political balance principles could not otherwise be complied with.~~

2226. The Decision Itself

~~In accordance with s54A Section 38 of the Town and Country Planning Act 1990, as amended, Planning and Compulsory Purchase Act 2004 a planning application made under the Planning Acts shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.~~

~~Material considerations are anything that relates to the use and the development of land. "Material considerations must be genuine planning considerations, i.e. they must be related to the purpose of planning legislation, which is to regulate the development and use of land in the public interest." PPG1 para. 50. 'In the public interest' does not mean determining planning applications on the view of the local residents. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless that opposition or support is founded upon valid planning reasons which can be substantiated" para. 60 of PPG1.~~

~~If there is public opinion against an application then Members must ask themselves "are the objections based on planning grounds?" and if they are "is there evidence to support them?" If the answer to one or both of these questions is 'no', then Members should not permit the objections to be determine the outcome.~~

~~A Member who is proposing, seconding or supporting a decision contrary to officer recommendations or the development plan should clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. It may be necessary to justify the resulting decision by giving evidence in the event of any challenge.~~

2327.. **Code of Conduct**

This guide is ancillary to the Council's Code of Conduct and is designed to help Members understand their role in the Planning process. Its production is recommended by District Audit ('Probity in Planning').

2428. **Enforcement of the Protocol**

Members need to be aware that this Protocol is for guidance. The breach of its terms will not necessarily result in the decision being invalidated, but may well lead to a decision being challenged.

A breach of the Council's Code of Conduct may lead to a reference to the national Standards Board. A breach of this Protocol which is not a breach of the Council's Code of Conduct Code could not be referred to the Standards Board, but may be investigated by the Monitoring Officer and subsequently reported to the Council's own Standards Committee.

If Members have any concerns about the above ~~please~~they should contact the Head of Legal Services and/or the Head of Planning Servicesand Building Control.

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Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: CDCS/HLS

Title: INDEMNITIES REGULATIONS

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To advise the Committee of the content of new Regulations which specify the circumstances in which councils may provide indemnities to members and officers.

RECOMMENDATIONS

The Committee is asked to note the report.

REPORT

Introduction

Members may recall that at the last meeting of the Committee on the 19th November 2004, it was reported that draft Regulations had been published dealing with the provision of indemnities for members and officers, and that a further report would be submitted once the Regulations had been made. Minute 22(II) refers.

The Local Authorities (Indemnities for Members and Officers) Order 2004 was made on the 22nd November 2004, and came into force on the following day. The Order gives local authorities (including parish councils) specific power to grant indemnities and/or take out insurance to cover the potential liability of members and officers in a wide range of circumstances. It is for each individual authority to decide whether to grant such indemnities, or take out insurance, and to decide the extent of such indemnities and insurance.

Indemnities available under the Order

An indemnity may be provided by the Council in relation to any action or failure to act by the member or officer in question which:-

(a) is authorised by the Council; or

(b) forms part of, or arises from, any powers conferred, or duties placed upon that member or officer, as a consequence of any function being exercised by that member or officer (whether or not when exercising that function he does so in his capacity as a member or

officer of the Council), at the request of or with the approval of the Council, or for the purposes of the Council.

An indemnity may be provided in relation to an act or omission which is subsequently found to be beyond the powers of the Council or of the member or officer in question, but only to the extent that the member or officer reasonably and genuinely believed that the act or omission was within his or the Council's powers at the time when he acted.

No indemnity may be provided in relation to the making by the member or officer of any claim in relation to an alleged defamation of that member or officer. However, an indemnity may be provided in relation to the defence by a member or officer of any allegation of defamation made against him.

No indemnity may be provided in relation to any action by, or failure to act by, any member or officer which constitutes a criminal offence, or is the result of fraud or other deliberate wrongdoing or recklessness on the part of the member or officer. However, an indemnity may be provided in relation to the defence of any criminal proceedings brought against the member or officer (although this must be reimbursed if the member or officer is subsequently convicted), and in relation to any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

Of particular interest to this Committee will be the fact that the Order provides that an indemnity can be granted to Members in respect of legal representation in "Part 3 Proceedings", that is, in respect of any investigation, hearing or other proceedings for an alleged failure to comply with the Code of Conduct. However, if the member is found to have breached the Code, and that finding is not overturned on any appeal, then the member is required to reimburse the costs incurred in relation to those proceedings.

An indemnity under the Order can be made available either directly by the Council, or through an insurance policy obtained by the Council. Any reimbursement required by the Order would therefore be to the Council or the insurer as appropriate, and, if not paid, would be recoverable as a civil debt.

Provision of Indemnity

It will be for the Council, through the Cabinet, to consider the provision of indemnities by the Council under the Order.

Like most authorities, the Council already has in place an insurance policy in respect of Officials' Indemnity. This covers the Council against loss occasioned by an error by an officer or member in or about their duties on behalf of the Council, and the Council's insurers have confirmed that liability arising from an ultra vires action is covered under this policy. The Council's Risk and Insurance Manager routinely advises the Council's insurer of outside bodies on which members represent the Council, and the insurance covers the Council for claims in respect of members' actions whilst so representing the Council. There is also cover for claims in respect of slander or libel against a member or officer in the course of their official duties.

If a claim is brought against an individual Member or Officer rather than the Council, it would be for the Council to consider whether or not to claim under the Council's insurance on the Member or officer's behalf. Clearly, any claim could have an effect on future premiums payable by the Council.

The main areas where insurance cover is not currently provided but where indemnities may now be given under the Order are:

- (1) defence costs of criminal proceedings for members and officers, and
- (2) defence costs of any "Part 3 Proceedings" against a Member.

The Council's Risk and Insurance Manager has not found it possible to obtain legal expenses cover for defending prosecutions. However, the Zurich Insurance Company has provided a quote for cover for the defence costs of Part 3 proceedings. The cost of such insurance would be £30.98 per annum for each member of the Council.

It will be for Cabinet to consider whether, and if so, in what form, an indemnity should be provided to members of the Council in respect of legal representation in Part 3 proceedings. Such an indemnity could be provided by the provision of insurance cover as identified above, or by the Council itself providing the indemnity on an ad hoc basis.

It should be noted that any indemnity for parish councillors would need to be provided by the individual parish council.

It should also be noted that, in making any decision on the matter of indemnities, all Members of the Cabinet will have a personal and prejudicial interest (as indeed would all other members of the Council). This means that, if any decision is to be taken on the subject, it will be necessary for each Cabinet Member to submit a request to this Committee for a dispensation. There is a separate item on the agenda relating to this.

FINANCIAL IMPLICATIONS/SECTION 151 OFFICER'S COMMENTS

It will be for Cabinet to consider whether it is appropriate for the Council to take out additional insurance cover, or whether, if indemnities are to be provided, a contingency fund should be set aside to meet the cost of indemnities. The Section 151 Officer has no further comments at this stage.

LEGAL IMPLICATIONS/MONITORING OFFICER'S COMMENTS

The report has been prepared in conjunction with the Head of Legal Services, and there are no further comments.

BACKGROUND PAPERS

None.

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Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: CDCS/HLS

Title: GRANTING OF DISPENSATIONS

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To remind the Committee of the provisions relating to the granting of dispensations, to enable the Committee to consider a number of applications that have been received, and to consider future arrangements for the consideration of applications for dispensations.

RECOMMENDATIONS

- 1. The Committee is asked to consider applications for dispensations from Councillors S. Bibby, M. Hornshaw, P. Quick, A. Stalker and M. Stalker of Thurnham Parish Council.**
- 2. The Committee is asked to consider applications for dispensations from members of the City Council's Cabinet.**
- 3. The Committee is asked to consider whether it wishes to establish a sub-committee with delegated authority to consider requests for dispensations.**

REPORT

Introduction

Members will be aware that, under the Code of Conduct, a member who has a prejudicial interest (that is, one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest), must withdraw from the meeting when the matter is being considered, must not exercise executive functions in relation to that matter, and must not seek improperly to influence a decision about the matter, unless the member has obtained a dispensation from the Standards Committee.

The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 set out the circumstances in which Standards Committees may grant dispensations.

The Regulations provide that dispensations may only be granted if: -

- half the members entitled or required to participate in the business of the authority would not otherwise be able to do so; or
- the authority would not be able to comply with the political balance principles.

The first of these situations would apply for example when more than 50% of the membership of the Cabinet or a Committee or Sub-committee, or a parish council are prohibited from participating in an item of business which comes before that body.

The second applies to situations where the political balance on the City Council or a Committee or Sub-committee would be upset as a result of a member being unable to participate. This is unlikely to arise given the substitution arrangements operated by the City Council.

Any member requiring a dispensation must submit an application to the Standards Committee in writing, explaining why it is desirable. In considering such an application, the Standards Committee must decide whether it is appropriate to grant the dispensation, having regard to the basis upon which a dispensation may be granted, as set out above, the content of the application and all the other circumstances of the case.

The Regulations prohibit Standards Committees from granting a dispensation:-

- for more than four years;
- allowing a member of an Overview and Scrutiny Committee to participate in the scrutiny of the decision of another committee in which the member was involved; or
- allowing an individual member of the Cabinet to exercise executive functions.

The Standards Committee must ensure that the existence, duration and nature of any dispensation is recorded in writing and that such a record is kept within the Register of Members' Interests.

Request from Councillors from Thurnham Parish Council

Requests have been received from Councillors S. Bibby, M. Hornshaw, P.Quick, A. Stalker and M. Stalker of Thurnham Parish Council for a dispensation to participate in matters relating to Glasson Dock Bowling Club of which they are all members. Copies of the requests for dispensations are attached at Appendix A.

Thurnham Parish Council has seven members, and accordingly the five members who have applied for dispensations constitute more than 50% of those who would be entitled to participate in the business of the parish council. If dispensations were not granted, it would be impossible for the Council to consider issues relating to the Bowling Club.

The Committee is asked to consider the requests for dispensations.

If it is minded to grant the applications, the Committee may wish to do so for the maximum period of four years.

Request from Cabinet Members of the City Council

Elsewhere on this agenda the Committee has considered new Regulations on the provision of indemnities for members.

In the absence of any statutory indication to the contrary, the matter of indemnities is an executive function of the Council, and, as such is to be exercised by the Cabinet.

Clearly all members of the Cabinet (and indeed all members of the Council) would have a personal and prejudicial interest in the matter, and it is likely that the Cabinet members will therefore be submitting requests to this Committee for dispensations to enable them to consider the matter of indemnities. Without such dispensations, the matter could not be considered at all, and the appropriate arrangements for dealing with indemnities could not be dealt with.

Because the indemnities issue has only just been brought to the attention of Cabinet members, their requests for dispensations will be circulated at the meeting.

The Committee is asked to consider the requests for dispensations, and, if it is minded to grant them, to consider doing so for the maximum period of four years.

Future Arrangements for dealing with Dispensation Applications

These are the first applications for dispensations that have been received since the Regulations came into force in 2002, and it is not anticipated that there will be large numbers of applications in the future. However, timing may be an issue, as an application for a dispensation must be determined before the meeting to which it relates. Whilst parish council clerks and members of the City Council can be reminded of the need to submit an application in good time, it may still be necessary for an application to be considered at a time when no meeting of the Standards Committee is scheduled.

Section 54A of the Local Government Act 2000 does provide for a Standards Committee to appoint one or more sub-committees for the purpose of discharging any of the Committee's functions, and members may wish to consider appointing a sub-committee to deal with applications for dispensations. Whilst the size and membership of such a sub-committee would be for the Committee to decide, members may feel that a sub-committee of three would be appropriate, comprising perhaps the Chairman, the Vice-Chairman, and the parish council representative, or one of the other independent members. A sub-committee of this size should be relatively easy to convene where a decision on a dispensation application is required quickly.

FINANCIAL IMPLICATIONS/SECTION 151 OFFICER'S COMMENTS

There are no direct financial implications from this report, and the Section 151 officer has no further comments.

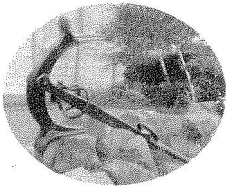
LEGAL IMPLICATIONS/MONITORING OFFICER'S COMMENTS

The comments of Legal Services and the Monitoring Officer have been incorporated in the report, which has been prepared jointly.

BACKGROUND PAPERS

None.

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THURNHAM PARISH COUNCIL

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01524 - 383560**

hilary@hwalklett.wanadoo.co.uk

Mr R. Muckle
Corporate Director (Central Services)
Lancaster City Council
Town Hall
Dalton Square
LANCASTER
LA1 1PJ

*Our Ref: 05/04-5G.III
please quote the above reference on all correspondence*

9th May 2005

cc

Dear Mr Muckle,

Councillors' Interests: Request for Dispensation.

Please find enclosed letters requesting dispensation from:

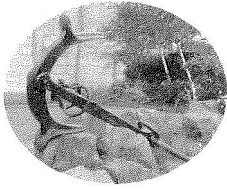
Councillors S.Bibby; M.Hornshaw; P.Quick; A.Stalker; M.Stalker

This is because of their membership of Glasson Dock Bowling Club, an organization which is supported financially, from time to time, by the Parish Council.

Yours sincerely

for and on behalf of Thurnham Parish Council

H.J. WALKLETT
Parish Clerk



THURNHAM PARISH COUNCIL

**Parish Clerk: Dr H.J.Walklett; 150 Scotforth Road; Lancaster; LA1 4NP
01524 - 383560**

hilary@hwalklett.wanadoo.co.uk

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Dear Mr Muckle,

Councillors' Interests: Request for dispensation

During the next four years, it is probable that Glasson Dock Bowling Club will be requesting Financial Aid under Section 137.

I am a Parish Councillor for Thurnham Parish and a member of Glasson Dock Bowling Club. The majority of my fellow Parish Councillors are also members of Glasson Dock Bowling Club so that if all of us are debarred from taking part in, or voting on, any proposals concerning that Club, the Parish Council will be inquorate.

I therefore request a dispensation to take part in debate and to vote on matters concerning the Glasson Dock Bowling Club during the period stated above.

Yours sincerely

Parish Councillor for Thurnham Parish Council



THURNHAM PARISH COUNCIL

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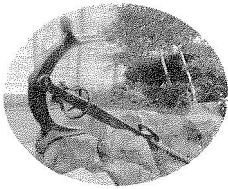
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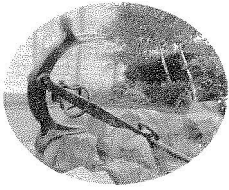
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Yours sincerely

Parish Councillor for Thurnham Parish Council

Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: CDCS

Title: STANDARDS BOARD CASE REFERRALS 2005/06

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To update the Committee on both the national and local position of the Standards Board workload.

RECOMMENDATIONS

That the report be noted.

REPORT

- 1.1 In 2004/05 the total number of allegations received by the Standard Board was 3,861.
- 1.2 The statistics of the Standards Board caseload for the first month of this year are now available, and show that a total of 306 cases have been referred to the Standards Board. This is an 8% decrease on the same period from last year. 24% of the complaints have been referred for investigation.

An analysis of the allegations for 2005/06 is attached as **Appendix A**.

50% of allegations received were in respect of Parish Councils and 21% in respect of District Councils. 62% of the allegations were from members of the public and 33% from councillors.

- 1.3 An analysis of the nature of the allegations investigated shows that the most common areas for complaint concern –

Prejudicial interest (22%)

Failure to disclose personal interests (19%)

Bringing authority into disrepute (18%)

Using position to confer or secure an advantage or disadvantage (16%)

- 1.4 Of those cases that have been investigated so far this year, only 9%, or 28 cases, had been referred to the Adjudication Panel, 180 required no further action, there

was no evidence of a breach in 61 cases, and only 37 had been referred back to the Monitoring Officer.

2 LOCAL POSITION

2.1 Locally, I can confirm that the Standards Board have received a total of 33 allegations of misconduct in respect of City and Parish Councillors. A summary of the position is set out below.

	City	Parish
Allegations Received	24	9
Proceed to Investigation	15	6
Resolved to Date	15	6
- No breach	9	--
- Breach but No Action Required	5	6
- Breach Referred to Adjudication Panel	1	--

2.2 Currently there are no cases being investigated by Ethical Standards Officers.

FINANCIAL IMPLICATIONS

There are no financial implications of this report.

SECTION 151 OFFICER’S COMMENTS

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

LEGAL IMPLICATIONS

Legal Services have been consulted. There are no legal implications.

MONITORING OFFICER’S COMMENTS

The Monitoring Officer has prepared the report.

BACKGROUND PAPERS

None.

The Standards Board for England – Confidence in local democracy

Case Summaries

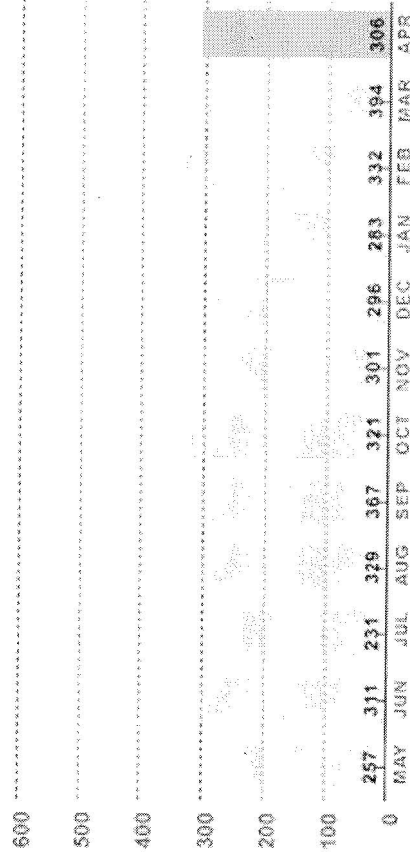
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- Number of allegations
- Source of allegations
- Type of authority - allegations
- Percentage referred
- Nature of investigations
- Type of authority - investigations
- Final findings

Number of allegations received

1 May 2004 - 30 April 2005



* This chart does not reflect figures for a financial year.

Total number of allegations for 2005/2006 = 306

Total number of allegations 2004/2005 = 3861

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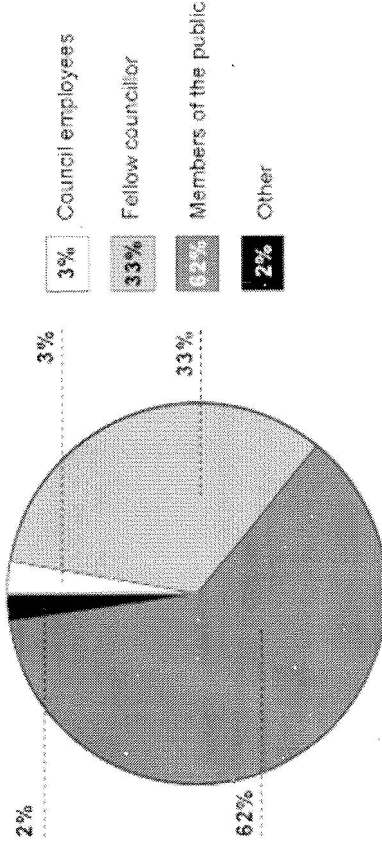
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Source of allegations

Cumulative from April 2005



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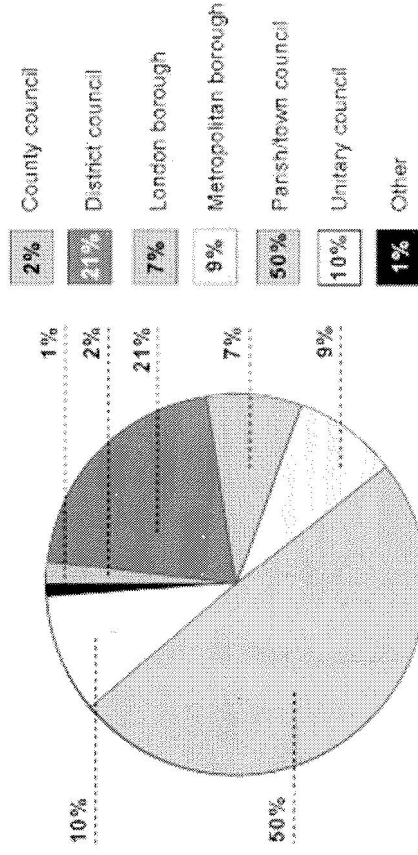
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Allegations by type of authority

Cumulative from April 2005



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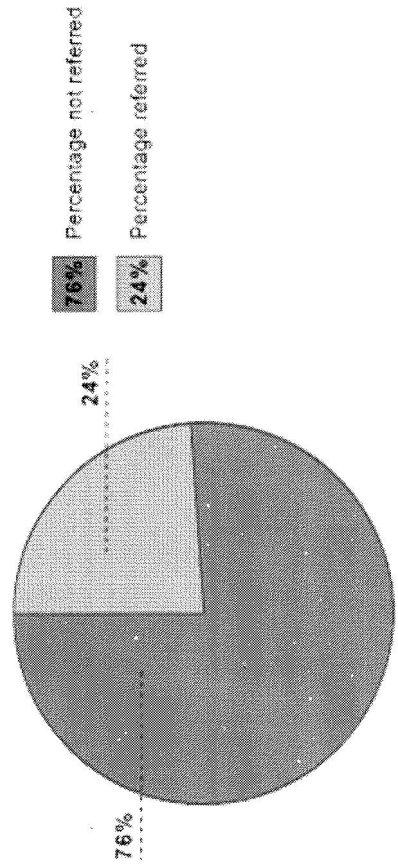
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- Number of allegations
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Percentage of allegations referred for investigation

Cumulative from April 2005



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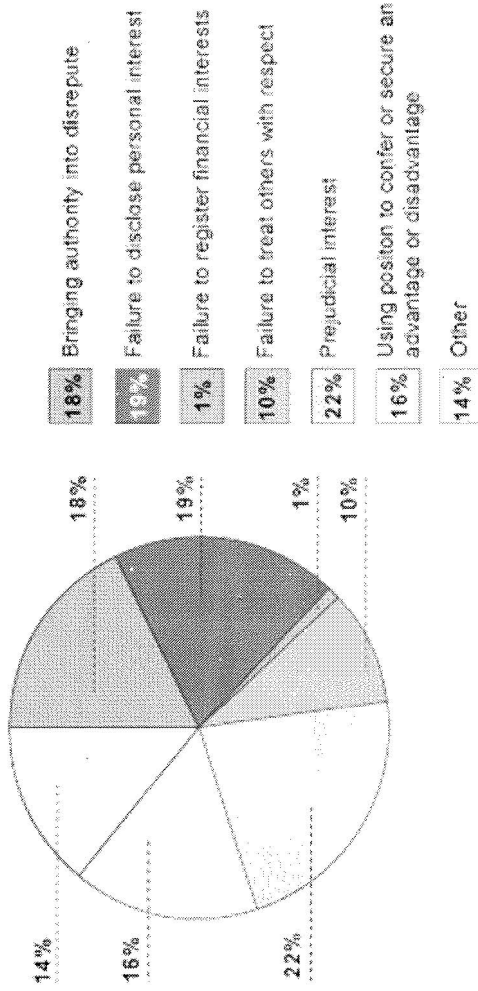
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Nature of allegations referred for investigation

Cumulative from April 2005



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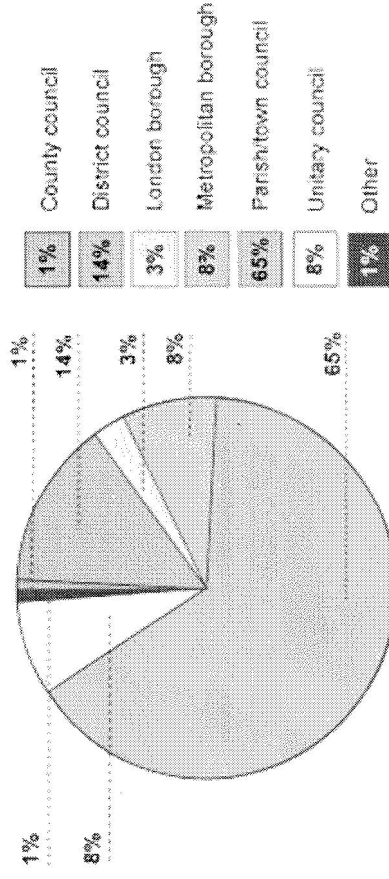
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Allegations referred for investigation by type of authority

Cumulative from April 2005



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The Standards Board for England - Confidence in local democracy

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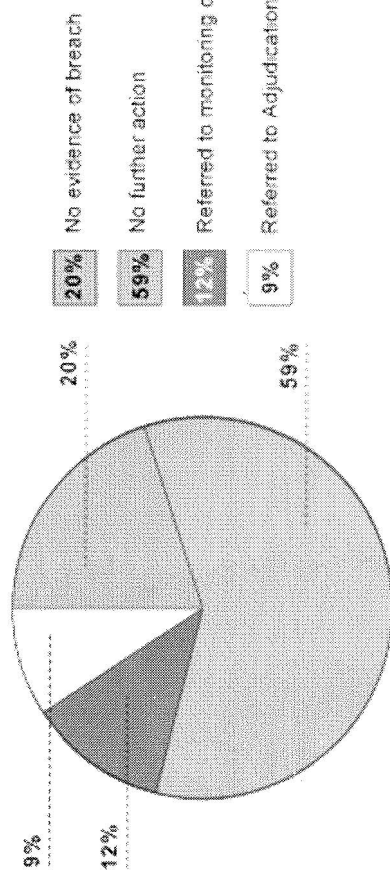
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- Number of allegations
- Source of allegations
- Type of authority - allegations
- Percentage referred
- Nature of investigations
- Type of authority - investigations
- Final findings

Completed cases by final findings

Cumulative from April 2005



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Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: CDCS

Title: FOURTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To seek the Committee's approval for Council representation at the Annual Assembly of Standards Committees.

RECOMMENDATIONS

That the Committee approves the attendance of the Chairman and the Monitoring Officer to the Fourth Annual Assembly held in Birmingham on 5 and 6 September 2005.

REPORT

- 1 The Fourth Annual Assembly of Standards Committees will be held at the ICC in Birmingham on 5/6 September 2005. Attached, as an **appendix** is a copy of the programme.
- 2 The delegate fee for the two-day Conference is £395 plus VAT. One night's hotel accommodation will be required at a cost of £100 per person. Standard class rail fair for the return journey is approximately £70.
- 3 In previous years the Chairman and Monitoring Officer have attended and a place has been provisionally booked for this year.
- 4 The Committee is asked to approve the attendance of the Chairman and Monitoring Officer at the Annual Assembly 2005.

FINANCIAL IMPLICATIONS

The cost per delegate averages £565 and can be met from the Member and Officer conference and travelling provisions included in the budget.

SECTION 151 OFFICER'S COMMENTS

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

LEGAL IMPLICATIONS

Legal Services have been consulted and there are no legal implications.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has prepared the report.

BACKGROUND PAPERS

None.

AGENDA Monday 5 September 2005

"Welcome to the Fourth Annual Assembly of Standards Committees. With the Code of Conduct and the need for an independent regulator now widely accepted, and the legislative framework all in place, it is time to move forward.

The success of our mission to improve the public's confidence in local government depends on the commitment and expertise of standards committees, monitoring officers and others at a local level. This year, therefore, the conference focuses on investigations, hearings and building the trust of local communities in their authority.

Wherever possible, we provide a platform for local practitioners to describe their experiences and share solutions to difficulties they have encountered. We have also invited our partner organisations to run sessions, to offer their own perspective.

But in many ways, the most important element in the make-up of this event is the people who attend from authorities across the country – who contribute, challenge and debate this important work we are all engaged in.

I hope you enjoy the conference and find it useful. Its success, in many ways, is in your hands."



Sir Anthony Holland Chair
The Standards Board for England

9.00 – 10.30

REGISTRATION

Light breakfast available.



10.30 – 10.40

WELCOME

Sir Anthony Holland, Chair, The Standards Board for England

HALL 1

10.40 – 10.55

A VISION FOR LOCAL GOVERNMENT

Rt Hon Nick Raynsford MP, Minister for Local and Regional Government

The minister opens the conference by setting out his vision for local government.

HALL 1

10.55 – 11.10

MAKING IT HAPPEN

David Prince, Chief Executive, The Standards Board for England

A round up of events over the past year, including an update on the review of the Code of Conduct, and the need to focus on local responsibility for ethical standards.

HALL 1

11.10 – 11.30

TAKING THE LEAD

Sir Alistair Graham, Chair, Committee on Standards in Public Life

Sir Alistair reports back on the Committees' Tenth Inquiry and subsequent developments.

HALL 1

11.30 – 11.45

OVER TO YOU

An opportunity to pose questions to the morning's speakers.

HALL 1

11.45 – 12.00

COMFORT BREAK

12.00 – 13.00

SESSION 1: INVESTIGATIONS IN YOUR HANDS

Since 4 November 2004, the Standards Board for England's ethical standards officers have been able to refer cases back for local investigation. Sessions in this part of the conference programme explore different elements of the process and practice of this topical area. Delegates can choose to attend one of the following sessions.



A FIRST-HAND ACCOUNT

An authority shares its experiences of carrying out a local investigation. What worked well? What difficulties did they encounter?



INVESTIGATIONS: THE THEORY

This presentation examines the technical aspects of the investigation process – from the framework that local investigations work within, to establishing the key competencies and components of a good investigation.

Delegates are encouraged to contribute their experiences, both positive and negative, and discuss possible solutions and best practice.



INVESTIGATIONS: THE PRACTICE

Exploration of the technical side of the local level investigative process through practical case studies and role-play. In small groups, delegates work through a series of scenarios, based on several key investigatory competency areas. The session enables delegates to practise and improve upon their skills, receive 360° feedback on their performance and identify best practice.



REACHING THE RIGHT DECISION

Practical case studies are used to explore decision-making as part of the local investigative process and how to draft a fair and proportionate report, before the authority's standards committee considers the case.

Delegates work in groups to consider a series of investigation scenarios, which are based on several problematic/topical areas of the Code of Conduct. Questions posed allow delegates to practise and improve upon their ability to apply the Code of Conduct to factual case studies in order to reach an outcome, debate any issues raised and learn from the experiences of others.



INVESTIGATIONS: OPEN HOUSE Q & A

Open house for delegates to put questions relating to the topic of investigations to representatives from the Standards Board for England.



ALTERNATIVE ACTION

What action can be taken to deal with member misconduct, where an investigation is not appropriate? Run by the Association of Council Secretaries and Solicitors, this session takes a look at dealing with ethical standards officer directives and explores alternative methods aimed at tackling poor conduct, including mediation.

13.00 – 14.15

LUNCH



HALL 3

14.15 – 15.15

SESSION 2: INVESTIGATIONS IN YOUR HANDS

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15.15 – 15.45

COMFORT BREAK

Refreshments available.



15.45 – 16.45

SESSION 3: HEARINGS IN YOUR HANDS

Standards committees have been holding local hearings, reaching determinations and deciding on sanctions since late 2003. In this part of the programme, sessions tackle a range of issues that are key to this important function. Delegates can choose to attend one of the following sessions.



A FIRST-HAND ACCOUNT

An authority gives delegates an inside account of its experiences of carrying out a local hearing. What difficulties did they encounter? What advice would they give others preparing for a hearing?



HEARINGS: THE THEORY

This presentation examines the technical aspects of the hearing process – from the framework that local hearings work within, to establishing the key components of holding a good hearing.

Delegates are encouraged to contribute their experiences, both positive and negative, and discuss possible solutions and best practice.



HOLDING HEARINGS: THE PRACTICE

Exploration of the technical side of holding a hearing at a local level, through practical case studies. In small groups, delegates work through a series of scenarios, based on several technical areas of the hearing process. The session enables delegates to practise and improve upon their ability to make decisions on and carry out their roles in these areas and identify best practice.



MAKING YOUR MIND UP

Practical case studies are used to explore the decision-making side of the hearings process at a local level, including how to reach the right finding and proportionate sanction. Delegates work in groups to consider a series of hearing scenarios, which are based on issues that can affect the fairness and proportionality of a hearing and subsequent sanction. Questions posed allow delegates to practise and improve upon their ability to apply the Code of Conduct to factual hearing scenarios in order to reach an appropriate finding, decide on a proportionate sanction, debate any issues raised and learn from the experiences of others.



HEARINGS: OPEN HOUSE Q & A

Open house for delegates to put questions relating to the topic of hearings to representatives from the Standards Board for England.



A HEAD START

What can standards committees learn from the Adjudication Panel for England's hearing process? In this session, delegates can take the opportunity to understand and learn more about the national hearing process and pick up some useful tips on best practice that can be implemented at a local level.

16.45

CLOSE OF DAY ONE

17.00 – 19.30

FRINGE EVENTS (OPTIONAL)

Various fringe events include:



TAKING COMMUNITIES FORWARD

Overcoming hurdles – a look at solutions for parish and town councils.
Hosted by the National Association of Local Councils.



INDEPENDENT MEMBERS' FORUM

An informal event for independent members to network and share experiences,
concerns and solutions.



WORKING IN A STATUTORY ENVIRONMENT

The Society of Local Authority Chief Executives and Senior Managers (SOLACE)
invite delegates to join them for this event, which considers the role of, and relationship
between, the three statutory officers within every authority: the chief executive, the head
of finance and the monitoring officer.

19.30 – 20.00

DRINKS RECEPTION

20.00 – LATE

CONFERENCE DINNER

A guest speaker will address delegates after dinner.
Free seating. Dress code is smart or smart-casual. Cash bar available.



AGENDA Tuesday 6 September 2005

8.00 – 9.00

REFRESHMENTS

Tea and coffee available.

Delegates attending for today only need to register at the Enquiries desk.



8.00 – 8.45

EARLY MORNING BRIEFING

Delegates are welcome to attend a live interview with David Prince, chief executive of the Standards Board for England, reflecting on the conference so far and other key issues of the day.

9.00 – 10.00

SESSION 4: HEARINGS IN YOUR HANDS

Standards committees have been holding local hearings, reaching determinations and deciding on sanctions since late 2003. In this part of the programme, sessions tackle a range of issues that are key to this important function. Delegates can choose to attend one of the following sessions.



A FIRST-HAND ACCOUNT

An authority gives delegates an inside account of its experiences of carrying out a local hearing. What difficulties did they encounter? What advice would they give others preparing for a hearing?



HEARINGS: THE THEORY

This presentation examines the technical aspects of the hearing process – from the framework that local hearings work within, to establishing the key components of holding a good hearing.

Delegates are encouraged to contribute their experiences, both positive and negative, and discuss possible solutions and best practice.



HOLDING HEARINGS: THE PRACTICE

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MAKING YOUR MIND UP

Practical case studies are used to explore the decision-making side of the hearings process at a local level, including how to reach the right finding and proportionate sanction.

Delegates work in groups to consider a series of hearing scenarios, which are based on issues that can affect the fairness and proportionality of a hearing and subsequent sanction. Questions posed allow delegates to practise and improve upon their ability to apply the Code of Conduct to factual hearing scenarios in order to reach an appropriate finding, decide on a proportionate sanction, debate any issues raised and learn from the experiences of others.



HEARINGS: OPEN HOUSE Q & A

Open house for delegates to put questions relating to the topic of hearings to representatives from the Standards Board for England.



A HEAD START

What can standards committees learn from the Adjudication Panel for England's hearing process? In this session, delegates can take the opportunity to understand and learn more about the national hearing process and pick up some useful tips on best practice that can be implemented at a local level.

10.00 – 10.30

COMFORT BREAK

Refreshments available.



10.30 – 11.30

**PUBLIC CONFIDENCE IN YOUR HANDS:
MISSION IMPOSSIBLE?**

HALL 1

This year's big debate asks, 'Will the public ever trust local government?' Opinion-formers speaking on this topic include Tim Minogue, Editor, *Private Eye's* Rotten Boroughs column.

11.30 – 11.45

COMFORT BREAK

11.45 – 12.45

SESSION 5: PUBLIC CONFIDENCE IN YOUR HANDS

How can authorities build the public's confidence and trust in both themselves and local democracy as a whole? Sessions in this part of the programme focus on a number of approaches authorities can employ to contribute to improving and strengthening their relationship with their communities. Delegates can choose to attend one of the following sessions.



ENGAGING THE PUBLIC

MORI present some of the key findings of their recent research into public perceptions of ethical standards in local government. And the Local Government Association shares its views on how authorities can go about building public confidence.

This session encourages delegates to consider their expectations of public perception in comparison to the reality and identify methods for initiating change within their authority in order to better engage their public.



BEYOND THE CODE

Brief presentations from two authorities highlight how some standards committees are working well beyond what is required for compliance with the Code of Conduct and explain how their extended remit works towards building public confidence in their authorities.

Delegates work together to explore how appropriate the actions described would be for their authorities and how they can make a difference to their local community's confidence in local democracy.



COMMUNICATING GOOD NEWS

How do the public know when things are going well in an authority? Newspapers? Word of mouth? Or not at all? This session takes a practical look at how open and transparent authorities communicate with their communities. It also considers, the role of standards committees in improving the relationship between members and the communities they serve.

Delegates are encouraged to share their experiences, both positive and negative, and develop a list of best practice strategies they could employ in their authority to improve public perception.

AGENDA Tuesday 6 September 2005 continued



EARLY WARNING SIGNS

Through case studies, this presentation examines some of the factors, including troubled member relations, which can indicate an authority may be heading for a slip in the behavioural standards of its members and a loss of public confidence. What can be done to prevent this developing further?

Delegates contribute to developing a guide to some of the early warning signs and steps that can be taken to head off further difficulties.



HOW DO YOU MEASURE UP?

This session takes a closer look at the ethical toolkit – an ethical standards 'health-check' that assesses an authority's current ethical position by combining audit, self-audit, questionnaire and tailored workshop elements – developed between the Audit Commission, Improvement and Development Agency and the Standards Board for England.

Delegates are invited to consider how fit for purpose their standards committees are and share ways of developing current practices and identify their own opportunities for improvement.



CPA: INSPECTING AND AUDITING THE ETHICAL DIMENSION

The Audit Commission presents this session, examining how ethical standards and the work of standards committees are assessed to inform inspection judgements, based on comprehensive performance assessments and corporate governance inspections.

Delegates will take the opportunity to gain a better understanding of their role in relation to this topical issue, and take away tips on improvement for their authorities.

12.45 – 14.00

LUNCH



HALL 3

14.00 – 15.00

SESSION 6: PUBLIC CONFIDENCE IN YOUR HANDS

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15.00 – 15.15

COMFORT BREAK

15.15 – 15.45

THE WAY FORWARD

HALL 1

Patricia Hughes, Deputy Chair, The Standards Board for England

A reflection on the highlights of the past two days and taking the ethical agenda forward.

15.45 – 16.10

OPEN FLOOR TO Q & A

HALL 1

Opportunity for questions and answers. Delegates are able to post questions throughout the event. These will be considered along with contributions from the floor.

16.10 – 16.15

FINAL THOUGHTS

HALL 1

Sir Anthony Holland, Chair, The Standards Board for England

16.15

CLOSE

Refreshments available.



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Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: JEB

Title: STANDARDS TRAINING FOR CUMBRIAN AUTHORITIES

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To inform the Committee of an invitation from South Lakeland District Council to attend a training opportunity for Officers and Committee members in July 2005 and to seek a decision on whether or not to accept the invitation.

RECOMMENDATIONS

- 1 That Committee considers the invitation from South Lakeland District Council to attend the Standards training and the Corporate Governance and Probity training.**
- 2 That if the invitation is accepted the Committee nominates delegates to attend.**

REPORT

South Lakeland District Council is hosting a joint training session on Friday 22 July 2005. Full details are contained in the letter attached as an appendix, which is summarised below:

Standards Training

Training provider: Eversheds
Time: 1.00 to 5.30 p.m.
Subject: Role of the Standards Committee and enforcing the Code of Conduct
Venue: To be arranged
Cost: £350 per authority + cost of room hire and refreshment

Corporate Governance and Probity Training

Also on 22 July, a further opportunity is available to Officers and the Chairman and Vice-Chairman, to benefit from a morning session starting at 10.00 a.m. This session will also be facilitated by Eversheds and will cover Corporate Governance and Probity. This training is at no additional cost to the Standards training, however should Committee decide to accept the offer of the Corporate Governance and Probity training only, then a cost of £200 per authority would apply.

OPTIONS

- i. That Committee considers the invitation from South Lakeland District Council and if accepted, nominates delegates to attend the Standards training and the Corporate Governance and Probity training.
- ii. That the Committee considers the invitation from South Lakeland District Council and if accepted, nominates delegates to attend the Corporate Governance and Probity training only.
- iii. That Committee declines the invitation to attend the Standards and Corporate Governance training.

FINANCIAL IMPLICATIONS

The cost to the Authority for the Standards Training plus the Corporate Governance and Probity training would be £350 and travelling expenses for the facilitators. This is subject to a minimum amount of £1,050 being obtained from delegates by South Lakeland District Council.

The cost of the Corporate Governance training is £200, and a contribution towards the cost of accommodation and refreshments. This would be subject to a minimum amount of £600 being obtained from delegates by South Lakeland District Council.

The cost can be met from the Member and Officer conference and travelling provisions included in the budget.

LEGAL IMPLICATIONS

There are no legal implications arising from this report.

COMMUNITY SAFETY IMPLICATIONS

There are no Community Safety implications arising from this report.

HUMAN RIGHTS ACT IMPLICATIONS

There are no Human Rights Act implications arising from this report.

RACIAL EQUALITY AND EQUAL OPPORTUNITIES IMPLICATIONS

There are no Racial Equality and Equal Opportunities implications arising from this report.

SUSTAINABILITY IMPLICATIONS

There are no Sustainability implications arising from this report.

MONITORING OFFICER'S COMMENTS

The Deputy Monitoring Officer has been consulted and has no further comments.

SECTION 151 OFFICER'S COMMENTS

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

BACKGROUND

None.



Roger Muckle
Monitoring Officer
Lancaster City Council
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Lancaster
LA1 1PJ

Mrs Jackie Evans
Committee Manager

South Lakeland House
Lowther Street
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Cumbria LA9 4UQ

Tel: 01539 733333

Fax: 01539 740300

DX: 63428 KENDAL 1

e-mail: committeeservices@southlakeland.gov.uk

Our Ref: CMW

Contact: Mrs Woods

Ext: 7440

Your Ref:

Date: 27 May 2005

Dear Mr Muckle

STANDARDS TRAINING – FOR CUMBRIAN AUTHORITIES

I am writing to find out if your Authority would be interested in attending a joint training session on Friday, 22 July 2005. Eversheds will be the training provider. As well as providing training for Standards Committees in relation to their new responsibilities, Eversheds have advised a number of Local Authorities on Standard Committee matters and also carried out investigations on behalf of Authorities.

The session will last about four and a half hours approximately and will start at 1.00 p.m. It will cover the role of the Standards Committee and enforcing the Code of Conduct (including the carrying out of investigations, writing the report, and the hearing process). This will include a short mock hearing.

The cost of this training is £350 for each participating authority (subject to a minimum total cost of £1,050) + VAT and travelling expenses of the providers. In addition, there will be a cost for room hire and refreshments. A venue has not yet been selected as this will be dependent on numbers. However, if you are aware of any suitable venue, please let me know.

In addition, we have negotiated the delivery of a short session (two hours approximately) on Corporate Governance and Probity on the same day at **no additional cost for those authorities undertaking the Standards training event**. This session will take place at 10.00 a.m. followed by lunch, for those who are staying for the afternoon session on Standards.

The Corporate Governance and Probity session will cover recent policy developments about the delivery of public services; the basic requirement in relation to governance within the Comprehensive Performance Assessment and the linkage between the maintenance of effective Corporate Governance systems and the delivery of quality service; and the emerging experience of the operation of new constitution arrangements with the Local Government Act 2000.



Eversheds have suggested that this session would be of interest to the Senior Officers, Cabinet Members, the Chairman of Standards Committee and Chairman and Vice Chairman of the appropriate Overview and Scrutiny Committee.

Should you wish to attend the Corporate Governance and Probity session only, this will be subject to availability, with preference being given to those Authorities attending the Standards training. There will also be a cost of £200 per authority (with a minimum total cost of £600) + VAT + contribution towards accommodation costs and refreshments.

Enclosed with this letter you will find an acceptance sheet. Please complete one sheet for each participant, photocopying additional sheets as necessary, and return to me by Friday, 10 June. Thank you.

Yours sincerely

Chris Woods

Member Services Officer



Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: RCM/JEB

Title: BEHAVIOUR PROTOCOL

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To update members with the latest position of developing a behavioural protocol.

RECOMMENDATION

That the position is noted and members' advice sought on how to proceed.

REPORT

At its last meeting, the Committee requested officers to draft a protocol that set out a minimum standard of behaviour that was expected of members (minute 22(i)(1) refers).

Following the meeting, contact was made with a number of other local authorities and with the Standards Board to see if there are any examples of good practice in place elsewhere.

Whilst a number of local authorities have replied, the response has been disappointing and no examples of good practice have been identified. In addition, the matter was raised at the latest round of Standards Board Roadshow and no authority present had a behaviour protocol or something similar in place. In almost every instance, Councils rely on the good chairmanship of their member meetings to instil good manners and behaviour and when necessary, take the necessary actions that their procedural rules permit.

As a consequence, it has not been possible for this meeting to draft a behavioural protocol based on best practice and members advice is sought on how to proceed.

FINANCIAL IMPLICATIONS/SECTION 151 OFFICER'S COMMENTS

There are no financial implications arising from this report.

LEGAL IMPLICATIONS

There are no legal implications arising from this report.

MONITORING OFFICER COMMENTS

The Monitoring Officer has prepared this report.

BACKGROUND PAPERS

None.

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Meeting of: STANDARDS COMMITTEE

Date: 16TH JUNE 2005

Report of: CORPORATE DIRECTOR (CENTRAL SERVICES)

Reference: RCM/JEB

Title: THE GOOD GOVERNANCE STANDARD FOR PUBLIC SERVICES

PUBLIC/EXEMPT ITEM

This item is for consideration in the public part of the meeting.

PURPOSE OF THE REPORT

To seek the Committee's view if it wishes officers to research the implication of adopting the Good Governance Standard for Public Services.

RECOMMENDATION

That the Committee request officers to research the full implications of implementing the Good Governance Standards for Public Services.

REPORT

In order to promote good governance within all public service organisations, an Independent Commission has produced a Good Guidance Standard that local authorities are being recommended to adopt.

The Standard has been developed as a guide to help everyone concerned with the governance of public service not only to understand and apply common principles but also to assess the strengths and weaknesses of current practice and to make improvements.

The Standard is designed to supplement existing statutory and best practice codes and protocols. Where codes and guidance do not already exist, it is hoped that the Standard will provide assistance and direction. It is not however a statutory code but a guide to assist in public governance.

Attached, as an appendix is a set of questions that authorities are asked to consider in assessing their compliance with the Standard.

The Committee is therefore requested to consider if it wishes officers to research compliance with the questions and to report back to a future meeting of the Committee.

It should be noted that the Standard is not only concerned with good standards of behaviour and conduct, but concerns itself with the wider issues of corporate governance.

FINANCIAL IMPLICATIONS/SECTION 151 OFFICER'S COMMENTS

There are no financial implications arising from this report.

LEGAL IMPLICATIONS

There are no legal implications arising from this report.

MONITORING OFFICER COMMENTS

The Monitoring Officer has prepared this report.

BACKGROUND PAPERS

None.

Appendix A: Assessment questions for governors and governing bodies to ask themselves

1. Good governance means focusing on the organisation's purpose and on outcomes for citizens and users

- ◆ How clear are we about what we are trying to achieve as an organisation? Do we always have this at the front of our minds when we are planning or taking decisions? How well are we doing in achieving our intended outcomes?
- ◆ To what extent does the information that we have about the quality of service for users help us to make rigorous decisions about improving quality? Do we receive regular and comprehensive information on users' views of quality? How could this information be improved? How effectively do we use this information when we are planning and taking decisions?
- ◆ To what extent does the information that we have on costs and performance help us to make rigorous decisions about improving value for money? How effectively do we use this information when we are planning and taking decisions? How well do we understand how the value we provide compares with that of similar organisations?

2. Good governance means performing effectively in clearly defined functions and roles

- ◆ Do we all know what we are supposed to be doing?
- ◆ Is our approach to each of the governing body's main functions clearly set out and understood by all in the governing body and the senior executive? What does the size and complexity of our organisation mean for the ways in which we approach each of the main functions of governance?
- ◆ How clearly have we defined the respective roles and responsibilities of the non-executives and the executive, and of the chair and the chief executive? Do all members of the governing body take collective responsibility for the governing body's decisions?
- ◆ How well does the organisation understand the views of the public and service users? Do we receive comprehensive and reliable information about these views and do we use it in decision making?

3. Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour

- ◆ What are the values that we expect the staff to demonstrate in their behaviour and actions? How well are these values reflected in our approach to decision making? What more should we do to ensure these values guide our actions and those of staff?
- ◆ In what ways does our behaviour, collectively as a governing body and individually as governors, show that we take our responsibilities to the organisation and its stakeholders very seriously? Are there any ways in which our behaviour might weaken the organisation's aims and values?

4. Good governance means taking informed, transparent decisions and managing risk

- ◆ How well do our meetings work? What could we do to make them more productive and do our business more effectively?
- ◆ Have we formally agreed on the types of decisions that are delegated to the executive and those that are reserved for the governing body? Is this set out in a clear and up-to-date statement? How effective is this as a guide to action for the governing body and the executive? How well do we explain the reasons for our decisions to all those who might be affected by them?
- ◆ Is the information we receive robust and objective? How could the information we receive be improved to help improve our decision making? Do we take professional advice to inform and support our decision making when it is sensible and appropriate to do so?
- ◆ How effective is the organisation's risk management system? How do we review whether this system is working effectively? Do we develop an action plan to correct any deficiencies in the systems? If so, do we publish this each year?

5. Good governance means developing the capacity and capability of the governing body to be effective

- ◆ What skills have we decided that governors must have to do their jobs effectively? How well does our recruitment process identify people with the necessary skills and reach people from a wide cross-section of society? What more could we do to make sure that becoming a governor is practical for as many people as possible?
- ◆ How effective are we at developing our skills and updating our knowledge? How effective are our arrangements for reviewing the performance of individual governors? Do we put into practice action plans for improving our performance as a governing body?

- ◆ What is our approach to finding a balance between continuity of knowledge and renewal of thinking in the governing body? What are our reasons for this approach? Do we need to review it?

6. Good governance means engaging stakeholders and making accountability real

- ◆ Who are we accountable to and for what? How well does each of these accountability relationships work? Do we need to take steps to clarify or strengthen any relationships? Do we need to negotiate a shift in the balance between different accountability relationships?
- ◆ What is our policy on how the organisation should consult the public and service users? Does it explain clearly the sorts of issues on which it will consult which groups and how it will use the information it receives? Do we need to review this policy and its implementation?
- ◆ What is our policy on consulting and involving staff and their representatives in decision making? Is this communicated clearly to staff? How well do we follow this in practice? How effective are systems within the organisation for protecting the rights of staff?
- ◆ Who are the institutional stakeholders that we need to have good relationships with? How do we organise ourselves to take the lead in developing relationships with other organisations at the most senior level?

Applying the good governance Standard

- ◆ To what extent does the *Good Governance Standard for Public Services* apply to our organisation, bearing in mind its type and size?
- ◆ Are we upholding and demonstrating the spirit and ethos of good governance that the Standard sets out to capture?
- ◆ Do we have a process for regularly reviewing our governance arrangements and practice against the Standard? What further improvements do we need to make?
- ◆ Are we making public the results of our reviews and our plans for future improvements and are we inviting feedback from stakeholders and service users?

Appendix B: Questions for members of the public and their representatives to ask if they want to assess and challenge standards of governance

Organisations can also ask themselves these questions if they want to test their openness and responsiveness to the public and their service users.

1. Good governance means focusing on the organisation's purpose and on outcomes for citizens and service users

- ◆ What is this organisation for?
- ◆ Can I easily find a clear explanation of what this organisation is doing?
- ◆ Can I easily find out about the quality of service provided to the public?
- ◆ What is being done to improve services?
- ◆ Can I easily find out about the organisation's funding and how it spends its money?

2. Good governance means performing effectively in clearly defined functions and roles

- ◆ Who is in charge of the organisation?
- ◆ How are they elected or appointed?
- ◆ At the top of the organisation, who is responsible for what?

3. Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour

- ◆ According to the organisation, what values guide its work?
- ◆ Does it follow these values in practice?
- ◆ What standards of behaviour should I expect?
- ◆ Do the senior people in the organisation put these standards of behaviour into practice?
- ◆ Do they put into practice the 'Nolan' principles for people in public life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership)?

4. Good governance means taking informed, transparent decisions and managing risk

- ◆ Who is responsible for what kinds of decisions in the organisation?
- ◆ Can I easily find out what decisions have been taken and the reasons for them?
- ◆ Are the decisions based on up-to-date and complete information and good advice?
- ◆ Does the organisation publish a clear annual statement on the effectiveness of its risk management system?
- ◆ Does the organisation publish a clear annual account of how it makes sure that its policies are put into practice? Is the statement reassuring? How does it compare with my own experience?

5. Good governance means developing the capacity and capability of the governing body to be effective

- ◆ How does the organisation encourage people to get involved in running it?
- ◆ What support does it provide for people who do get involved?
- ◆ How does the organisation make sure that all those running the organisation are doing a good job?

6. Good governance means engaging stakeholders and making accountability real

- ◆ Can I easily get information to answer all these questions?
- ◆ Are there opportunities for me and other people to make our views known?
- ◆ Does the organisation publish an annual report containing its accounts for the year? Are copies freely available? Is the content informative?
- ◆ How do I find out what decisions were taken as a result of my and others' opinions being asked for?
- ◆ Are there opportunities to question the people in charge about their plans and decisions?
- ◆ Can I easily find out how to complain and who to contact with suggestions for changes?

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