



Standards Committee

Wednesday 16th March 2011 at 10.00a.m.

**COMMITTEE ROOMS 1 & 2, PARK NORTH, NORTH STREET,
HORSHAM**

Councillors:

Andrew Baldwin
Duncan England
Sheila Matthews

Pat Rutherford
Claire Vickers
Keith Wilkins

Parish Council Representatives:

David Coldwell

Alan Grant
David Herson

Independent Representatives:

Eric Blackburn (Chairman)
Paul Byford

Mary Jagger (Vice-Chairman)
David Tilsley

You are summoned to the meeting to transact the following business

TOM CROWLEY
Chief Executive

AGENDA

	Page No.
1. Apologies for absence.	
2. To approve the minutes of the meeting of the Committee held on 8 th December 2010 (attached hereto)	1
3. To receive the minutes of the: Local Assessment Sub-Committee on 22nd December 2010; and Local Review Sub-Committee on 12 th January 2011 (attached hereto)	6 12
4. To receive any declarations of interest from Members of the Committee	
5. To receive any announcements from the Chairman of the Committee, the Chief Executive or the Monitoring Officer	
6. To note the list of Standards Committee Reports and Documents available for inspection	22
7. To receive a report from the Parish Council representatives	

8. To receive a report from Members of the Association of Independent Members of Standards Committees in England (AIMSCE)
9. To consider the following reports by the Monitoring Officer:
 - (i) Ethical Framework Update **24**
 - (ii) Ombudsman Update **53**
10. Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as urgent because of the special circumstances

STANDARDS COMMITTEE

8th December 2010

Present: Councillors: Andrew Baldwin, Duncan England, Pat Rutherford, Claire Vickers

Parish Council Representatives: David Coldwell, Alan Grant, David Herson

Independent Representatives: Eric Blackburn (Chairman), Mary Jagger (Vice-Chairman), Paul Byford, David Tilsley

Apologies: Councillors: Sheila Matthews, Keith Wilkins

SC/22 **MINUTES**

The minutes of the meeting of the Committee held on 22nd September 2010 were approved as a correct record and signed by the Chairman.

SC/23 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/24 **ANNOUNCEMENTS**

The Chairman reported that he had attended the annual meeting of the Horsham Association of Local Councils (HALC). He had briefed HALC on the proposed changes to the standards regime and asked them to consider whether it would still be productive to carry out the planned Parish Mentoring Scheme. They would communicate a decision on this to the Chairman.

SC/25 **MINUTES OF THE LOCAL DETERMINATIONS SUB- COMMITTEE ON 25TH OCTOBER 2010**

The minutes of the meeting of the Local Determinations Sub-Committee held on 25th October 2010, including the full decision notice, were received.

SC/26 **MINUTES OF THE LOCAL ASSESSMENT SUB- COMMITTEE ON 17TH NOVEMBER 2010**

The minutes of the meeting of the Local Assessment Sub-Committee held on 17th November 2010 were received.

SC/27 **STANDARDS COMMITTEE REPORTS AND DOCUMENTS AVAILABLE FOR INSPECTION**

The list was noted.

SC/28 **REPORT BY PARISH COUNCIL REPRESENTATIVES**

Alan Grant reported that HALC had been grateful for the attendance of the Chairman at their meeting.

General consensus at parish councils was that the Parish Mentoring Scheme would not be welcomed until the future of the standards regime was clearer.

Parish councils wanted to know what local procedures would replace the local standards framework to be abolished by the Localism Bill.

SC/29 **REPORT BY MEMBERS OF THE ASSOCIATION OF INDEPENDENT MEMBERS OF STANDARDS COMMITTEES IN ENGLAND (AIMSCE)**

Mary Jagger reported that she had attended the AIMSCE meeting in October. The overwhelming feeling of members had been that the standards framework had been a force for good. The role of independent members had been a useful one and had helped to improve the morals of local authorities. Members were hopeful that a statutory code of conduct would remain in place if the rest of the standards framework were to be abolished.

AIMSCE would not continue to operate if standards committees were abolished by the Localism Bill. It was anticipated that a resolution to wind up the formal association would be put before the association at its annual general meeting in mid-January.

Since the regional AIMSCE meetings were not a formal part of the association these could continue even if the formal association was wound up. The regional meeting scheduled for March would be likely to go ahead.

Members were concerned about the future of parish councils due to the proposed reforms in the Localism Bill.

SC/30 **ETHICAL FRAMEWORK UPDATE**

The Monitoring Officer reported on developments in the ethical framework that affected the role and activities of Councillors and the Council's business, including:

- Abolition of the standards regime: A letter from Bob Neill MP which stated that the government intended to abolish the regime in its entirety had been sent to Standards for England. Standards for England had circulated a copy of the letter to all Standards Committee Chairs. The Relevant Authorities (General Principles) Order 2001 and the Local Authorities (Model Code of Conduct) Order 2007 would be revoked; the requirement for local authorities to have standards committees would be abolished; Standards for England would be abolished and none of its functions would be transferred to other bodies; and the First Tier

SC/30 Ethical Framework Update (cont.)

Tribunal would lose its jurisdiction over the conduct of local authority members. The Localism Bill would effect these changes.

The current regime would continue to operate as normal until around two months after the bill received Royal Assent, which was anticipated to be in late-2011. Transitional measures would be put in place to deal with any cases which were still ongoing after the abolition of the regime.

There would be a continuing obligation on councillors to register and declare personal interests. Wilful failure to comply would lead to criminal sanctions although it was unclear who would prosecute in such cases.

The Committee considered that this may make people less likely to stand for election as councillors.

The requirement for local authorities to have a standards committee and adopt a model code of conduct would be abolished but authorities would be free to adopt their own, voluntary committees and codes. Voluntary committees would be able to censure but not suspend or disqualify members. The Committee considered that the Council should retain a voluntary standards committee. The Committee considered that it would be vital for the Council to have a voluntary code once the statutory regime was abolished.

Parish clerks had enquired as to where parish councils would stand following the reforms. It was considered likely that no further help in relation to standards matters would be given to parish councils by the Council. The Council would probably not be able to assist them with drafting their individual codes of conduct. Parish councils would have to consult bodies such as HALC, the Sussex Associations of Local Councils and the National Association of Local Councils for guidance in the future. It was a concern therefore that a number of parishes were terminating their memberships with such bodies in order to cut costs. It was considered that a message should be sent out to the parish councils outlining the consequences of the Localism Bill for them and stressing the importance of such memberships.

It was considered that any voluntary scheme would need to be ready to take effect as soon as the statutory standards regime ceased to apply.

- Public Bodies Bill: The purpose of this bill was to set a statutory framework for the coalition government's proposals to review a large number of non-departmental public bodies, some non-ministerial departments and some public corporations. There were six schedules which listed those bodies subject to the powers the bill created. Standards for England was not in those schedules but was listed in a seventh schedule which contained further bodies which could become subject to the powers of the bill following an Order to that effect.
- The Department for Communities and Local Government (DCLG) had published a Business Plan. This outlined some of the provisions which would be contained in the Localism Bill. It was anticipated that the Localism Bill would be published in December 2010 although it was possible that it would be pushed back until January or February 2011.

SC/30 Ethical Framework Update (cont.)

- Bias: Eric Pickles had indicated that the government intended to clarify the law on bias in the forthcoming Localism Bill by making it clear that councillors have a right to a preliminary view on decisions they are to take part in. They would be allowed to freely discuss and publicise their view and voting intentions on the basis that they must be prepared to listen to all of the arguments and evidence before making their decision.
- Code of Recommended Practice on Local Authority Publicity: The response by the Association of Council Secretaries and Solicitors was considered. The revised code was due to be introduced on 1 January 2011.
- Parish Clerks' Meeting: The Deputy Monitoring Officer reported that she had attended the meeting of the Society of Local Council Clerks on 12 October 2010 to provide the clerks with an update on the government's outlined proposals in the Localism Bill and the future of the standards regime. She had agreed to send the clerks a letter updating them on the future of Standards for England. The clerks had asked if a letter could be sent out to the parish councils reminding them that the existing standards regime had to be adhered to until it was abolished by statute.
- Local Assessment, Review, Other Action, Investigations and Determinations: Since the last meeting in September five new complaints had been received for assessment or review. No other action had been directed. One local determination had recently been completed. The Local Determinations Sub-Committee had found no breach of paragraphs 5, 6(a) and 12(1) of the Code of Conduct but had found a breach of paragraph 9(1). A sanction had not been considered appropriate however.
- Freedom of Information requests.
- Performance Management.
- Data Protection – The Deputy Monitoring Officer reported that a potential breach of the Data Protection Act by the Council had recently been reported to the Information Commissioner's Office (ICO), who had decided that although there had probably been a breach no regulatory action was required. The ICO had recently started to take more action and impose more fines for breaches of the Act and it was important to ensure that training on data protection was provided for staff.
- Regulation of Investigatory Powers Act 2000 – The Deputy Monitoring Officer reported that the Office of Surveillance Commissioners had released a new Procedures and Guidance document which formed the basis upon which investigations would be conducted and performance assessed.
- A Local Government Ombudsman's case update for September 2010 to December 2010.
- A Standards for England case review for September 2010 to December 2010.
- Constitution Update: Changes to the Scheme of Delegation to Officers had been approved by Council. The Director of Corporate Resources was preparing consequential amendments to the Constitution following

SC/30 Ethical Framework Update (cont.)

the restructure. Further changes to the Constitution with regard to the new Petition Scheme and new governance arrangements had also been agreed by Council. The changes to the governance arrangements required by statute had not required extensive changes to the existing model since the Council already had a leader who was elected for four years. The Association of Council Secretaries and Solicitors was working on a revised draft of a modular constitution first put together in 2001 which the Council's Constitution was based on.

- Work Programme Update: The proposed Parish Mentoring Scheme was still on hold until the future of the standards regime became clearer. The Monitoring Officer was continuing to provide ethical framework advice and assistance to parish councils.
- Members' bulletin.
- Duty to Promote Standards: Biographies of the parish members of the Committee had been uploaded to the Council's website to promote the membership of the Committee. A draft Standards Annual Report about the work of the Committee over the municipal year 2010-2011 was in progress and would be presented at the final Council meeting of the year in April. The Chairman would give his usual oral report on the work of the Committee at the Council meeting in December.
- Register of Interests: Since the last meeting the majority of the outstanding forms had now been received.

RESOLVED

That the report be noted.

REASONS

- (i) To ensure that the Committee, the Members of the Council and others to whom the report is circulated are kept up to date with developments in the ethical framework.
- (ii) To enable the Standards Committee to effectively deal with its statutory responsibilities under the Standards Committee (England) Regulations 2008.

SC/31 URGENT ITEMS

There were no urgent matters to be considered.

The meeting finished at 11.25am having commenced at 10.03am.

CHAIRMAN

STANDARDS COMMITTEE
LOCAL ASSESSMENT SUB-COMMITTEE
22ND DECEMBER 2010

Present: Councillor Pat Rutherford, Mary Jagger (Independent Representative), Alan Grant (Parish Council Representative)

LA/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Mary Jagger be appointed Chairman of the Sub-Committee for the purposes of this meeting.

LA/2 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LA/3 **ASSESSMENT UNDER S57A OF THE LOCAL GOVERNMENT ACT 2000 (AS AMENDED) AND THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008 IN RELATION TO ALLEGATIONS THAT DISTRICT COUNCILLOR PHILIP CIRCUS FAILED TO COMPLY WITH HORSHAM DISTRICT COUNCIL'S CODE OF MEMBERS' CONDUCT**

The Local Assessment Sub-Committee considered a complaint by way of allegations that District Councillor Philip Circus failed to comply with Horsham District Council's Code of Members' Conduct (the Code).

Philip Circus was a District Councillor and local member for the Chanctonbury Ward. Councillor Circus was a member of the Development Control (South) Committee. The complainant, Lindsay Dobson, was a member of the public.

The complaint arose from the consideration of planning application DC/10/1729 by the Development Control (South) Committee on 16 November 2010. The application of Croudace Homes Ltd was considered by the committee in relation to land south of Venters, Storrington Road, Thakeham, Chanctonbury. The application was for permission for the erection of ten houses, comprising two three-bed semi-detached units and one five-bed, three four-bed and four three-bed detached units. The officer recommendation was that the application should be refused planning permission. The committee did follow this recommendation and the application was refused. The complainant spoke at the meeting in opposition to the application. Councillor Circus spoke at the meeting and supported the officer recommendation for refusal but showed support for the applicant submitting an amended application at a later date.

The complainant alleged that the following clauses of the Code were not followed during the Development Control meeting on 16 November 2010 by Councillor Philip Circus:

Paragraph 3 stated that "You must treat others with respect".

Paragraph 5 stated “You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”.

Paragraph 6(a) stated “You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person an advantage or disadvantage”.

Paragraph 8 sub-paragraph (1)(b) of the Code stated “You have a personal interest in any business of your authority where a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of (iii) other council tax payers, ratepayers or inhabitants of your authority’s area”.

Paragraph 9 sub-paragraph (1) stated “Subject to sub-paragraphs (2) to (7) where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent”.

Sub-paragraph 9(4) explained that sub-paragraph (1) only applied where you were aware or ought to reasonably be aware of the existence of the personal interest.

Sub-paragraph 10(1) stated, “Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest 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 your judgement of the public interest”.

Sub-paragraph 12(1) stated “Subject to sub-paragraph (2) where you have a prejudicial interest in any business of your authority –

- (a) you must withdraw from the room or chamber where the meeting considering the business is being held –

- (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence
 - (ii) in any other case whenever it becomes apparent that the business is being considered at that meeting unless you have obtained a dispensation from your authority’s standards committee.

- (b) You must not seek improperly to influence a decision about that business”.

The complainant further alleged that the following Code of Conduct general principles were not followed by Councillor Circus during the meeting:

Paragraph 1 - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Paragraph 2 - Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Paragraph 3 - Members should make decisions on merit.

Paragraph 4 - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities.

The evidence provided by the complainant to support her allegation of a breach of the above provisions is set out in the complaint form and enclosures. A transcript was agreed and also considered.

The complainant asked for Councillor Circus to be prevented from taking part in further planning decisions. The complainant had stated that “there is reason to believe that the applicant will in future submit a proposal under the umbrella of Enabling Development”.

DECISION

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Local Assessment Sub-Committee decided that no action should be taken on the allegation. This was because the subject matter of the allegation did not appear to disclose a failure to comply with the Code of Conduct.

REASONS FOR THE DECISION

- 1) The Local Assessment Sub Committee was charged with determining whether there was a prima facie breach of the Code of Members’ Conduct and, if so, to decide which course of action was appropriate. No investigation had been carried out.
- 2) The first task was to determine whether or not the Member had been acting within the scope of the Code of Members’ Conduct on the occasion described by the complainant.
- 3) Paragraph 2 of the Members’ Code of Conduct provided that you must comply with the Code whenever you conduct the business of the authority. The allegation related to things said or done during a public planning committee and for these purposes the Councillor was acting in his official capacity sufficient to engage the Code.
- 4) The first allegation considered was that Philip Circus had a personal or prejudicial interest which he failed to

declare at the meeting. The complainant stated that the statements made by Councillor Circus during the meeting showed that he had a “strong association and allegiance to the Church”. There was only one comment made by Councillor Circus that was used to evidence this allegation and that was that Councillor Circus stated that “the word of a man of the cloth should be a given”. A transcript of the meeting on 16 November 2010 was also considered by the Sub-Committee. The following passage in particular was considered:

“The Diocese have said this Church will close without the level of funding that could only be achieved through a development of this sort. It’s no good saying you can get this from jumble sales and Sunday collections so forth, the level of expenditure needed here is such that I am informed that this church will close unless this money can be raised. Now it won’t just be the loss of a major community institution, that’s the major community institution, it will be the loss of a historic building, the existence of which has been linked to the people of Thakeham for a 1000 years, so it seems to me that in this case the benefit of this church to the community of Thakeham should be taken as read. I know that the Rector can provide further information about how this money can be used. I know that the congregation has expanded five-fold since he came to the church. I know that there has been an expansion of youth activities and various other activities within the church for the benefit of the community, so one of the things I would like to the officers to tell us is to what extent we can take this as read. I mean, as far as I am concerned the word of the church ought to be taken as read on this. I don’t think frankly we should contradict what a man of the cloth has to say to us today, but can perhaps the officers can tell us whether we do need further information on that Category 2 settlement point.”

A Member had a personal interest in a matter if that matter affected the well being or financial position of themselves, members of their family, or people with whom they had a close association, more that it would affect the majority of people of the ward or electoral division affected by the decision, or in the authority’s area or constituency. There was no evidence provided that indicated that either Councillor Circus, a member of his family, or a close associate’s well being would be affected by planning application DC/10/1729 as required for there to be a breach of this part of the Code. There was nothing in Councillors Circus’s Register of Interests indicating any connection with the church. Having religious beliefs was not enough to evidence a personal interest in application DC/10/1729. Whilst some may not agree with the sentiments expressed by the Councillor

these comments alone are not enough to show that he has a personal interest. If there was not enough evidence provided to indicate a personal interest then there was also not enough evidence to show that Councillor Circus had a prejudicial interest. It was for the complainant to supply the evidence sufficient for a finding of a prima facie breach.

- 5) The complainant had also alleged that Councillor Circus used his position to attempt to improperly confer an advantage to the applicant and that Councillor Circus failed to treat others with respect. The evidence provided for this allegation was stated as being that "Councillor Circus made his personal sympathies known at the Committee meeting and demonstrated his allegiance to the applicant in the public arena, and he attempted to discredit some of those who opposed his view in a manner which was disrespectful". Firstly, with regards to conferring an advantage, the Code was clear that a Councillor must not use public office for their own or anybody else's personal gain. There had been no evidence provided sufficient to show that Councillor Circus did or attempted to do this. Speaking in support of a future planning application was not enough for this part of the Code to be engaged. The complainant stated that Councillor Circus had been disrespectful and this might engage the Code in that a Councillor must treat others with respect. Councillors were expected to treat the public courteously and with consideration. For a breach of this part of the Code the alleged behaviour would normally have to be unreasonably offensive and rude and be directed towards individuals. It was noted that Councillor Circus had queried whether it was fair for non-local objectors to be given as much weight as local objectors and also the weight given to multiple objections from the same objector. These were considered to be acceptable questions. The member was seeking guidance and his points were responded to by the officer Gary Peck and the Chair. Whilst the comments could be said to be referring to unnamed individual objectors the evidence does not show that Councillor Circus failed to show respect. A Councillor had a right to freedom of expression unless it crossed the line into unacceptable behaviour. On the evidence provided Councillor Circus's behaviour had not been unacceptable.
- 6) The final allegation to be assessed was that Councillor Circus conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute. A Councillor's actions and behaviour were rightly subject to greater scrutiny than that of ordinary members of the public. Dishonest and deceitful

behaviour in the role as a Member may bring the authority into disrepute. The evidence provided to back up this claim was the complaint taken as a whole and the transcript. Councillor Circus was a man of strong views and inevitably sometimes people will disagree with these views. However, there was no evidence that he had behaved in a manner which could amount to him bringing his office or authority into disrepute. An elected member was able to voice his views provided that they did not amount to a breach of the Code. There was no evidence provided to show that Councillor Circus's actions or words were dishonest or deceitful and that his actions or words reasonably amounted to him bringing his office or authority into disrepute.

- 7) General Principles served as a reminder of the purpose of the Code. These principles, however, did not create a statutory obligation for Members and the complainant would need to show that a failure to act in accordance with the General Principles amounted to a breach of an article in the Code of Conduct. The evidence provided and the transcript were considered in relation to each alleged breach of the Code and it was found that there was insufficient evidence of a prima facie breach of any aspects of the Code.

The meeting commenced at 10.00am and adjourned at 10.44am.

CHAIRMAN

STANDARDS COMMITTEE
LOCAL REVIEW SUB-COMMITTEE
12 JANUARY 2011

Present: Councillor Graham Tyler (co-opted from Arun District Council), Mr Eric Blackburn (Independent Representative), Mr David Coldwell (Parish Council Representative)

LA/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Mr Eric Blackburn be appointed Chairman of the Sub-Committee for the purposes of this meeting.

LA/2 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LA/3 **REVIEW UNDER S57B OF THE LOCAL GOVERNMENT ACT 2000 (AS AMENDED) AND THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008 IN RELATION TO ALLEGATIONS THAT DISTRICT COUNCILLOR DUNCAN ENGLAND FAILED TO COMPLY WITH HORSHAM DISTRICT COUNCIL'S CODE OF MEMBERS' CONDUCT**

On 1 November 2010 an allegation had been made under section 57A(1) of the Local Government Act 2000 in relation to District Councillor Duncan England. The matter had been assessed by the Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and The Standards Board (England) Regulations 2008/1085 having regard to the guidance of the Standards Board for England.

On 17 November 2010 a decision had been made under section 57A(2) of the Local Government Act 2000 by the Local Assessment Sub-Committee that no action should be taken in respect of this allegation.

On 25 November 2010 the complainant, Ms Judith Norris, had made a request under section 57B(2) of the 2000 Act that this decision be reviewed.

The Local Review Sub-Committee met to review the decision made by the Local Assessment Sub-Committee. The sub-committee confirmed that they had all read the material considered by the Local Assessment Sub-Committee. The complainant had provided no new evidence. However, she considered that the transcript had not been properly considered by the Local Assessment Sub-Committee and

that the Local Assessment Sub-Committee had lacked independence.

The review was independent of the original decision and members of the original Local Assessment Sub-Committee took no part in the review. A district council representative from Arun District Council's Standards Committee was co-opted to the sub-committee as the district councillor representative.

The Sub-Committee particularly commented that it was proper for councillors to ask questions at planning meetings to clarify their understanding of planning applications.

DECISION

In accordance with Section 57B of the Local Government Act 2000, as amended, the Local Review Sub-Committee decided to uphold the decision that no action should be taken on the allegation.

REASONS FOR DECISION

1. In reviewing the complaint the Local Review Sub-Committee considered whether the original decision was unreasonable in law. This would be if the decision was flawed because of the irregular way in which the Local Assessment Sub-Committee processed the allegation, or because the Local Assessment Sub-Committee made an irrational judgment on the reported facts. It was noted that no new evidence was submitted to materially alter the original complaint.
2. The Local Review Sub-Committee considered the complainant's comments that the Local Assessment Sub Committee was "not independent" and felt that this was not a correct assertion. It was noted that there had been no declarations of interests and that of the three panel members one was a parish councillor and one, the chair, an independent member.
3. The Local Review Sub-Committee also noted the complainant's comment that the transcript had not been considered. It was agreed that this was not the case and all the evidence provided by the complainant including the

transcript had been properly considered by the Local Assessment Sub Committee.

4. In all the circumstances the Local Review Sub-Committee considered that the original decision was reasonable, was reached in accordance with our procedures and that there was no new material which materially altered the original complaint. It has been decided to uphold the decision not to take any action on the complaint.

LA/4

**REVIEW UNDER S57B OF THE LOCAL GOVERNMENT ACT 2000
(AS AMENDED) AND THE STANDARDS COMMITTEE
(ENGLAND) REGULATIONS 2008 IN RELATION TO
ALLEGATIONS THAT DISTRICT COUNCILLOR ELIZABETH
KITCHEN FAILED TO COMPLY WITH HORSHAM DISTRICT
COUNCIL'S CODE OF MEMBERS' CONDUCT**

On 1 November 2010 an allegation had been made under section 57A(1) of the Local Government Act 2000 in relation to District Councillor Elizabeth Kitchen. The matter had been assessed by the Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and The Standards Board (England) Regulations 2008/1085 having regard to the guidance of the Standards Board for England.

On 17 November 2010 a decision had been made under section 57A(2) of the Local Government Act 2000 by the Local Assessment Sub-Committee that no action should be taken in respect of this allegation.

On 25 November 2010 the complainant, Ms Judith Norris, had made a request under section 57B(2) of the 2000 Act that this decision be reviewed.

The Local Review Sub-Committee met to review the decision made by the Local Assessment Sub-Committee. The sub-committee confirmed that they had all read the material considered by the Local Assessment Sub-Committee. The complainant had provided no new evidence. However, she considered that the transcript had not been properly considered by the Local Assessment Sub-Committee and that the Local Assessment Sub-Committee had lacked independence.

The review was independent of the original decision and members of the original Local Assessment Sub-Committee took no part in the review. A district council representative from Arun District Council's Standards Committee was co-opted to the sub-committee as the district councillor representative.

The Sub-Committee specifically commented that Councillor Kitchen's use of the word "dirty" had referred to the size of the house and not the house itself.

DECISION

In accordance with Section 57B of the Local Government Act 2000, as amended, the Local Review Sub-Committee decided to uphold the decision that no action should be taken on the allegation.

REASONS FOR DECISION

1. In reviewing the complaint the Local Review Sub-Committee considered whether the original decision was unreasonable in law. This would be if the decision was flawed because of the irregular way in which the Local Assessment Sub-Committee processed the allegation, or because the Local Assessment Sub-Committee made an irrational judgment on the reported facts. It was noted that no new evidence was submitted to materially alter the original complaint.
2. The Local Review Sub-Committee considered the complainant's comments that the Local Assessment Sub Committee was "not independent" and felt that this was not a correct assertion. It was noted that there had been no declarations of interests and that of the three panel members one was a parish councillor and one, the chair, an independent member.
3. The Local Review Sub-Committee also noted the complainant's comment that the transcript had not been considered. It was agreed that this was not the case and all the evidence provided by the complainant including the transcript had been properly considered by the Local Assessment Sub Committee.
4. In all the circumstances the Local Review Sub-Committee considered that the original decision was reasonable, was reached in accordance with our procedures and that there was no new material which materially altered the original complaint. It has been decided to uphold the

decision not to take any action on the complaint.

LA/5

REVIEW UNDER S57B OF THE LOCAL GOVERNMENT ACT 2000 (AS AMENDED) AND THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008 IN RELATION TO ALLEGATIONS THAT DISTRICT COUNCILLOR PETER ROWLINSON FAILED TO COMPLY WITH HORSHAM DISTRICT COUNCIL'S CODE OF MEMBERS' CONDUCT

On 1 November 2010 an allegation had been made under section 57A(1) of the Local Government Act 2000 in relation to District Councillor Peter Rowlinson. The matter had been assessed by the Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and The Standards Board (England) Regulations 2008/1085 having regard to the guidance of the Standards Board for England.

On 17 November 2010 a decision had been made under section 57A(2) of the Local Government Act 2000 by the Local Assessment Sub-Committee that no action should be taken in respect of this allegation.

On 25 November 2010 the complainant, Ms Judith Norris, had made a request under section 57B(2) of the 2000 Act that this decision be reviewed.

The Local Review Sub-Committee met to review the decision made by the Local Assessment Sub-Committee. The sub-committee confirmed that they had all read the material considered by the Local Assessment Sub-Committee. The complainant had provided no new evidence. However, she considered that the transcript had not been properly considered by the Local Assessment Sub-Committee and that the Local Assessment Sub-Committee had lacked independence.

The review was independent of the original decision and members of the original Local Assessment Sub-Committee took no part in the review. A district council representative from Arun District Council's Standards Committee was co-opted to the sub-committee as the district councillor representative.

DECISION

In accordance with Section 57B of the Local Government Act 2000, as amended, the Local Review Sub-Committee decided to uphold the decision that no action should be taken on the allegation.

REASONS FOR DECISION

1. In reviewing the complaint the Local Review Sub-Committee considered whether the original decision was unreasonable in law. This would be if the decision was flawed because of the irregular way in which the Local Assessment Sub-Committee processed the allegation, or because the Local Assessment Sub-Committee made an irrational judgment on the reported facts. It was noted that no new evidence was submitted to materially alter the original complaint.
2. The Local Review Sub-Committee considered the complainant's comments that the Local Assessment Sub Committee was "not independent" and felt that this was not a correct assertion. It was noted that there had been no declarations of interests and that of the three panel members one was a parish councillor and one, the chair, an independent member.
3. The Local Review Sub-Committee also noted the complainant's comment that the transcript had not been considered. It was agreed that this was not the case and all the evidence provided by the complainant including the transcript had been properly considered by the Local Assessment Sub Committee.
4. In all the circumstances the Local Review Sub-Committee considered that the original decision was reasonable, was reached in accordance with our procedures and that there was no new material which materially altered the original complaint. It has been decided to uphold the decision not to take any action on the complaint.

LA/6

**REVIEW UNDER S57B OF THE LOCAL GOVERNMENT ACT 2000
(AS AMENDED) AND THE STANDARDS COMMITTEE
(ENGLAND) REGULATIONS 2008 IN RELATION TO
ALLEGATIONS THAT DISTRICT COUNCILLOR DAVID HOLMES
FAILED TO COMPLY WITH HORSHAM DISTRICT COUNCIL'S
CODE OF MEMBERS' CONDUCT**

On 1 November 2010 an allegation had been made under section 57A(1) of the Local Government Act 2000 in relation to District Councillor David Holmes. The matter had been assessed by the

Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and The Standards Board (England) Regulations 2008/1085 having regard to the guidance of the Standards Board for England.

On 17 November 2010 a decision had been made under section 57A(2) of the Local Government Act 2000 by the Local Assessment Sub-Committee that no action should be taken in respect of this allegation.

On 25 November 2010 the complainant, Ms Judith Norris, had made a request under section 57B(2) of the 2000 Act that this decision be reviewed.

The Local Review Sub-Committee met to review the decision made by the Local Assessment Sub-Committee. The sub-committee confirmed that they had all read the material considered by the Local Assessment Sub-Committee. The complainant had provided no new evidence. However, she considered that the transcript had not been properly considered by the Local Assessment Sub-Committee and that the Local Assessment Sub-Committee had lacked independence.

The review was independent of the original decision and members of the original Local Assessment Sub-Committee took no part in the review. A district council representative from Arun District Council's Standards Committee was co-opted to the sub-committee as the district councillor representative.

The Sub-Committee particularly commented that it was proper for councillors to ask questions at planning meetings to clarify their understanding of planning applications.

DECISION

In accordance with Section 57B of the Local Government Act 2000, as amended, the Local Review Sub-Committee decided to uphold the decision that no action should be taken on the allegation.

REASONS FOR DECISION

1. In reviewing the complaint the Local Review Sub-Committee considered whether the original decision was unreasonable in law. This would be if the decision was flawed because of the irregular way in which the Local Assessment Sub-Committee processed the allegation, or because the Local Assessment Sub-Committee

made an irrational judgment on the reported facts. It was noted that no new evidence was submitted to materially alter the original complaint.

2. The Local Review Sub-Committee considered the complainant's comments that the Local Assessment Sub Committee was "not independent" and felt that this was not a correct assertion. It was noted that there had been no declarations of interests and that of the three panel members one was a parish councillor and one, the chair, an independent member.
3. The Local Review Sub-Committee also noted the complainant's comment that the transcript had not been considered. It was agreed that this was not the case and all the evidence provided by the complainant including the transcript had been properly considered by the Local Assessment Sub Committee.
4. In all the circumstances the Local Review Sub-Committee considered that the original decision was reasonable, was reached in accordance with our procedures and that there was no new material which materially altered the original complaint. It has been decided to uphold the decision not to take any action on the complaint.

LA/7

**REVIEW UNDER S57B OF THE LOCAL GOVERNMENT ACT 2000
(AS AMENDED) AND THE STANDARDS COMMITTEE
(ENGLAND) REGULATIONS 2008 IN RELATION TO
ALLEGATIONS THAT DISTRICT COUNCILLOR DAVID SHELDON
FAILED TO COMPLY WITH HORSHAM DISTRICT COUNCIL'S
CODE OF MEMBERS' CONDUCT**

On 1 November 2010 an allegation had been made under section 57A(1) of the Local Government Act 2000 in relation to District Councillor David Sheldon. The matter had been assessed by the Local Assessment Sub-Committee under Part 3 of the Local Government Act 2000 and The Standards Board (England) Regulations 2008/1085 having regard to the guidance of the Standards Board for England.

On 17 November 2010 a decision had been made under section 57A(2) of the Local Government Act 2000 by the Local Assessment Sub-Committee that no action should be taken in respect of this allegation.

On 25 November 2010 the complainant, Ms Judith Norris, had made a request under section 57B(2) of the 2000 Act that this decision be reviewed.

The Local Review Sub-Committee met to review the decision made by the Local Assessment Sub-Committee. The sub-committee confirmed that they had all read the material considered by the Local Assessment Sub-Committee. The complainant had provided no new evidence. However, she considered that the transcript had not been properly considered by the Local Assessment Sub-Committee and that the Local Assessment Sub-Committee had lacked independence.

The review was independent of the original decision and members of the original Local Assessment Sub-Committee took no part in the review. A district council representative from Arun District Council's Standards Committee was co-opted to the sub-committee as the district councillor representative.

The Sub-Committee particularly commented that it was proper for councillors to ask questions at planning meetings to clarify their understanding of planning applications.

DECISION

In accordance with Section 57B of the Local Government Act 2000, as amended, the Local Review Sub-Committee decided to uphold the decision that no action should be taken on the allegation.

REASONS FOR DECISION

1. In reviewing the complaint the Local Review Sub-Committee considered whether the original decision was unreasonable in law. This would be if the decision was flawed because of the irregular way in which the Local Assessment Sub-Committee processed the allegation, or because the Local Assessment Sub-Committee made an irrational judgment on the reported facts. It was noted that no new evidence was submitted to materially alter the original complaint.
2. The Local Review Sub-Committee considered the complainant's comments that the Local Assessment Sub Committee was "not independent" and felt that this was not a correct

assertion. It was noted that there had been no declarations of interests and that of the three panel members one was a parish councillor and one, the chair, an independent member.

3. The Local Review Sub-Committee also noted the complainant's comment that the transcript had not been considered. It was agreed that this was not the case and all the evidence provided by the complainant including the transcript had been properly considered by the Local Assessment Sub Committee.
4. In all the circumstances the Local Review Sub-Committee considered that the original decision was reasonable, was reached in accordance with our procedures and that there was no new material which materially altered the original complaint. It has been decided to uphold the decision not to take any action on the complaint.

The meeting commenced at 10.20am and finished at 10.51am.

CHAIRMAN

LIST OF STANDARDS COMMITTEE REPORTS AND DOCUMENTS – 2011 Onwards

The following reports and documents are available for inspection by arrangements with the Monitoring Officer and her staff.

PART A - REPORTS

Date of report	Subject of report
22.09.10	Ethical Framework Update – September 2010
22.09.10	Ombudsman Update – September 2010
08.12.10	Ethical Framework Update – December 2010
16.03.11	Ethical Framework Update – March 2011
16.03.11	Ombudsman Update – March 2011

PART B – DOCUMENTS

	Description	Date	Publisher	Internet Links
SC387	Public Bodies Bill	28.10.2010	Parliament	http://www.publications.parliament.uk/pa/ld201011/ldbills/025/2011025.pdf
SC388	Letter from Bob Neill MP Regarding the Future of the Standards Regime	15.10.2010	DCLG	http://www.standardsforengland.gov.uk/media/letter%20from%20bob%20neill.p df
SC389	Letter from Robert Chilton in Response to Letter from Bob Neill MP	30.11.2010	SfE	http://www.standardsforengland.gov.uk/media/Letter%20to%20standards%20c ommittee%20chairs%2030%20November%202010.pdf
SC390	Standards for England Case Review 2010	21.12.2010	SfE	http://www.standardsforengland.gov.uk/CaseinformationReporting/OnlineCase Review2010/case_review_211210.pdf
SC391	A Guidance Note And Checklist For Newly Established Local (Parish And Town) Councils	24.01.2011	NALC	http://www.nalc.gov.uk/Publications/Booklets_and_Resources.aspx
SC392	Proposed Code of Recommended Practice on Local Authority Publicity	27.01.2011	Commons CLG Committee	http://www.parliament.uk/business/committees/committees-a-z/commons- select/communities-and-local-government-committee/news/local-authority- publicity/

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SC393	Localism Bill: Abolition of the Standards Board - Equality Impact Assessment	31.01.11	DCLG	http://www.communities.gov.uk/publications/localgovernment/localismstandards/boardeia
SC394	Localism Bill: The abolition of the Standards Board regime, clarification of the law on predetermination and the requirement to register and declare interests - Impact Assessment		LGL	http://www.communities.gov.uk/publications/localgovernment/localismstandards/board
SC395	Councillors Set Free?	03.02.2011	LGL	http://www.localgovernmentlawyer.co.uk/index.php?option=com_content&view=article&id=5768%3Acouncillors-set-free&catid=59%3Agovernance-a-risk-articles&q=&Itemid=27
SC396	Response to IPSA Annual Review of the MPs' Expenses Scheme	11.02.2011	Committee on Standards in Public Life	http://www.public-standards.org.uk/Library/2011_Annual_Review_Response_Final_1_.pdf
SC397	Draft Code of Recommended Practice on Local Authority Publicity	11.02.2011	DCLG	http://www.communities.gov.uk/documents/localgovernment/pdf/1840962.pdf
SC398	Code Of Recommended Practice On Local Authority Publicity: Explanatory Memorandum	11.02.2011	DCLG	http://www.communities.gov.uk/documents/localgovernment/pdf/1840982.pdf
SC399	Code of Recommended Practice on Local Authority Publicity consultation and Select Committee report: Government response	11.02.2011	DCLG	http://www.communities.gov.uk/documents/localgovernment/pdf/1841152.pdf
SC400	Code of Recommended Practice on Local Authority Publicity: Impact Assessment	11.02.2011	DCLG	http://www.communities.gov.uk/documents/localgovernment/pdf/1841098.pdf
SC401	Local Authority Publicity in the Pre-Election Period - Guidance	14.02.2011	Monitoring Officer	
SC402	Local Government Ombudsman Case Update January to March 2011	22.02.2011	HDC	
SC403	SfE Case Update January to March 2011	22.02.2011	HDC	
SC404	Maintaining Ethical Standards in Local Government	22.02.2011	LGA and ACSeS	http://www.acses.org.uk/doc/filename/1324/LGA_ACSeS_Paper_on_Local_Authority_Standards_Provisions_February_2011.pdf
SC405	Ombudsman Complaints Schedule (annual) 2010/11	16.03.2011	HDC	

Report to Standards Committee



**Horsham
District
Council**

16 March 2011

By the Monitoring Officer

FOR INFORMATION and DECISION

Not exempt

Ethical Framework Update – March 2011

EXECUTIVE SUMMARY

This report is to inform Members of the Council and all those who may be interested about developments in the ethical framework which affect the role and activities of Councillors and the Council's business. In particular this report gives details on the following matters:

- Standards for England Bulletins
- Training and awareness
- Public Bodies Bill
- DCLG Business Plan
- The Localism Bill
- Government proposals to reform law on bias
- Guide to Maintaining High Ethical Standards in Local Government
- Code of Recommended Practice on Local Authority Publicity
- Forthcoming elections
- Parish Clerks' meetings
- Local assessment, review, other action, investigations and determinations
- Freedom of Information requests
- Performance management
- Data Protection Act 1998
- Regulation of Investigatory Powers Act 2000
- LGO case update
- SfE case review
- Membership of the committee
- Committee on Standards in Public Life
- Constitution update
- Work Programme update
- Members' Bulletin
- Duty to promote standards
- Standards Annual Report
- Register of Interests annual update

RECOMMENDATIONS

The Committee is recommended:

- (i) to note:
 - (a) the matters set out in the report; and
 - (b) the exercise of the Chief Executive's delegated authority under Scheme of Delegation to Officers Part 3F paragraph 3.1 of the Constitution (in consultation with the Chairman of the Council and the Chairman of the Standards committee) to co-opt a member of Arun District Council Standards Committee to this Council's Review Sub-Committee held on 12 January 2011.
- (ii) to recommend to Council that:
 - (a) the term of office of Paul Byford and David Tilsley Independent Members of the Standards Committee be extended for one year until June 2012.

REASONS FOR RECOMMENDATIONS

- (i) To ensure that the Committee, the Members of the Council and others to whom the report is circulated are kept up to date with developments in the ethical framework.
- (ii) To ensure the Committee is adequately resourced with Members.

Background papers	Consultation	Wards affected	Contact
Standards Committee Documents 337, 343, 350, 383, 387, 392, 396, 397, 399, 401, 402, 403, 404	CMT	All	Sandra Herbert Monitoring Officer ext 5482

BACKGROUND INFORMATION

INTRODUCTION

The purpose of this report

1 The purpose of this report is to update Members and all those who may be affected by or have an interest in the ethical framework about developments in the ethical framework since the preparation of the last report in December 2010.

Statutory background

2 The statutory background is to be found in the Local Government Act 2000, Part 3, the Local Government and Public Involvement in Health Act 2007, Part 10 and The Local Democracy Economic Development and Construction Act 2009 and Regulations made there under.

Relevant Government policy

3 The relevant Government policies so far as the ethical framework is concerned are contained in the 2000 2007 and 2009 Acts and the Regulations made under those Acts and the guidance of the Department for Communities and Local Government and the Standards for England.

Relevant Council policy

4 The Council's policy is set out in its Constitution and through the activities of this Committee.

Background/Actions taken to date

5 Members regularly receive reports on developments in the ethical framework and this report continues that approach. Members of this Committee will wish to be aware of the following helpful websites:

Standards for England: www.standardsforengland.gov.uk
The First Tier Tribunal (Local Government Standards in England): www.adjudicationpanel.tribunals.gov.uk
Local Government Ombudsman: www.lgo.org.uk
Department for Communities and Local Government: <http://www.communities.gov.uk/>

DETAILS

Standards for England Bulletins

6 Standards for England Bulletins are usually issued every two months. *Bulletin 48* was issued in August 2010. No new Bulletins have been issued since this time.

7 Copies of previous Bulletins and the Guidance can currently be accessed through the Standards for England's website which is, for the time being, maintained.

Training and awareness

Standards for England

8 No new guides have been produced by Standards for England since the date of the last committee.

Public Bodies Bill (SC387)

9 The Public Bodies Bill was introduced in the House of Lords on 28 October 2010 to set a statutory framework for the Coalition Government's proposals to review a large number of non-departmental public bodies, some non ministerial departments and some public corporations. The Bill is currently at committee stage in the Lords. The Bill will come into force two months after Royal Assent.

10 Details of the bodies which are to be subject to the powers of the Bill are set out in six schedules to the Bill. A seventh schedule lists further bodies which may be added to the other schedules if a Minister makes an order to do so.

11 A copy of the Bill can be accessed via the attached link

<http://www.publications.parliament.uk/pa/ld201011/ldbills/025/2011025.pdf>

12 Standards for England, is included in the category of bodies which may be added in by Order. Reference is also made within the Localism Bill Schedule 24 which seeks to repeal provisions in the Local Government Act 2000 regarding the creation and powers of the Board.

DCLG Business Plan (SC383)

13 Members will be aware that the government has issued a business plan to identify the current position in delivering the government's agenda. The Localism Bill forms a major part in this agenda.

14 I attach link to the CLG Business Plan which is published on the Number 10 website. This shows the current position in achieving the government's plans:

<http://www.number10.gov.uk/wp-content/uploads/CLG-Business-Plan.pdf>

Monthly progress reports on implementing the business plans are accessible via the following link:

<http://www.number10.gov.uk/wp-content/uploads/dclg-jan-update.pdf>

The Localism Bill

15 On 13 December 2010 the Localism Bill was introduced in the House of Commons. The Bill's second reading took place on 17 January 2011. On 1 February the Bill entered the committee stage which will conclude by 10 March 2011. It is anticipated that the Bill will reach Royal Assent sometime in the autumn. Some provisions become effective on Royal Assent, others within 2 months of Royal Assent and some in the spring 2012.

16 The Bill is a monster, containing 171 pages together with 406 pages of schedules. The government's ambition is to "decentralise power as far as possible, reinvigorate accountability, democracy and participation, increase transparency by letting people see how their money is being spent, meet people's housing aspirations and put communities in charge of planning." The scope of the Bill covers five broad areas:

- *Decentralisation and the strengthening of local democracy (Part 1)* – This part includes a general power of competence, changes to governance arrangements, provision of directly elected mayors, pre-determination and abolition of the standards regime, pay accountability and abolition of bin taxes.
- *Community Empowerment (Part 4)* – this part includes a right to veto excessive council tax rises by referendum, a community right to challenge, a community right to buy and power to instigate local referendums on local issues
- *Reform of the planning system (Part 5)* – This part includes the abolition of Regional Strategies, changes to the Community Infrastructure Levy, Local Plan reform, introduction of Neighbourhood Plans, a community right to build, duty to co-operate between public bodies, pre-application consultation by developers, enforcement and replacement of Infrastructure Planning Commission.
- *Social Housing Reform (Part 6)* – This part includes social housing allocation reform, reform of homeless legislation, social housing tenure reform, reform to council housing finance, the

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introduction of a national home swap scheme, reform of social housing regulation, facilitating moves out of the social rented sector and the abolition of home information packs.

- *London (Part 7)* – This part includes a range of powers designed to strengthen London’s governance arrangements.

17 The provisions relevant to the proposed revised standards regime are principally contained in clauses 14-20 and schedule 4 to the Bill.

18 A separate paper is attached to this report for discussion outlining the implications for standards and the ethical framework contained in the Bill.

19 A copy of the CLG *Impact Assessment Localism Bill: The abolition of the Standards Board regime, clarification of the law on predetermination and the requirement to register and declare interests* can be accessed by following this link which provides an insight into the government’s policy and evidence base for their proposals.

<http://www.communities.gov.uk/documents/localgovernment/pdf/1829722.pdf>

20 A copy of the CLG *Equalities Impact Assessment: Localism Bill: Abolition of the Standards Board* can also be accessed by following this link.

<http://www.communities.gov.uk/documents/localgovernment/pdf/1830043.pdf>

Government proposals to reform law on bias

21 The Localism Bill seeks to ‘clarify’ the law on bias in relation to local councillors. The Bill provides in clause 13 that:

“A decision maker is not to have had or to have appeared to have had a closed mind when making the decision just because:

(a) the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took or would or might take in relation to a matter, and

(b) the matter was relevant to the decision.”

Further details on the government’s proposals are in the attached paper on the Localism Bill – implications for standards and the ethical framework.

Guide to Maintaining High Ethical Standards in Local Government (SC404)

22 In the wake of provisions in the Localism Bill regarding the current local government standards regime the Local Government Association in association with the Association of Council Secretaries and Solicitors has issued a guide for authorities: *Maintaining High Ethical Standards in Local Government*. The guide summarises the Bill’s regime proposals and outlines other conduct controls which exist in addition to it. It provides a summary of the corporate governance controls existing in addition to the statutory regime. A copy of the guide can be accessed by following the link:

http://www.acses.org.uk/doc/filename/1324/LGA_ACSeS_Paper_on_Local_Authority_Standards_Provisions_February_2011.pdf

Code of Recommended Practice on Local Authority Publicity (SC397)

23 The Code of Recommended Practice on Local Authority Publicity was originally introduced in 1988 and amended by the last government in 2001. The revised code applies to England only. Local Authorities are required to have regard to the Publicity Code in coming to any decisions on publicity. Members will also be aware that the Members’ Code of Conduct provides in paragraph 6(c) that a member must have regard to any applicable local authority code of publicity made under the Local Government Act 1986.

24 The government has been consulting on a new Code of Recommended Practice on Local Authority Publicity, intended to replace the existing Code for all local authorities in England (within the meaning of section 6(2) or have Part 2 of the 1986 Act applied to them). The consultation was undertaken because the Coalition Agreement contained a commitment that the government will impose tougher rules to stop unfair competition by local authority newspapers. The Secretary of State for Communities and Local

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Government has made clear his view, that the existing rules on local authority publicity have resulted in taxpayers' money being wasted and the free press being undermined. He would like to see less local authority resource being expended on local authority newspapers, with it being focused on frontline services instead. He also feels that the press should not face competition from a local authority publication passing itself off as a newspaper. In addition the Secretary of State is concerned at the use of lobbyists by some local authorities. Consultation closed on 10 November. Subject to consultation it had been proposed to introduce the new Code on 1 January 2011. There is no proposal to change the statutory provisions so the revised Code will be based entirely on current legislation and will be issued under powers conferred on the Secretary of State under section 4(1) of the Local Government Act 1986.

25 A copy of the government's response to the consultation responses (SC399) can be accessed via the attached link.

<http://www.communities.gov.uk/documents/localgovernment/pdf/1841152.pdf>

26 The Department for Communities and Local Government Select Committee also undertook an inquiry into the revised Publicity Code. The Select Committee have now published a report (SC392) which questions some of the provisions in the Government's draft Code of Recommended Practice on Local Authority Publicity.

27 The Select Committee felt that some of the proposals to curb publication of "propaganda on the rates" by local authorities run counter to "localist" principles and have potentially negative implications for local democracy. The Committee also calls on the Government to commission an independent inquiry to quantify the competitive impact of council newspapers on the dependent press, to review the publication rules that apply to statutory notices and to develop a separate code of practice to govern the use of lobbyists by local councils.

28 A copy of the full report can be accessed by following this link:

<http://www.publications.parliament.uk/pa/cm201011/cmselect/cmcomloc/666/666.pdf>

29 The revised code provides specific rules which prevent municipal newspapers being published more often than four times a year (monthly in the case of a parish council) and to prevent the hiring of lobbyists. The revised code includes seven central principles which make sure that council publicity is lawful, cost effective, objective, even handed and appropriate and that it has regard to equality and diversity and is issued with care during periods of heightened sensitivity.

30 A copy of the proposed revised Code laid before Parliament on 11 February can be accessed by following the attached link. It is subject to approval of Parliament and it is intended that the revised Publicity code will come into force as soon as possible following a debate in each of the Houses.

<http://www.communities.gov.uk/documents/localgovernment/pdf/1840962.pdf>

31 A copy of the Code of Recommended Practice on Local Authority Publicity: Impact assessment is also included via the following link to provide an insight into the government's evidence base.

<http://www.communities.gov.uk/documents/localgovernment/pdf/1841098.pdf>

Forth coming District/Parish referendum/election

Publicity guidance (SC401)

32 As is customary around this time of the electoral cycle, the Monitoring Officer provides - as a reminder - guidance around the "elections purdah period" now more appropriately referred to as the "pre-election period". The background can be found in the Local Government Act 1986 and the current Code regulating Local Government Publicity (which can be viewed on-line at <http://www.communities.gov.uk/publications/localgovernment/coderecommended>) the Council's Member/Officer Protocol (http://www.horsham.gov.uk/files/Constitution_Part_5G_.pdf) and the Members' Code of Conduct.

33 This year the pre-election period commences on 25 March 2011 and concludes on Thursday 5 May 2011 (Polling Day). A copy of the guidance is attached.

Parish Clerks' Meeting

34 The Monitoring Officer attended the Society of Local Council Clerk's meeting on 15 February 2011 and provided an update arising from the Committee's last meeting in December 2010. A general update was also provided on the Coalition Government's proposals in the Localism Bill in relation to the standards regime and in particular the government's desired abolition of Standards for England. The Clerks were concerned about the potential loss of support to parish councils in relation to member conduct cases from Horsham District Council.

Local assessment (s 57A of the Local Government Act 2000)

35 Details of complaints subject to local assessment are attached at SC343.

36 Since 8 May 2008 the Local Assessment Sub-Committee has met eleven times and considered nineteen complaints. Of these one was found to be outside the Sub-Committee's jurisdiction, three were referred for local investigation, one was referred for other action and fourteen were dismissed.

37 Since the last meeting of this Committee in December 2010 the Local Assessment Sub-Committee has met once. In addition there have been a number of premature cases of complaint involving advice from the Monitoring Officer that have not to date been formalised.

38 The next meeting of the Local Assessment Sub-Committee is scheduled to take place on 16 March 2011, following this meeting.

Local review (s 57B of the Local Government Act 2000)

39 Where the Local Assessment Sub-Committee determines that no further action should be taken on a complaint, the complainant has the right to ask the Local Review Sub-Committee to review that decision. Standards for England guidance suggests that where a complainant submits significantly more or different information in connection with a request for a review, the matter should be treated as a fresh case and submitted for assessment (giving amongst other things a right to review).

40 Since 8 May 2008 eight assessment cases have been referred for review. The original decisions were upheld in all cases and none were overturned.

41 Since the date of the last meeting five cases have been referred for a review.

42 On 12 January 2011 a Local Review Sub-Committee meeting was held to consider those five cases. As a result of a conflict of interest, it was necessary to co-opt Councillor Graham Tyler, a member from Arun District Council's Standards Committee, to take part. The Chief Executive exercised delegated authority under the provisions of *Scheme of Delegation to Officers Part 3F paragraph 3.1 Urgency* in the Constitution in consultation with both the Chairman of the Council and the Chairman of this committee. The committee are asked to note the exercise of delegated authority in this matter.

Other action directed (regulation 13 of The Standards Committee (England) Regulations 2008/1085)

43 'Other action' can be directed by the Local Assessment Sub-Committee (or the Local Review Sub-Committee upon a review) as an alternative to local investigation where the Local Assessment Sub-Committee considers that there is a case to answer.

44 Since 8 May 2008 one case has been referred for "other action".

45 Since the date of the last meeting no cases have been referred for such action.

46 The Monitoring Officer is required (under regulation 13(4) (c)) to report back on the outcome of other action directed. There are no cases falling into this category.

Local investigations (regulation 14 of The Standards Committee (England) Regulations 2008/1085)

47 Since 8 May 2008 three investigations have been directed by the Local Assessment Sub-Committee.

48 All three investigations have been completed and referred to the Local Determinations Sub-Committee at meetings held on 8 April 2009, 10 June 2009 and 25 October 2010.

Local determinations (regulations 17-19 of The Standards Committee (England) Regulations 2008/1085)

49 Since 8 May 2008 the Local Determinations Sub-Committee has met five times and considered seven cases. Four cases were under the pre-2008 rule change and the three most recent were held under the new rules.

50 Attached for completeness is a Schedule of forthcoming Local Assessment Sub-Committee dates and Sub-Committee membership as discussed at the last full meeting of the Standards Committee (SC337). Where possible a reserve has also been identified. The list has been updated.

Freedom of information

51 There has been one request for information received since the last meeting regarding members, concerning the Council's spend on corporate hospitality with particular reference to the hospitality arrangements for the Chairman. At the time of writing this report the response is yet to be published.

52 For the period 1 October to 31 December the Council received 86 requests for information under the Freedom of Information Act, Environmental Information Regulations and Data Protection Act. Of those requested 71 were responded to within the 20 working day statutory timeframe. A further 15 responses were made at an average timescale of 28 days.

53 Further information about the Council's obligations under the Freedom of Information Act can be accessed via the council's website at: <http://www.horsham.gov.uk/council/7914.aspx>

54 In addition information the Council has released under the Freedom of Information Act from 2008 onwards can be accessed at <http://www.horshamfoi.org.uk/disclosureLogYear.asp>. The information posted here shows the nature of the request and the response provided by the Council.

55 In response to the Government's commitment to transparency local authorities were required to publish details of all items of expenditure over £500 by January 2011. These details are now published on the Council's website on a monthly basis, in line with the Local Government Group guidance. This information will also be picked up and published online at <http://data.gov.uk/> for comment and debate. The government is currently consulting on the Code of Recommended Practice for local authorities on data transparency. Consultation closes on 14 March 2011.

56 The Ministry of Justice has announced the intention of the Government to extend the scope of the Freedom of Information Act 2000 so that it applies to more public bodies. This is contained in the Protection of Freedoms Bill Part 6.

Performance management

57 The Complaints and Information Officer attended the Performance Management Working Group meeting on 2 February to report on details of all complaints, compliments and suggestions to the Council from 1 October to 31 December 2010. During that period the Council received 54 complaints, 0 suggestions and 37 compliments. During the previous monitoring period of 1 July to 30 September 2010 the Council received 64 complaints, no suggestions and 75 compliments. Full details can be read on the Council's website <http://www.horsham.gov.uk/council/3144.aspx>.

Data Protection Act 1998

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58 One complaint was received since the last meeting of the Committee that the Council has breached the Data Protection Act by not providing a requestor with a recording of telephone calls they had made to the Council offices and also by discussing details of their benefit claims with the complainant's partner without their consent. On investigation it was apparent that staff may not have been fully aware of a person's right to access their data including recordings where available. The recordings were provided and an apology issued. The part of the complaint regarding concern that staff had discussed confidential matters with the complainant's partner without authority was not upheld. It was considered that as the partner had attended all meetings and discussed the complainant's claims at the Council offices, that it was not unreasonable for staff to discuss matters with him. The Data Protection Officer is looking at data protection issues across both the Council and CenSus.

59 The Information Commissioner's Office has written to all councillors to urge them to check if they are fulfilling their obligations. Advice about Elected Members' obligations under the Data Protection Act was published in the Members' Bulletin in January 2011.

Regulation of Investigatory Powers Act 2000 (RIPA)

60 The Office of Surveillance Commissioners (OSC) have released a new Procedures and Guidance document which forms the basis upon which inspections will be conducted and performance assessed by the OSC. The OSC state that the document must be "properly promoted by and made accessible to all members of each public authority...and Authorising Officers are expected to retain a personal copy". This document will be published on the intranet shortly and hard copies will be sent to each Authorising Officer. The Scrutiny Committee, who have a role in RIPA oversight, will be made aware of the new document. The OSC will be conducting an inspection of the Council's policies and procedures on 16 June 2011.

Local Government Ombudsman case update January 2011 - March 2011 (SC402)

Christchurch Borough Council

61 The Ombudsman found maladministration causing injustice following the Council's decision to treat proposed amendments to a planning application for a housing development in a conservation area as minor. This meant that the amendments were not communicated to the complainants, whose home was adjacent to the development site, denying them the chance to comment on the amendments.

62 The Council kept no proper record of its consideration of the proposed amendments or how it concluded that they should be treated as minor. This led the complainants to question whether the Council had properly considered the amendments. The Council also failed to notice the omission of obscure-glazed screens on balconies on the final set of approved drawings.

63 The Council was recommended to pay £500 each to the complainants. It also improved its record-keeping procedures and secured the installation of obscure-glazed screens on some of the balconies.

Lancashire County Council, Rossendale Borough Council and the Environment Agency

64 The Ombudsman found maladministration causing injustice on the part of all three bodies. The bodies failed to take enforcement action to prevent the complainants' neighbour from using his land as an illegal landfill site, despite the very evident and unacceptable dumping and burning of thousands of tonnes of rubbish over a seven-year period.

65 The bodies failed to work together to tackle the problem despite the existence of a national protocol which clearly required a coordinated joint approach on waste enforcement.

66 The Ombudsman recommended that £35,000 be paid to the complainants to make good losses arising from the frustration of their plans to sell their property and £60,000 compensation for the disruption they had suffered. Payment of the latter was divided between the bodies in proportion to the obligations they had been under to use their powers to act on the complaints. The County Council's share was 45%. All three bodies were also recommended to individually write to the complainants to apologise and to put in place a joint agreement to prevent recurrence.

Brighton & Hove City Council

67 The Ombudsman found maladministration causing injustice after taking bankruptcy proceedings against the complainant for unpaid council tax and parking fines. Although the Council's policy contained a requirement to check whether the person subject to proceedings might be vulnerable, its application was flawed because there was no requirement to check directly with the Adult Social Care team and this amounted to a significant failure. The complainant said she had been vulnerable at the time. She had been in touch with the Adult Social Care team and although no assessment had yet been carried out on her she was known to them. Had the recovery officers checked with Adult Social Care they may not have proceeded with the bankruptcy action.

68 The Ombudsman recommended that the Council pay the complainant compensation of £250 and apologise to her for the failure in the procedure. It was noted that the maladministration only caused injustice in terms of uncertainty as to whether the outcome might have been different.

Thurrock Council

69 The Ombudsman found maladministration causing injustice after the Council charged the complainant an illegal fee. The Council had given the complainant the opportunity to enter into an agreement to pay his council tax arrears in instalments as an alternative to starting bankruptcy proceedings against him. They charged him £400 to cover the administration costs of the agreement. This fee had been introduced without reference to officers, members or the Council's legal department. There appeared to have been no scrutiny or monitoring to ensure the policy was legal. There was no legislation which allowed for the fee to be charged.

70 The complainant requested a breakdown of the fee, which the Council provided eight months after the request. The Council also failed to monitor the actions being taken by the private company which collected its council tax and was responsible for recovery action.

71 The Ombudsman recommended that the Council pay the complainant a goodwill payment of £40 plus £60 to reflect his time and trouble in dealing with the complaint. The Council was also recommended to introduce a procedure to ensure all new policies were properly scrutinised and to review the way the private company dealt with complaints.

SfE case review January 2011 – March 2011 (SC403)*Durham County Council*

72 The Council's Standards Committee found that Councillor Blenkinsopp had failed to follow paragraph 3(1) of the Code of Conduct by acting in a disrespectful manner towards the complainant, a fellow councillor, and using foul language. Following a subsequent failure to submit a written apology to the complainant the Standards Committee decided to suspend Councillor Blenkinsopp for three months.

73 Councillor Blenkinsopp appealed against this decision. He accepted that his words had shown a lack of respect but queried whether the Code applied to the conversation in question, which took place before the Council meeting had formally begun. Councillor Blenkinsopp had objected to the complainant's choice of seat because he wished to have a conversation with the Leader of the Council and the complainant would have been within earshot. The Tribunal upheld the Committee's finding on the basis that he had intended the conversation with the Leader to be in his capacity as a Councillor and therefore the Code applied. However, the Tribunal found that a three month suspension was disproportionate and ordered a one month suspension instead.

Rotherham Metropolitan Borough Council

74 The Council's Standards Committee referred to the Tribunal allegations that Councillor Law of Wales Parish Council had breached the latter authority's Code of Conduct in his behaviour towards Jane Anthony, the Parish Clerk.

75 Councillor Law had behaved in an aggressive, angry and demanding manner towards the Clerk over six weeks in the process of trying to obtain information from her regarding financial matters of the

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Parish Council and had made threatening suggestions about her losing her job. He behaved in this way despite knowing that the Clerk had been given specific instructions by the Parish Council on how to respond to his requests and despite being asked to stop doing so. Some of the relevant incidents had taken place at the Village Hall and been witnessed by a trustee of the Village Hall.

76 The Tribunal found that Councillor Laws had failed to treat the Clerk with respect, had bullied the Clerk and had brought his office into disrepute, in breach of the Code. Councillor Law's behaviour in taking forwards his requests for information from the Clerk had been unacceptable and disproportionate and therefore restricting his freedom of expression in this instance was considered to be justified. In deciding on a sanction the court took into account as mitigation that fact that Councillor Law had been extremely frustrated by his inability to trace the information in question. Considering that his conduct involved a pattern of behaviour which had had a serious effect on the new Clerk and the reputation of his role, the Tribunal decided to suspend Councillor Law until 30 April 2011, when his term would expire.

Membership of the Committee

77 The terms of two Independent Members, Paul Byford and David Tilsley expire in June this year. The Standards Committee (England) Regulations 2008/1085 require that:

- (1) A person may only be appointed as an independent member of a standards committee if the appointment is—
 - (a) approved by a majority of the members of the authority;
 - (b) advertised in one or more newspapers circulating in the area of the authority, and in such other publications or websites as the authority considers appropriate;
 - (c) of a person who submitted an application to the authority
- (2) A person may not be appointed as an independent member of a standards committee if that person—
 - (a) has within the period of five years immediately preceding the date of the appointment been a member or officer of the authority; or
 - (b) is a relative or close friend of a member or officer of the authority.
- (3) An authority must have regard to any relevant guidance issued by the Standards Board in making appointments under this regulation.

78 Standards for England guidance provides that: independent members serve no more than two terms of four years and independent members cannot be automatically reappointed, and must go through a recruitment process.

A copy of the Standards for England guidance is attached via the following link.

<http://www.standardsforengland.gov.uk/Guidance/TheCodeofConduct/Guidance/Quickguides/Independentmembers/>

79 In view of the changes proposed to the standards regime by the Localism Bill Standards for England have issued revised advice given the likely changes to the standards regime. Clearly it would be preferable and far more cost effective to retain those Independent Members who have been trained and understand their role rather than try to recruit and appoint new members. The latest advice received from Standards for England is that in the light of the uncertain future of the standards framework as long as the original appointment was carried out in accordance with all the correct legal requirements at the time (e.g. approved by full council, after being openly advertised and having assessed the suitability of all the applicants) an authority can extend that term for a further period. This can only be done during the term of office of an existing independent member and by approval from full council. Once the independent member's term has expired the full recruitment procedures must be followed again.

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80 In all the circumstances an approach has been made to Paul Byford and David Tilsey with a view to agreeing an extension of their term of office.

81 Paul Byford has expressed a wish to remain serving for as long as he is needed. David Tilsley has also agreed to extend his term.

82 In the circumstances the committee are asked to recommend to Council that the term of office of both Paul Byford and David Tilsey be extended for one year until June 2012.

Committee on Standards in Public Life

83 The Independent Committee on Standards in Public Life has published its response (SC396) to the consultation paper prepared by the Independent Parliamentary Standards Authority for their first review of the MP's expenses and allowances scheme. Some of the principles the Committee explains will be relevant to the council's member expenses arrangements.

84 A copy of the report can be accessed via the attached link.
http://www.public-standards.org.uk/Library/2011_Annual_Review_Response_Final_1_.pdf

Constitution update

85 Following the management team restructure the Scheme of Delegation to Officers has been revised. Council approved changes promoted by the Director of Corporate Resources to the Scheme of Delegation to Officers in April 2010. Consequential amendments to the remainder of the Constitution arising from the restructure were also approved and are currently being prepared by the Director of Corporate Resources. A Constitution Advisory Group has also been formed to keep abreast of further changes to the Constitution which are either required as a result of legislation or considered desirable by members.

86 Further changes to the Constitution were agreed by Council on 13 October 2010 in connection with the new Petition Scheme and the new governance arrangements.

Work Programme update (SC350)

87 Members will recall at the meeting in January 2010 that the Committee commented upon and agreed a programme of forthcoming work to be put before the Committee. The proposed Work Programme incorporates the key responsibilities of the Standards Committee.

88 A copy can be accessed by the following link:
<http://www.horsham.gov.uk/council/10255.aspx>

Members' Bulletin

89 District Council Members will be aware that a Members Bulletin, an information document that provides all Councillors with a summary of information and key activities across the various aspects of the business conducted by Horsham District Council, is published weekly on the Council's intranet. All members of the Committee should now be receiving a link to the Bulletin by email to the horsham.gov.uk address.

Duty to Promote Standards

Press Release

89 A press release was published in February 2011 highlighting the fact that the current standards regime continues to operate until the relevant provisions in the Localism Bill come into force. Until such a time complaints regarding the conduct of elected members would still be considered by the Standards Committee.

Standards Annual Report

91 In 2008 and 2009 the Standards Annual Report was presented to Council in the form of an oral report by the Chairman. This year, in addition to the usual oral report, the Standards Annual Report will be a written document. A preliminary draft has now been prepared and will be presented to Council on 13 April 2011.

92 Comments are sought.

Register of Interests annual update

93 Every year, district and parish councillors and members of the Standards Committee are required to fill out a Register of Interests. The forms for this year's update were sent out in June 2010.

94 The forms have been returned by all but one district councillor. Copies of the forms filled in by parish councillors have been received from 26 of the 32 parish councils. Forms have been received from all members of the Standards Committee.

95 District councillors' updated forms have been uploaded to the Council's website as they are received. They can be viewed on each individual councillor's page, accessible via the following link: <http://www.horsham.gov.uk/council/members/1632.aspx>

NEXT STEPS

96 The Committee is asked to note the matters contained in this report and recommend to Council the extension of the term of office of Paul Byford and David Tilsley.

OUTCOME OF CONSULTATIONS

97 Corporate Management Team were consulted on this report.

OTHER COURSES OF ACTION CONSIDERED BUT REJECTED

98 Not applicable.

STAFFING CONSEQUENCES

99 There are no specific staffing consequences flowing from this report.

FINANCIAL CONSEQUENCES

100 There are no specific financial consequences flowing from this report.

HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

101 There is a positive obligation on the Council under the Human Rights Act 1998 to have regard for human rights. The Convention rights are scheduled in the Act. The creation of the right climate for decision-making and adequate probity measures will ensure that human rights are regarded and in some cases enhanced.

HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

102 Creating the right climate for decision-making and ensuring adequate probity measures are in place will ensure that the Council's duty to seek to reduce crime and disorder is properly taken into account.

HOW THE PROPOSAL WILL HELP TO PROMOTE RACE RELATIONS

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103 While generally the report does not have a direct impact upon the enhancement of race relations, a proper decision-making framework will take account of all relevant considerations and will conduce ultimately to the enhancement of race relations and the Council's duty to secure this.

STANDARDS COMMITTEE

16 MARCH 2011

AGENDA ITEM 8

THE LOCALISM BILL – IMPLICATIONS FOR STANDARDS AND THE ETHICAL FRAMEWORK

1. INTRODUCTION

- 1.1 On 13 December 2010, (shortly after the last Standards' Committee) the Localism Bill was introduced in the House of Commons. The Bill's second reading took place on 17 January 2011. On 1 February the Bill entered the committee stage which will conclude by 10 March 2011. It is anticipated that the Bill will reach Royal Assent sometime in the autumn. Some provisions will become effective on Royal Assent, others within 2 months of Royal Assent and some in the spring 2012.
- 1.2 The Bill which consists of 171 pages together with 406 pages of schedules covers five broad areas:
- Decentralisation and strengthening of local democracy (Part 1)
 - Community Empowerment (Part 4)
 - Reform of the planning system (Part 5)
 - Social Housing Reform (Part 6)
 - London (Part 7)

2. IMPLICATIONS FOR STANDARDS

- 2.1 The regime which regulates the standard of conduct of local authority members in England will be substantially changed through the provisions of the Localism Bill. The arrangements proposed will allow local authorities to make their own decisions as to how to regulate the conduct of their members. However, new criminal offences will be introduced, relating to failure of local authority members to register or disclose interests and their participation in local authority business.

2.2 ***Standards - Part 1: Chapter 5 (clauses 14-20)***

2.2.1 *Schedule 4 of the Bill - clause 14.*

Schedule 4 of the Bill details the provisions which are to be repealed notably large sections of the Local Government Act 2000 and Local Government and Housing Act 1989.

- The Relevant Authorities (General Principles) Order 2001 which sets out the principles which govern the conduct of members of relevant authorities in England and police authorities will be revoked. The Local Authorities (Model Code of Conduct) Order 2007 which prescribes the model code of conduct to apply to members of relevant authorities will be revoked. Codes of Conduct adopted under section 50 and 51 of the Local Government Act 2000 will cease to have effect.
- Undertakings to comply with the Code will also cease to have effect when the relevant codes cease to have effect.

- The requirement to have a standards committee and its power to suspend will be abolished.
- The detailed statutory provisions contained in the Local Government Act 2000 and the Standards Committee (England) Regulations 2008 which specify how local authorities in England must deal with allegations of breach of their code of conduct are to be repealed.
- Functions of the Standards Committee to consider applications for posts to be exempt from political restriction are to transfer to the Head of the Paid Service.
- Standards for England (formally known as The Standards Board for England established under the Local Government Act 2000) will be abolished. None of its functions will be transferred to other bodies.
- The First Tier Tribunal established to hear and determine appeals concerning the conduct of councillors will lose its jurisdiction in relation to local authority members.

2.2.2 Duty to promote and maintain high standards of conduct - clause 15

Clauses 15 – 20 of the Bill set out the new provisions which are to replace the current regime set out above.

Clause 15 will impose upon a “relevant authority” as defined in clause 15(4), (which includes both a district council and a parish council) a duty to promote and maintain high standards of conduct by members and co-opted members of the authority.

How relevant authorities carry out their duty to promote high standards of conduct by its members remains to be seen but it is hard to see how the duty could be met without adopting a code of conduct for members. Indeed in the CLG Impact Assessment on the Localism Bill in relation to the abolition of Standards for England it states “it is assumed in the interests of upholding standards of conduct of their members, authorities will retain at least some aspects of the local standards regime”. In assessing risks of the government’s proposals it also highlights that “where local authorities decide not to adopt a code of conduct for their councillors, standards of conduct will worsen due to councillors knowing that their conduct will not be investigated by the authority and therefore acting without fear of sanction.”

2.2.3 Voluntary codes of conduct - clause 16

In contrast to the current regime under the Local Government Act 2000 which require local authorities to adopt a code of conduct based on a prescribed model code, the Bill provides that a ‘relevant authority’ *may* adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in this capacity. The Council may also revise its existing code of conduct, adopt a code to replace the existing code or withdraw the code without replacing it. (*clause 16(1) and (2)*) The Council may publicise the adoption, revision etc. of a code in any manner it sees fit. (*clause 16 (5)*).

If, as seems very likely, relevant authorities choose to adopt a code of conduct for its members it remains to be seen whether they will adopt the Nolan general principles of good conduct (selflessness, honesty and integrity, objectivity etc.) or whether any code will also include other provisions, as now, such as not to bully any person, not to disclose confidential information, disrepute, disrespect etc.

If a written allegation is made to a relevant authority that a member or co-opted member of the authority has failed, or may have failed to comply with its code of conduct it must consider whether it is appropriate to investigate the allegation and if so to investigate in such manner as it thinks fit. (clause 16 (3)).

Again, it is for relevant authorities to decide how best to do this but one way would be to retain a Standards Committee to consider such matters. What it must do is have a mechanism in place for the receipt of written allegations, investigations and presumably appeals.

If an authority finds that a member has failed to comply with its code of conduct the Bill says that it may have regard to the failure in deciding what action to take e.g. a local authority may decide that it is necessary to censure a member or to restrict his or her access to the local authority's offices, premises or facilities. There is no power to suspend. The Bill is silent as to enforcement of such provisions.

R v Broadland District Council ex parte Lashley [2001] All ER (D) 71 (Feb)

This case has shown that a local authority can already use sections 111 and 101 of the Local Government Act 1972 to take such action against a member if it took a reasonable decision that this was calculated to facilitate, or was conducive or incidental to its arrangements for the discharge of any of its functions. In this case action taken to impose restrictions on a councillor was found to have been calculated to facilitate and was conducive or incidental to the local authority's functions of efficiency maintaining its administration, and furthering the welfare of its employees. However, again if a member were to refuse to ignore any restrictions imposed it is not clear how a local authority would enforce any such requirements or restrictions.

It is not clear how the new provisions will interact with the pre-existing provisions under sections 111 and 101 of the Local Government Act 1972.

It should also be noted that the government have indicated an intention to review section 80 of the Local Government Act 1972 which currently provides for councillors to be disqualified if they receive a criminal conviction with a sentence of 3 months or more "to capture any other types of unethical conduct that are considered serious enough to justify disqualification from office".

2.2.4 Disclosure and registration of members' interests - clause 17

Section 81 of the Local Government Act 2000 currently requires Monitoring Officers to establish and maintain a register of members' interests. These provisions will in the future only apply to Wales.

However, the Secretary of State may by Regulations make provision for the Monitoring Officer of a relevant authority (or in the case of a parish council such person as shall be specified) to establish and maintain a register of interests of members and co-opted members of the authority. (clause 17(1)) The regulations will also specify which financial and other interests are to be registered, how they should be disclosed at meetings and restrictions on taking part, allow authorities to provide for dispensations, sanctions for failure to comply (short of suspension or disqualification) and availability of copies of the register. (clause 17 (2))

2.2.5 Criminal sanction for failure to disclose or register interests - clause 18

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Failure to register or disclose a financial or other interest or taking part in business of authority to which an interest relates shall be a criminal offence under the Bill subject to a fine not exceeding level 5 (currently £5,000) or disqualification not exceeding 5 years. Proceedings must be brought within 12 months of the prosecutor becoming aware of sufficient evidence but in any event no longer than 3 years from date of alleged offence. A prosecution may only be brought on behalf of the DPP.

Interestingly, in the CLG Impact Assessment on the Localism Bill, in relation to the imposition of criminal sanctions involving interests, when assessing the impact on the criminal justice system certain assumptions are made by the government. In particular, it states “complaints that a member has failed to comply with the new statutory requirement to register or declare personal interests will be made either to the Monitoring Officer (or equivalent) of the authority concerned or directly to the police. While a number of complaints will be made directly to the police, it is assumed that they will initially pass back to the Monitoring Officer (or equivalent) to investigate and potentially resolve without having to make a formal investigation. Our methodology thus treats the Monitoring Officer (or equivalent) as in effect the first port of call for all complaints relating to the failure of councillors to register or declare interests.” Thus it would appear the government expect complaints about a criminal offence to be resolved locally. This CLG expectation will need to be considered carefully. How this will work where e.g. the Monitoring Officer is also a witness remains to be seen. The outcome of complaints will also need to be reported.

2.3 **Predetermination - Part 1: Chapter 4 (clause 13)**

Prior indications of view of a matter not to amount to predetermination etc (clause 13)

The Bill introduces a provision to ‘clarify’ that a decision maker is not to be taken to have had or to have appeared to have had a closed mind when making a decision just because the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took or would or might take in relation to a matter. (Clause 13(2)). This applies when there is an allegation of bias or predetermination which affects the validity of a decision. This is intended to ensure that councillors do not feel unable or uncertain about what they may do in terms of championing local issues.

National Assembly for Wales v Condon [2006] EWCA Civ 1573

This is a case on the rules governing predetermination and bias. This is a Court of Appeal case in which the chair of the committee purportedly told an objector which side of the fence he sat on regarding a decision before the date of the committee meeting. Nevertheless, the court held, applying the “fair minded observer” test, that there was no bias, taking into account the active participation of the chair in the debate during the unusually prolonged meeting. At the heart of the judgment lay an analysis of the difference between holding a “legitimate predisposition” and having an “illegitimate predetermination”. Richards LJ held there was nothing in the Code which prevented a council member from having a predisposition on a matter before deciding on it. What was essential was that the member kept an open mind and a willingness to survey all the facts before him when making a decision. This approach gives local members the ability to take a stand and champion local causes provided that they can show that they were still open minded about the eventual outcome.

This case together with guidance issued by Standards for England show that the rules currently governing members are not as restrictive as implied by the government.

What the new provisions seek to do, however, is to exclude or limit the evidence which can be presented to a judge in a claim of bias. In reality, such evidence, as is seen from the case of Condron would be discounted as “being what local democracy is about” but the Bill seeks to prevent it ever being considered. What the proposal is therefore, is a change to the law on evidence.

2.4 Wales

The arrangements regulating the conduct of members in Wales are already different from those in England and the Localism Bill does not propose to change the Welsh arrangements. Welsh authorities are required under the Local Government Act 2000 to adopt a code of conduct. The National Assembly for Wales specifies the principles which are to govern the conduct of members and has issued a code model. Welsh authorities are required to establish a standards committee. Allegations of breach of the Code of conduct in Wales is investigated by the Public Services Ombudsman for Wales under the Local Government Act 2000 and Public Services Ombudsman for Wales (Standards Investigations) Order 2006.

3. CONCLUSION

- 3.1 Whilst the abolition of detailed requirements relating to matters such as investigations, hearings and reports may be welcomed by some, the council will need to find a way to ensure that they comply with their duty to promote and maintain high standards of conduct. They will also need to deal with the implications of the new criminal offences relating to members' interests. Whilst such provisions may be useful in deterring members from misusing their positions it may also deter people from standing (particularly at parish level) for fear that they may inadvertently breach the statutory requirements regarding members' interests and incur a criminal record.
- 3.2 The Coalition government has moved to clarify the existing situation with regard to predetermination, bias and how councillors may properly take part in debates and vote on matters important to their communities. Arguably the moves are unnecessary. The law already recognises the difference between predisposition and predetermination and indeed it is clear from case law that councillors can go some way towards indicating their inclinations (i.e. predisposition). Councillors will under the new provisions still need to be careful when expressing views in advance of key decisions to avoid allegations of a 'closed mind'.
- 3.3 The new power to define standards locally may be an illusion. Whilst it is hoped the new ethical framework will be more proportionate to need in practice many authorities are likely to:
- use the existing model code of conduct as a base in order to satisfy the duty to promote and maintain high standards of conduct; and
 - retain a standards' committee for:
 1. receiving and investigating written complaints on a local code,
 2. making decisions,
 3. promoting the code through training,
 4. acting as first port of call for all complaints relating to failure to declare or register interests,
 5. investigating and resolving complaints involving interests where possible,
 6. referring possible criminal offences to the DPP if cannot be resolved locally,
 7. assisting members to avoid criminal sanctions about interests,
 8. complying with regulations about the registration of interests.

3.4 The total monetised benefit to local authorities of the revised standards regime will be dependent on the approach taken by each authority to upholding standards of conduct once the Bill is passed. It is assumed by CLG that “authorities will retain at least some aspects of the present local standards framework, in the name of upholding standards of conduct” and thus it is likely that costs savings, if any, will be minimal.

Sandra Herbert
Monitoring Officer
8.2.11



**Horsham
District
Council**

MONITORING OFFICER MEMORANDUM

To:	All Councillors Standards Committee Members and members of CMT	Your reference:	
From:	Sandra Herbert Monitoring Officer	My reference:	SAH/CEA70
My extension:	5482	My e-mail:	Sandra.herbert@horsham.gov.uk
Date:	14 February 2011		
Subject:	LOCAL AUTHORITY PUBLICITY IN THE RUN-UP TO THE FORTHCOMING ELECTIONS		

As is customary around this time of the electoral cycle, I set out below - as a reminder - guidance around the "elections purdah period" now more appropriately referred to as the "pre-election period".

The background can be found in the Local Government Act 1986 and the Code regulating Local Government Publicity (which can be viewed on-line at <http://www.communities.gov.uk/index.asp?id=1133861>) the Council's Member/Officer Protocol (http://www.horsham.gov.uk/Files/Part_5G_.doc) and the Members' Code of Conduct

For this year, the pre-election period commences from Friday 25 March 2011 and concludes on Thursday 5 May 2011 (Polling Day). Members and officers must, therefore, ensure they:-

- i) avoid - or do not give the impression of - breaching any such guidance, as to do so could have electoral and reputational implications for any member standing for election (or re-election) and the Council; and
- ii) if at all possible, improve the Council's standing and reputation in terms of electoral matters.

The key guiding principle remains: if you are unsure, seek early advice from me or Sarah Smith. We will be pleased to help.

The Local Government Act 1986 imposes :-

- (a) a prohibition on local authorities publishing "any material which, in whole or in part, appears to be designed to affect public support for a political party"; and
- (b) a Code of Practice (issued by the Secretary of State under the Act) to which local authorities must have regard to in coming to any decision on publicity.

"Publicity" is defined by the 1986 Act as being "any communication, in whatever form, addressed to the public at large or to a section of the public." As well as covering the more obvious forms of publicity such as speeches, leaflets and newspaper articles issued by or on behalf of the Council, it can include sponsorship and even the colour of floral displays!

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In determining whether any material contravenes the prohibition mentioned in (a) above, the Act provides that regard shall be had to a number of matters including: the content and style of the material, the time and circumstances of publication, the likely effect of the material on those to whom it is directed, whether the material promotes or opposes a point of view on a question of political controversy which is especially identifiable as the view of one political party but not another, references to a political party or to persons identified with a political party; and where the material is part of a campaign, the effect which the campaign appears to be designed to achieve. It is possible therefore that material published by the Council could fall foul of the prohibition and be unlawful - especially on account of its timing (i.e. in the run up to an election).

What is also clear is that no elected member - whether a member of the Executive, Chairman of a Committee or any other Member - or officer will be permitted to use any Council resources for private or party political purposes. To do so would be a breach of the Act and the Code of Members' Conduct. If there was sufficient evidence of a breach of the Members' Code of Conduct this could result in a complaint being made to the Standards Committee.

Council business has, of course, to continue and must continue during an election period. Publicity around normal Council business or events must also continue but it must be thoroughly thought through so as to ensure the Council 'machinery' is not used or allowed to be used or manipulated by anyone for private or party political purposes.

It is also worth noting, for the avoidance of doubt, that Members who hold positions of special responsibility within the Council (e.g. Cabinet Members and Committee Chairmen), and who would normally be expected to make some public comment (on the Council's behalf and with the use of Council resources) on "issues of the day", will be permitted to do so. However, such occasions should sensibly be kept to a minimum during the pre election period.

The Electoral Commission has said that they expect to see "as level a playing field as our political system allows". In holding and planning events the Council should avoid any perception that they are seeking an electoral advantage for any political party or candidate. Particularly sensitive or controversial matters will, therefore, need careful handling around any election period as they may have an impact on public opinion, for or against any candidate or political party. The Chief Executive, as Head of Paid Service, and/or I, as Monitoring Officer, should be consulted over such matters. We hope that if prior consultation has taken place – i.e. well in advance of any such Council business or events, problems can be avoided.

Officers at all levels should not engage in party political activity that compromises their neutrality and objectivity at work. Officers who are in politically restricted posts (generally senior officers, those who advise members or speak on behalf of the Council) are subject to additional restrictions. They must not:

- Canvass in the interest of any political party;
- Speak or publish any written or artistic work with the interests of affecting public support for a political party;
- Hold office in a political party;
- Display election material in the office.

Any violation of the above statutory requirements constitutes a breach of their contract and may lead to disciplinary proceedings against the officer concerned.

If you have any questions please contact me or Sarah.

Sandra Herbert
Monitoring Officer

Local Assessment of Complaints from 8th May 2008

SC343

File ref	Name of Councillor	Council	Decision Date	Complainant	Date rcd	Working days	Decision	Review Requested
CES45	Roger Purcell	Warnham	26.06.08	Public: S Pavey	12.06.08	10	No further action pending release of confidential report. Close case.	
CES45(2)	Roger Purcell	Warnham	30.07.08 pm	Public: S Pavey	21.07.08	7	Other action – training, add to register of interests, clarity of body representing, Positive engagement – a guide for planning Cllrs issued. Training undertaken 5/9/08.	
CES46 (CESR1)	Jan Botting	Pulborough	30.07.08 am	Public: N Page	09.07.08	15	Outside jurisdiction – letter sent to Parish re local complaint resolution.	Y
CES47	Ivor Kiverstein	Pulborough	24.09.08	Public: N Page	22.8.08	22	No breach – general note re use of language and issue of member being RFO.	
CES48	Doug Rands	Billingshurst	12.11.08	Parish Council	28.10.08	11	Investigation into allegation of bullying, bringing office into disrepute.	

Local Assessment of Complaints from 8th May 2008 (continued)

File ref	Name of Councillor	Council	Decision Date	Complainant	Date rcd	Working days	Decision	Review Requested
CES49	Ray Dawe	Horsham	31.12.08	Public: P Orpwood	26.11.08	22	No further action – insufficient evidence provided.	Y
CES50	Jim Sanson	Horsham	31.12.08	Public: P Orpwood	26.11.08	22	No further action – insufficient evidence provided.	Y
CES51	Ray Dawe	Storrington & Sullington	31.12.08	Public: P Orpwood	26.11.08	22	No further action – insufficient evidence provided.	
CES52	Jim Sanson	Storrington & Sullington	31.12.08	Public: P Orpwood	26.11.08	22	No further action – insufficient evidence provided.	
CES53	Leonard Warner	Horsham	11.03.09	Public: Mr Mrs P Hammond	13.02.09	18	Refer for investigation.	
CES54	Alan Grant	Billingshurst	11.03.09	Parish Councillor: C Milne	18.02.09	15	No further action.	
CES58	Gavin Collins	Billingshurst	23.09.09	Public: A Rodwell	12.08.09	29	No further action.	
CES59	Ted Brown	Rudgwick	05.05.10	Public: Andrew Leahy	20.04.10	11	Refer for investigation.	

Local Assessment of Complaints from 8th May 2008 (continued)

File ref	Name of Councillor	Council	Decision Date	Complainant	Date rcd	Working days	Decision	Review Requested
CES60	Duncan England	Horsham	17.11.10	Public: Judith Norris	01.11.10	12	No further action	
CES61	Elizabeth Kitchen	Horsham	17.11.10	Public: Judith Norris	01.11.10	12	No further action	
CES62	Peter Rowlinson	Horsham	17.11.10	Public: Judith Norris	01.11.10	12	No further action	
CES63	David Holmes	Horsham	17.11.10	Public: Judith Norris	01.11.10	12	No further action	
CES64	David Sheldon	Horsham	17.11.10	Public: Judith Norris	01.11.10	12	No further action	
CES65	Philip Circus	Horsham	22.12.10	Public: Lindsay Dobson	22.11.10	22	No further action	

Review of Local Assessment Decisions from 8th May 2008

File ref	Name of Councillor	Council	Decision Date	Complainant	Date rcd	Working days	Decision
CESR1	Jan Botting	Pulborough	24.9.08	Public:	27.8.08	20	Original decision upheld
CESR2	Ray Dawe	Horsham	11.03.09	Public:	29.1.09	29	Original decision upheld
CESR3	Jim Sanson	Horsham	11.03.09	Public:	29.1.09	29	Original decision upheld
CESR4	Duncan England	Horsham	12.01.11	Public: Judith Norris	23.11.10	36	Original decision upheld
CESR5	Elizabeth Kitchen	Horsham	12.01.11	Public: Judith Norris	23.11.10	36	Original decision upheld
CESR6	Peter Rowlinson	Horsham	12.01.11	Public: Judith Norris	23.11.10	36	Original decision upheld
CESR7	David Holmes	Horsham	12.01.11	Public: Judith Norris	23.11.10	36	Original decision upheld
CESR8	David Sheldon	Horsham	12.01.11	Public: Judith Norris	23.11.10	36	Original decision upheld

Local Determinations – 2009/10

File ref	Name of Councillor	Council	Hearing Date	Finding	Sanction
CESL10	Doug Rands	Billingshurst	8.04.09	Did not fail to comply with paragraphs 3(1), 3(2)(b), 3(2)(d), 4(a) and 5 Billingshurst Parish Council's Code of Members' Conduct but failed to comply with Paragraphs 8, 9(1), 12(1)(a)(ii) and 12(1)(b).	<p>a) Suspended from all duties as parish councillor for one month with immediate effect.</p> <p>b) Undertake training in the Code of Members' Conduct especially those provisions relating to interests and that the training be undertaken on 27 April 2009 with the Monitoring Officer and the Chairman of the Local Determinations Sub-Committee.</p> <p>Recommendation to Parish - Councillor Rands receives written clarification concerning how and when he should contact the Parish Office if he has an issue that he wants to discuss That Councillor Rands receives training in the Councillor/Officer protocol with particular emphasis on how to maintain good relationships with office staff.</p>
CESL11	Leonard Warner	Horsham	10.06.09	Did not fail to comply with paragraphs 10(1) 10(2) and 12 (1) of Horsham District Council's Code of Members' Conduct.	No sanction.
CESL12	Ted Brown	Rudgwick	25.10.10	Did not fail to comply with paragraphs 5, 6(a) and 12(1) of Horsham District Council's Code of Members' Conduct but did fail to comply with paragraph 9(1).	No sanction.

Schedule of Standards Committee Members availability 2010/11

SC337

	PANEL				RESERVES		
	IND (chair)	HDC	PC		IND (chair)	HDC	PC
Dates							
7 July	MJ	AB	DC		PB	PR	JC
28 July	DT	SM	JC		EB	CV	AG
25 Aug	EB	DE	DH		DT	KW	DC
22 Sept	EB	PR	AG		MJ	AB	DH
20 Oct	PB	CV	DC		MJ	DE	AG
17 Nov	DT	KW	DH		PB	SM	DC
8 Dec	PB	AB	AG		EB	PR	DH
2011							
12 Jan	MJ	DE	DC		DT	CV	AG
9 Feb	DT	SM	DH		MJ	KW	DC
16 March	EB	PR	AG		DT	AB	DH
6 April	MJ	CV	DC		EB	DE	AG
4 May	PB	KW	DH		DT	SM	DC

Report to Standards Committee

16 March 2011



**Horsham
District
Council**

By the Deputy Monitoring Officer
INFORMATION REPORT

Not exempt

The Ombudsman Update – March 2011

EXECUTIVE SUMMARY

This report updates Members on the developments volume and nature of complaints about the Council to the Local Government Ombudsman. It provides the figures for 2010/11 reporting year.

RECOMMENDATIONS

The Committee is recommended:

- i) that the report be noted.

REASONS FOR RECOMMENDATIONS

- i) to ensure that the Committee has the necessary information to ensure that complaints can be easily made to the Council and properly responded to.
- ii) to assist with learning lessons and improving performance following complaints made to the Local Government Ombudsman about the Council.

	Consultation	Wards affected	Contact
Background papers			
Standards Committee Document 405	Chief Executive CMT	All wards	Sarah Smith
			Extension No. 5507

File ref.CEA284

Information on case files is confidential.

BACKGROUND INFORMATION

1 INTRODUCTION

The purpose of this report

- 1.1 This report updates Members on the volume and nature and the present position of complaints about the Council to the Ombudsman.

Statutory background

- 1.2 The statutory background is to be found in the Local Government Act 1974 (as amended), the Local Government and Public Involvement in Health Act 2007.

Relevant Government policy

- 1.3 Relevant Government policy is contained in the 1974 and 2007 Acts.

Relevant Council policy

- 1.4 The Council's Complaints Procedure.

Background/Actions taken to date

- 1.5 The Local Government Ombudsman (LGO) uses a "council first" procedure which requires complainants to go through all stages of a council's own complaints procedure before the LGO will consider the complaint. Those complaints that have not been through all stages of the complaints procedure are returned to the Council and the LGO logs them as premature complaints.
- 1.6 Details of all complaints, compliments and suggestions to the Council are considered by the Performance Management Working Group on a quarterly basis. A member of the Standards/Monitoring team was invited to attend the last meeting to inform the group on the Local Government Ombudsman's complaints referred to within the last report.

2. DETAILS

Ombudsman Determinations

- 2.1 The Local Government Ombudsman prepares annual statistics for the period to 31 March each year. The figures for 2010/11 have yet to be received but the final figures for 2010/11 will be published, made available on the Council's website and reported next time.
- 2.2 The view has been taken that the identity of individuals is regarded as confidential within the meaning of section 100A(3)(b) of the Local Government Act 1972 and therefore cannot be disclosed.
- 2.3 These figures relate to those cases received by the Monitoring Officer during the period from 1 April 2010 to 28 February 2011 a period of 11 months. This is because the meeting of the Committee is earlier this year than last year. Therefore comparisons in this report are with this year's 11 month period against the figures in brackets which represent last year's 12 month period.
- 2.4 There have been 14(14) cases referred since 1 April 2010. Of these cases were six deemed to have been premature complaints as they had not been through the Council's complaints system; five were determined as having no or insufficient evidence of maladministration; two were determined as ombudsman's discretion and one is ongoing.
- 2.5 An updated schedule of cases recorded for 20010/11 reporting year is attached (SC405) together with lessons learned (SC406).

3. OUTCOME OF CONSULTATIONS

Corporate Management Team have been consulted on this report.

5. OTHER COURSES OF ACTION CONSIDERED BUT REJECTED

Not applicable.

6. STAFFING CONSEQUENCES

There are no staffing consequences flowing from this report.

7. FINANCIAL CONSEQUENCES

There are no specific financial consequences flowing from this report.

8. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

Responding to complaints effectively and learning from the process together with the adoption of the new ethical framework will enhance citizens' human rights in all their aspects.

9. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

This report does not directly affect the Council's duty to reduce crime and disorder.

10. HOW THE PROPOSAL WILL HELP TO PROMOTE RACE RELATIONS

Having the right climate to accept and respond effectively to complaints against the Council will ensure that the duty to promote race relations is considered.

Ombudsman Complaints 2010/11 reporting year case schedule (annual)

Ref	Nature of Complaint	Date Complaint Received	Current Position	Date Determined	Further Action	Lesson Learnt
CEO147	Planning – neighbour's planning applications. Believes a series of planning applications relating to one piece of land not dealt with correctly.	12.07.10	Determined. No or insufficient evidence of maladministration (without report).	15.09.10	Ombudsman did not feel it was appropriate to investigate as relevant planning matters still ongoing.	
CEO148	Planning – neighbour's planning applications – unhappy that determination of planning applications failed to take proper account of the effect of the development and of neighbour's trees on her property.	09.08.10	Determined. No or insufficient evidence of maladministration or service failure.	15.11.10		
CEO149	Benefits - Claimant states that his claim for housing benefit not dealt with properly and also his subsequent complaint.	01.09.10	Determined. Ombudsman's discretion.	20.10.10		Ensure all concerns raised in complaint letters fully responded to.
CEO150	Planning - Neighbour's planning permission. Unhappy with procedure and grant of permission (x-ref CEOP6).	09.08.10	Determined. No or insufficient evidence of maladministration (without report).	09.08.10		
CEO151	See CEOP8	20.08.10	Determined. No or insufficient evidence of maladministration (without report).	20.08.10		

Agenda Item 9(ii)

CEO152	Planning – enforcement action taken against building with no planning permission	23.09.10	Determined. No or insufficient evidence of maladministration (without report).	22.11.10		
CEO153	Planning – unhappy with procedure and information provided to committee in relation to neighbour's planning application	15.10.10	Determined. Ombudsman's discretion.	26.01.11		Case officer accepts she should not have taken height readings which were supplied by the applicant.
CEO154	Benefits – unhappy with the procedures followed in relation to a claim for council tax benefit.	10.02.11	Ongoing. Provisional view received from Ombudsman.			
CEOP6	See CEO150.	17.06.10	File closed. Stage 3 complaint finalised 13.7.10.	13.07.10	See CEO150	
CEOP7	See CEO148.	20.7.10	File closed. Stage 3 complaint finalised 22.7.10.	22.07.10	See CEO148	
CEOP8	Planning - neighbour's lack of planning permission. Complaint regarding refusal to take enforcement action.	26.07.10	File closed. Stage 2 finalised 27.5.10. Agreed to forego stage 3 procedure 23.6.10.	06.09.10		
CEOP9	Council tax – unhappy with procedure followed for chasing unpaid council tax.	16.11.10	Ongoing. Stage 1 letter sent to complainant 22.11.10.			
CEOP10	Planning – unhappy with neighbour's planning permissions and procedure.	07.12.10	File closed. Stage 3 complaint finalised 07.02.11.	07.02.11	See CEO155	
CEOP11	Housing – problems with wet room and builders recommended	18.02.11	Ongoing.			

	by HDC.					
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