



**Committee:** STANDARDS COMMITTEE

**Date:** THURSDAY, 21 JUNE 2007

**Venue:** LANCASTER TOWN HALL

**Time:** 10.00 A.M.

## **A G E N D A**

1. **Apologies for Absence**
2. **Minutes** (Pages 1 - 4)  
Minutes of meeting held on 23<sup>rd</sup> March 2007
3. **Items of Urgent Business authorised by the Chairman**
4. **Declarations of Interest**
5. **Review of Protocol on Publicity for Allegations of Breach of the Code of Conduct made to the Standards Board** (Pages 5 - 8)  
Report of the Monitoring Officer
6. **Code of Conduct - Council Requirements with regard to Confidential Information** (Pages 9 - 14)  
Report of the Monitoring Officer
7. **Code of Conduct - Training** (Pages 15 - 16)  
Report of the Monitoring Officer
8. **Sixth Annual Assembly of Standards Committees** (Pages 17 - 18)  
Report of the Monitoring Officer

## **ADMINISTRATIVE ARRANGEMENTS**

### **(i) Membership**

#### Councillors

Councillors Jon Barry, Sarah Fishwick, David Kerr, Janie Kirkman, Roger Sherlock, Joyce Taylor and Sheila Denwood

Voting Co-optees

Stephen Lamley (Chairman)  
Tony James, and Sue McIntyre  
Representative from LAPTIC to be notified

**(ii) Substitute Membership**

Councillors

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

**(iii) Queries regarding this Agenda**

Please contact James Doble, Democratic Services - telephone (01524) 582057 or email [jdoble@lancaster.gov.uk](mailto:jdoble@lancaster.gov.uk).

**(iv) Changes to Membership, substitutions or apologies**

Please contact Members' Secretary, telephone 582170, or alternatively email [memberservices@lancaster.gov.uk](mailto:memberservices@lancaster.gov.uk).

MARK CULLINAN  
CHIEF EXECUTIVE  
TOWN HALL,  
LANCASTER LA1 1 PJ

Published on 12<sup>th</sup> June 2007

**STANDARDS COMMITTEE****10.00 A.M.****23RD MARCH 2007**

**PRESENT:-** Councillors Paul Gardner (substitute for John Harrison), Tony Johnson (substitute for Roger Mace), David Kerr, Janie Kirkman and Ron Sands (substitute for Roger Sherlock)

Independent Members Stephen Lamley (Chairman), Tony James and Fiona Humphreys (LAPTC)

Apologies for Absence

Councillors Keith Budden, Jean Dent (intended substitute for Keith Budden), Gina Dowding, John Harrison, Roger Mace and Roger Sherlock.  
Independent Member Sue McIntyre

Officers in attendance:-

Gillian Noall	Head of Democratic Services and Deputy Monitoring Officer
Alan Humphreys	Legal Services Manager
James Doble	Principal Democratic Support Officer

**10 MINUTES**

The minutes of the meeting held on 23 February 2007 were agreed and signed as a true and accurate record.

**11 DECLARATIONS OF INTEREST**

Councillors on the Committee wished it to be placed on record that they had not been involved in the cases before the Standards Committee and had not discussed the cases with Members of their groups.

The Deputy Monitoring Officer declared an interest in item 6 on the agenda and withdrew from the meeting at that point.

**12 EXCLUSION OF THE PRESS AND PUBLIC**

***Resolved:***

That in accordance with Section 100A (4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the ground that it could involve the possible disclosure of exempt information as defined in paragraphs 1 and 7c (in respect of Minute 13) of Schedule 12A of that Act.

**13 CONSIDERATION OF THE MONITORING OFFICER'S REPORT IN RESPECT OF A MATTER REFERRED FOR LOCAL INVESTIGATION**

The Committee considered the report of the Deputy Monitoring Officer and the Monitoring Officer's investigation report with regard to the matter referred by the

Standards Board for local investigation. The Committee considered the evidence and on balance accepted the Monitoring Officers findings that there had been no breach of the Code of Conduct. The Committee did not feel that there were any other enquiries that the Monitoring Officer could have made which might have led to a different conclusion. The Committee did not feel that there were any other considerations that led them to feel a hearing would be justified. The Committee did however feel that there was a danger in Councillors reporting issues based on hearsay or third hand and that members who are present at a meeting should be encouraged to raise concerns they have about interests and seek advice from Officers. It was agreed that this issue should be reflected in the proposed member training on the code of conduct.

***Resolved, unanimously:***

- (1) That the findings of the Monitoring Officer of 'no failure' be accepted.
- (2) That the issues of hearsay and encouraging Councillors to raise issues of concern regarding interests be included in the proposed member training on the code of conduct.

**14 CONSIDERATION OF THE MONITORING OFFICER'S REPORT IN RESPECT OF AN ALLEGATION OF BREACH OF LOCAL PROTOCOL**

**(The Deputy Monitoring Officer declared an interest and left the meeting)**

The Committee considered the report of the Legal Services Manager with regard to the allegation of a breach of a local protocol, and the Monitoring Officer's investigation report. The Committee considered the evidence available and on balance and with reluctance felt there was no option but to accept the Monitoring Officers findings that there had been no clear evidence to substantiate a breach of a local protocol. However, this finding was made with a degree of concern and sadness as to the damage this matter had caused to the reputation of the Council.

The Committee did not feel that there were any other enquiries that the Monitoring Officer could have made which might have led to a different conclusion. The Committee did not feel that there were any other considerations that led them to feel a hearing would be justified. The Committee did however feel that clarification was required on the definition of a 'member of the public' in the local protocol and that consideration should be given to amending the protocol to include:

'..... the Members should not make the complaint or allegation known to the public in any forum or cause it to be made known.'

It was agreed that this issue should be considered by the Monitoring Officer.

In accordance with Rule 19.5 of the Council Procedure Rules, Councillors Kirkman and Johnson wished it to be recorded that they had abstained.

***Resolved:***

- (1) That on balance, with reluctance and with no clear evidence to substantiate a

breach, the findings of the Monitoring Officer of 'no breach of the protocol' be accepted.

- (2) That the Monitoring Officer report back to the Committee on possible amendments to the protocol in light of this investigation.

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Chairman

(The meeting ended at 10.45a.m.)

**Any queries regarding these Minutes, please contact  
James Doble, Democratic Services - telephone (01524) 582057 or email  
jdoble@lancaster.gov.uk**

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**STANDARDS COMMITTEE**

**REVIEW OF PROTOCOL ON PUBLICITY FOR  
ALLEGATIONS OF BREACH OF CODE OF CONDUCT  
MADE TO THE STANDARDS BOARD  
21st June 2007**

**Report of the Monitoring Officer**

**PURPOSE OF REPORT**

To enable the Committee to consider whether it wishes to recommend Council to make any amendments to the Protocol on publicity for allegations breach of the Code of Conduct made to the Standards Board.

**This report is public**

**RECOMMENDATIONS**

- (1) **That the Committee consider whether it wishes to recommend to Council any amendments to the Protocol on publicity for allegations of breach of the Code of Conduct made to the Standards Board.**

**1.0 Introduction**

- 1.1 At its meeting on the 23rd March 2007, the Committee considered a report from the Monitoring Officer following investigation of a complaint from one Member of the Council that another Member had been in breach of the Protocol, by informing the press of an allegation that that Member had made to the Standards Board of a breach of the Code of Conduct. The Committee requested the Monitoring Officer to report back to the Committee on possible amendments to the Protocol in the light of this investigation, as Members were of the view that the Protocol should prevent a member from "causing" a complaint to be made public.

- 1.2 The Protocol currently requires as follows:

"When a Member has made or is considering making a complaint to the Standards Board alleging a breach of the Code of Conduct, the Member should not make the complaint or allegation known to the public in any forum, whether at a meeting that is open to the public or through the press or media. No member who is aware of a complaint should make any public comment on it, and the matter should not be the subject of discussion or debate within Council."

- 1.2 In the case considered by the Committee, the complaint to the Standards Board had been reported in a local newspaper, and reference was made to the fact that the complainant was a Member of the Council, but there was no direct evidence that it was the Member making the complaint to the Standards Board who had contacted the press. Indeed there was evidence that the Member had discussed the complaint within the Member's political group, as well as with an outside pressure group, and a suggestion that the information could have been given to the press by someone who was not a member of the Council, and who was not therefore bound by the Protocol.
- 1.3 Because the press will not generally disclose their sources, it is likely always to be extremely difficult to prove a breach of the Protocol, however it is worded. Under the current wording of the Protocol, a Member who makes a complaint or proposed complaint known to colleagues is not in breach if the Member does not make those discussions public. If any of those colleagues are not members of the Council, then the Council is not able to prevent them from making the complaint public.

## **2.0 Proposal Details**

- 2.1 From the foregoing it can be seen that enforcement of the Protocol may not always be straightforward.
- 2.2 However, Members requested an amendment that would cover "causing" a complaint to be made public, and may feel that an amendment as follows may strengthen the Protocol. For ease of reference the suggested amendments are in italics.

*"When a Member has made or is considering making a complaint to the Standards Board alleging a breach of the Code of Conduct, the Member should not make the complaint or allegation known to the public in any forum, whether at a meeting that is open to the public or through the press or media, and should not discuss the complaint or possible complaint in such a manner as is reasonably likely to cause the complaint to be made known to the public. It is recognised that a Member who has made or is considering making a complaint to the Standards Board may wish to discuss the matter within the Member's own political group or seek advice from a third party. In such cases, it is the Member's responsibility to ensure that any person(s) in whom the member confides agree(s) not to make the information known to the press and/or public. No member who is aware of a complaint should make any public comment on it, and the matter should not be the subject of discussion or debate within Council."*

- 2.3 The suggested wording mirrors the new provision on confidential information in the new Model Code of Conduct, which enables members to disclose confidential information to a third party for the purpose of obtaining professional advice, provided that the third party agrees not to disclose the information.

## **3.0 Details of Consultation**

- 3.1 There has been no consultation on this proposal. It is for the Committee to advise the Council on suitable protocols, and the purpose of this report is to enable the Committee to consider any suitable amendment before making recommendations to Council.

## **4.0 Options and Options Analysis (including risk assessment)**

- 4.1 The Committee is asked to consider the suggested amendment, but it is open to the Committee to recommend any other alternative wording to Council. It must be



recognised that enforcement of this provision may not always be straightforward, given that “causation” may be difficult to prove and given that the Monitoring Officer cannot require any person who is not a member of the Council to provide information for an investigation process.

**5.0 Conclusion**

5.1 The views of the Committee are sought.

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

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**STANDARDS COMMITTEE****CODE OF CONDUCT – COUNCIL REQUIREMENTS WITH REGARD TO CONFIDENTIAL INFORMATION****21st June 2007****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to consider guidance to Members on the Council's requirements with regard to confidential information

**This report is public**

**RECOMMENDATIONS**

- (1) **That the Committee recommend Council to adopt, as part of the Constitution, information for Members on the Council's requirements for the purposes of paragraph 4((a)(iv)(bb) of the Code of Conduct with regard to the disclosure of confidential information**

**1.0 Introduction**

- 1.1 The revised Code of Conduct adopted by the Council on the 21st May 2007 includes a requirement on Members not to disclose information given to them in confidence, or information which Members believe or ought reasonably to be aware is of a confidential nature. There is however an exemption where the disclosure is reasonable and in the public interest, and made in good faith and in compliance with the reasonable requirements of the authority.
- 1.2 The Standards Board for England has issued guidance on the application of this exemption, and it is felt that it would be helpful for this guidance to be readily available to Members, together with information on the Council's requirements for the purposes of the exemption.

**2.0 Proposal Details**

- 2.1 A draft document is attached which sets out the relevant paragraph of the Code of Conduct, together with the Standards Board's guidance, and a note of the Council's requirements with regard to the disclosure of information.
- 2.2 The Committee is asked to consider in particular the proposed requirements of the Council as set out in the draft document, with a view to making a recommendation to

Council as to the appropriate wording of such requirements. The Committee may wish to approve the draft document or to make amendments to it, for recommendation to Council.

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

**THE CODE OF CONDUCT FOR MEMBERS – LANCASTER CITY COUNCIL'S REQUIREMENTS WITH REGARD TO THE DISCLOSURE OF INFORMATION**

Background

Paragraph 4 of the Code of Conduct requires as follows:

You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

Guidance from the Standards Board for England

Guidance issued by the Standards Board states as follows:

“In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined below.

1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:

- Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.

- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.

- The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.

- The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
  - The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
  - The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to re-occur.
  - Whether the disclosure involves your authority failing in a duty of confidence owed to another person.
2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future.
- (a) A criminal act is committed.
  - (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
  - (c) A miscarriage of justice occurs.
  - (d) The health or safety of any individual is in danger.
  - (e) The environment is likely to be damaged
  - (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.
4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure, you must comply with your authority's protocols on matters such as whistle-blowing and confidential information. You must raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.”

## The Council's Requirements with regard to Confidential Information

The fourth requirement referred to above is that you comply with the reasonable requirements of the Council. The Council's requirements are as follows:

1. Some confidential information will relate to personal data. The Council has a Data Protection Policy, and it is a requirement that you should comply with this Policy.
2. With regard to reports to elected member body meetings, eg full Council, Cabinet, and Committees, where the report writer considers that the report contains exempt information, the report and any background papers will be marked as restricted and printed on orange paper. The Council's requirements are that any information contained in these documents should not be disclosed to any person who has not legitimately received a copy from Democratic Services.

At the relevant meeting, the member body will consider whether the information should continue to be treated as exempt, and the press and public excluded. If the information remains exempt, then you should not disclose it to any other person. The information will remain exempt, and should not therefore be disclosed, unless and until the member body considers the matter again and resolves that the report and background papers or any part thereof are no longer required to be treated as exempt. Only then, would you be permitted to disclose the information. If you wish a member body to consider lifting an "exemption", you should contact the Head of Democratic Services.

3. There will be other information, whether written or otherwise, held by the Council and of which you may become aware in the course of exercising your functions as a member, which will not form part of a report or background papers, but which may be confidential. If you are informed by any officer that such information is of a confidential nature, or if you otherwise have reason to believe that the information may be of a confidential nature, then the Council's requirements are that you should not disclose the information to any other person without first seeking advice from the Council's Monitoring Officer, or in her absence, the Deputy Monitoring Officer. The Council further requires that you should follow any such advice given to you.

You should be aware that a failure to follow these requirements may constitute a breach of the Code of Conduct.

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**STANDARDS COMMITTEE****CODE OF CONDUCT - TRAINING  
21st June 2007****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise the Committee of the Member training that has been held in respect of the Code of Conduct, and to consider plans for training parish council members

**This report is public**

**RECOMMENDATIONS**

- (1) That the report be noted, and the Committee's views sought on future training, in particular for parish councillors

**1.0 Introduction**

1.1 At the end of May and beginning of June, three training sessions were held for Members of the City Council on the revised Code of Conduct. This followed the adoption of the revised Code at Annual Council on the 21st May 2007. In total, 51 members attended the three sessions. Because of the importance of members receiving training on the Code of Conduct, a further session will be arranged to ensure that all Members receive the training.

1.2 The Monitoring Officer is hoping to attend the meeting of LAPTIC (Lancashire Association of Parish and Town Councils) on the 23rd July 2007 to provide some preliminary training on the Code of Conduct to the parish councils, and also to seek the views of LAPTIC as to the training needs of the parish councils and how these can best be met.

**2.0 Proposal Details**

2.1 The Committee is asked to note the report.

2.2 The Committee's views are also sought as to whether there are any further training needs for Members of the City Council with regard to the Code of Conduct, and also as to what training might be appropriate for the parish councils.

**CONCLUSION OF IMPACT ASSESSMENT**

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

None

**FINANCIAL IMPLICATIONS/SECTION 151 OFFICER COMMENTS**

Unless the Committee felt that external training was appropriate, there would be no financial implications.

**LEGAL IMPLICATIONS/MONITORING OFFICER COMMENTS**

Legal Services have been consulted and have no comments.

**BACKGROUND PAPERS**

None

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**Ref:**

**STANDARDS COMMITTEE****SIXTH ANNUAL ASSEMBLY OF STANDARDS  
COMMITTEES  
21st June 2007****Report of the Monitoring Officer****PURPOSE OF REPORT**

To nominate a Member of the Committee to attend the Annual Assembly of Standards Committees.

**This report is public**

**RECOMMENDATIONS**

- (1) That the Committee nominate one of its members to attend the Sixth Annual Assembly of Standards Committees in Birmingham on the 15th and 16th October 2007.

**1.0 Introduction**

1.1 The Sixth Annual Assembly of Standards Committees, organised by the Standards Board for England, will be held at the International Convention Centre, Birmingham, on the 15th/16th October 2007.

1.2 Details of the Assembly are attached to this report.

**2.0 Proposal Details**

2.1 Two places have been reserved at the Assembly – one for the Monitoring Officer and the other for a Member of the Standards Committee. The Committee is asked to nominate a member of the Committee to attend.

**CONCLUSION OF IMPACT ASSESSMENT**

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

None

**FINANCIAL IMPLICATIONS/SECTION 151 OFFICER COMMENTS**

The cost per delegate is £430, plus rail fare and overnight accommodation. The cost for a member of the Standards Committee can be met from the Member conference and travelling budget.

**LEGAL IMPLICATIONS/MONITORING OFFICER COMMENTS**

Legal Services have been consulted and have no comments.

**BACKGROUND PAPERS**

None

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