

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

Minutes of a meeting of the Standards Committee held on
Wednesday, 17 June 2009.

PRESENT:

Members:	Mr RF Bryant	Parish Member
	Ms GJ Butcher	Independent Member
	NN Cathcart	District Council Member, non-group
	Mrs SJO Doggett	District Council Member, Independent Group
	Mrs KM English	Independent Member
	Mr M Farrar	Parish Member
	R Hall	District Council Member, Conservative Group
	Mr AC Hampton	Independent Member
	Mr JL House	Independent Member
	Mrs CAED Murfitt	District Council Member, non-group
	Mrs MS Pilfold-Allan	Independent Member
	Mr EM Revell	Independent Member
	Dr SEK van de Ven	District Council Member, Liberal Democrat Group
	Mr JG Williams	Independent Member
Officers:	Holly Adams	Democratic Services Officer
	Catriona Dunnett	Principal Solicitor
	Fiona McMillan	Senior Lawyer and Deputy Monitoring Officer

Councillors Dr DR de Lacey and Mrs DP Roberts were in attendance, by invitation.

Apologies for absence were received from Mr DC Kelleway, Cllr Mrs JE Lockwood, Cllr AG Orgee, Cllr A Riley and Mr CF Tomsett.

1. DECLARATIONS OF INTEREST

Cllr R Hall declared a personal and prejudicial interest as a friend of one of the members of Coton Parish Council. He left the room during this item and took no part in the deliberation or decision.

The Deputy Monitoring Officer advised members that they did not need to declare an interest in the item concerning Eltisley Parish Council as their relationships with the former district councillor on that body were purely professional.

2. ELECTION OF CHAIRMAN OF STANDARDS COMMITTEE 2009/10

The Deputy Monitoring Officer took the chair for this item.

Mr AC Hampton proposed Ms GJ Butcher, seconded by Mr M Farrar and Mrs KM English. Mr RF Bryant proposed Mrs KM English, seconded by Councillor Mrs CAED Murfitt.

Ms Butcher and Mrs English left the room while a paper ballot was held, then returned for the Deputy Monitoring Officer's announcement of the results.

With eight votes to four, it was **RESOLVED** that Mrs KM English be elected as Standards Committee Chairman for 2009-10.

Ms Butcher thanked the Committee for their support over the past year, which she had enjoyed greatly, and offered her congratulations to Mrs English. Councillor Mrs Murfitt, on

behalf of the Committee, thanked Ms Butcher for her hard work, through which she had raised the Committee's profile, including through meetings with parish councils, and the Council's political parties and chief officers. There was a round of applause for Ms Butcher.

Mrs English took the Chair.

3. **APPOINTMENT OF VICE-CHAIRMAN OF STANDARDS COMMITTEE 2009/10**

Ms GJ Butcher proposed Mr JG Williams, who declined the nomination.

Mr M Farrar proposed Ms GJ Butcher, who declined the nomination.

Ms GJ Butcher proposed Mr JL House, who declined the nomination.

Mr M Farrar proposed Mr AC Hampton, seconded by Ms GJ Butcher and it was **RESOLVED** that Mr AC Hampton be appointed as Standards Committee Vice-Chairman for 2009-10.

Ms Butcher paid tribute to Mr Williams' term as Vice-Chairman, saying that he had been exceptionally helpful. There was a round of applause from the Committee.

4. **CHAIRMAN'S ADDRESS**

The Chairman apologised that she had not prepared an address as she had not anticipated her election as Chairman, and said it would be hard to work as hard as the previous Chairman. She thanked Ms Butcher and Mr Williams for their hard work and encouraged Committee members to contact her if they had any comments about how they would like her to fulfil her role as the Chairman.

5. **MINUTES OF PREVIOUS MEETING AND MATTERS ARISING**

Subject to the amendment of "mitigate" to "militate" in minute 72, the Chairman was authorised to sign the minutes of the meeting held on 11 March 2009 as a correct record.

Raising the Profile of the Standards Committee: Preliminary Report of the Profile Sub-Committee (Minute 72)

Councillor NN Cathcart noted that the recent article in *South Cambs magazine* had not taken into account the comments made at the previous meeting and was concerned about the effect the Code of Conduct was having on the behaviour of parish and district councillors through an incorrect perception that the Code prevented members from speaking out fearlessly. He stated that he believed that members should be allowed to speak freely, honestly and openly, and there was general agreement from the Committee that the Code was having this inhibiting effect on elected members, and that it was the role of a chairman to judge whether or not a member was going too far when speaking intemperately.

Councillor Dr SEK van de Ven noted that there was a cynicism which developed as a result of frequent changes to the Code of Conduct, which were mandatory for authorities to accept, and that there was a lot of variation in the way the Code was applied at parish councils.

The Principal Solicitor confirmed that the Code was not about prohibiting free speech, but about the way things were said, and asked that members with concerns contact the Cambridgeshire and Peterborough Association of Local Councils (CPALC) as this was an

identified training need. The Committee felt that there was an opportunity to contact parish councils directly through the *Standards Committee Newsletter*, making clear that the Standards Committee itself felt that there were problems with the standards framework and were working to address them.

Standards Board Bulletin – Issue 42 / Town and Parish Standard (Minute 76)

The Council's insurance company had confirmed that the Council's existing indemnification arrangements included co-opted members of the Standards Committee.

Ethical Standards Officer's Investigation into Allegations of a Failure to Comply with the Code of Conduct (SBE 01730 – IR0R4): Finding of No Breach (Minute 87)

The Deputy Monitoring Officer confirmed that she had written to the Standards Board for England (SBE) to express the Committee's concern that officers who gave evidence during this investigation had not been allowed to read the final report, but that the SBE had declined the Committee's request to release the full report to these officers. Two months later the SBE produced a non-confidential summary of the case, which had been forwarded to officers and was reproduced on the Committee's agenda as part of the update on local investigations, hearings and references made to Ethical Standards Officers.

6. APPOINTMENTS TO STANDARDS COMMITTEE PANELS ESTABLISHED UNDER THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008

The Standards Committee agreed with officers' views that it was most efficient to have fixed membership of panels for 2009-10 and the Deputy Monitoring Officer clarified that no policy existed that members would have to change panel memberships each year. It was noted that Committee members had been given repeated opportunities to express their panel membership preferences, and so deferring the appointments until all members had responded would delay consideration of complaints and could jeopardise the Committee's targets for completing the initial assessment within twenty working days.

Having taken into account the preferences of those members who had expressed a view about panel membership, as not all had responded with preferences, and wanting to ensure that fair and balanced panels could be established, with substitute members who could serve in the event of a conflict of interests, the Committee **RESOLVED** that the following panels be appointed for 2009/10:

Assessment Panel

Members	Type	Party (District Council Members Only)
Mrs SJO Doggett	District Council Member	SCDC Independent Group
M Farrar	Parish Council Member	
R Hall	District Council Member	Conservative
AC Hampton	Independent Member	
EM Revell	Independent Member	
Substitutes		
RF Bryant	Parish Council Member	
Ms GJ Butcher	Independent Member	
Mrs KM English	Independent Member	
DC Kelleway	Parish Council Member	
Mrs JE Lockwood	District Council Member	Liberal Democrat
CF Tomsett	Parish Council Member	

Hearings Panel

Members	Type	Party (District Council
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Members Only)		
Review Panel Members	Type	Party (District Council Members Only)
Ms GJ Butcher	Independent Member	
Mrs KM English	Independent Member	
Mrs JE Lockwood	District Council Member	Liberal Democrat
Mrs CAED Murfitt	District Council Member	Independent (non-group)
CF Tomsett	Parish Council Member	
Substitutes		
Mrs SJO Doggett	District Council Member	SCDC Independent Group
M Farrar	Parish Council Member	
R Hall	District Council Member	Conservative
AC Hampton	Independent Member	
JL House	Independent Member	
AG Orgee	District Council Member	Conservative
A Riley	District Council Member	SCDC Independent Group
Review Panel Members	Type	Party (District Council Members Only)
RF Bryant	Parish Council Member	
NN Cathcart	District Council Member	Labour (non-group)
JL House	Independent Member	
Dr SEK van de Ven	District Council Member	Liberal Democrat
JG Williams	Independent Member	
Substitutes		
DC Kelleway	Parish Council Member	
AG Orgee	District Council Member	Conservative
Mrs MS Pilfold-Allan	Independent Member	
CF Tomsett	Parish Council Member	

7. FURTHER PROVISIONS REGULATIONS 2009: SUSPENSION OF STANDARDS COMMITTEE FUNCTIONS, ESTABLISHMENT OF JOINT STANDARDS COMMITTEES, DISPENSATIONS

The Deputy Monitoring Officer introduced the report on the three main areas of the 2009 regulations and added some analysis that had been circulated by Peter Keith-Lucas, partner, Bevan-Brittan Solicitors, on each.

Suspension of Standards Committee Initial Assessment Functions

It was understood that one authority had received 58 complaints in a week and had needed extra help from the Standards Board for England (SBE), but suspension of initial assessment functions would be rare and was a lengthy process beginning with an authority receiving 28 days' notice that the SBE was preparing to suspend. Peter Keith-Lucas had commented that the regulations did not make provision for payment of other authorities if neighbouring authorities were asked to take over the assessment function in the event of a suspension, and this would need to be built in to any agreement to take over another authority's functions.

Dispensations

The 2009 regulations essentially duplicated the 2002 regulations but took into account the effect dispensations could have on political balance. Peter Keith-Lucas had highlighted that problems with political balance were often not obvious until the last minute which would be too late to seek a dispensation before the meeting for which a dispensation was sought as the Standards Committee would need at least five working days' notice to meet. Furthermore, if a member had worked out issues of political balance far enough in advance to submit an application for a dispensation then that in itself might raise issues of

pre-determination and bias, as it implied members had already decided how they were going to vote and were not open to being persuaded at the meeting.

The 2009 Regulations in respect of the provisions for the suspension of initial assessment functions and the new provisions for dispensations were **NOTED**.

Joint Arrangements

There was a meeting of all Cambridgeshire authority Monitoring Officers on Monday 22 June 2009, at which the Committee's views on joint working would be reported. Guidance from the SBE was expected before the end of June, which should clarify details of how to make nominations to a joint committee and how to agree upon the division of responsibilities and shared cost arrangements. Those Cambridgeshire Monitoring Officers who had already spoken to their Standards Committees reported that there was not a great deal of interest in setting up a joint committee. Committee members noted that the authorities with whom South Cambridgeshire had the most in common were geographically the most distant: Fenland and East Cambridgeshire. The Deputy Monitoring Officer confirmed that each authority was required by law to employ a Monitoring Officer, which was a chief officer-level post, and which had responsibilities beyond the standards framework, so a joint committee would not see a reduction in the number of Monitoring Officers employed. It was premature to quantify time and cost savings, if any, which might depend upon which authority assumed administration of which complaints.

Members did see an advantage to an informal system of joint working which would allow local Standards Committees to share members or to share Monitoring Officers on a case-by-case basis to avoid conflicts of interest, and the Standards Committee **AGREED** that officers consult with neighbouring authorities to seek views on informal sharing of resources.

8. COTON PARISH COUNCIL: REQUESTS FOR DISPENSATIONS

Councillor R Hall declared a personal and prejudicial interest as the friend of one of the parish councillors and left the room; he took no part in the deliberation or decision.

The members of Coton Parish Council applied for dispensations to enable all eight members, who are Trustees of Coton Recreation Ground, to remain in meetings and vote on matters relating to the Coton Recreation Ground Trust. Without dispensations, it would be impossible for issues relating to the Recreation Ground to be considered at meetings. Although every request was considered on its own merits, the Committee noted that a similar dispensation had been granted to Barrington Parish Council and that nothing in the applications from Coton Parish Council would prevent dispensations from being granted.

The Standards Committee **AGREED** to grant dispensations for four years or until the conclusion of the individual member's term in office, whichever was soonest, to Coton Parish Councillors Mrs Rosemary Darling, Mrs Michaela Edwards, Geoff Diplock, Mrs Dawn McLoughlin, Mrs Wendy Sadler, Mrs Beryl Smart, Alan Storkey and Dr Chris Thorne. These Parish Council members must still declare an interest in matters in which they have been granted a dispensation. As a matter of good practice, members should also state that they have been granted a dispensation, by stating that, "I declare an interest as a Trustee of the Recreation Ground, for which I have been granted a dispensation by the Standards Committee".

9. ELTISLEY PARISH COUNCIL: REQUESTS FOR DISPENSATIONS

All seven Eltisley Parish Councillors had applied for dispensations in respect of Eltisley

Village Green Trust and the Allotments for the Labouring Poor. Eltisley Parish Council was the Trustee of both the Eltisley Village Green and the Allotments for the Labouring Poor, Trusts which could operate only through the members of Eltisley Parish Council.

The Standards Committee **AGREED** to grant dispensations for four years or until the conclusion of the individual member's term in office, whichever was soonest, to Eltisley Parish Councillors Mike Cropley, Charlotte Freeman, David Lee, Martin Lines, John Pettifor, Roger Pinner and Daphne Spink in respect of issues concerning the Eltisley Village Green Trust and the Allotments for the Labouring Poor. Parish Council members must still declare an interest in matters in which they have been granted a dispensation. As a matter of good practice, members should also state that they have been granted a dispensation, by stating that, "I declare an interest as a Trustee of Eltisley Village Green and the Allotments for the Labouring Poor, for which I have been granted a dispensation by the Standards Committee".

In 2006, the Standards Committee granted dispensations to five of the seven members of Eltisley Parish Council in respect of items concerning Caxton End, Eltisley, at which these five members lived. This dispensation was to be reviewed in 2007-08 but was deferred because publication of the new regulations was expected that year. As the regulations had been published in June 2009, the Standards Committee confirmed that nothing in the new regulations would prevent an extension of the original dispensation and it was **AGREED** to grant dispensations for four years or until the conclusion of the individual member's term in office, whichever was soonest, to Eltisley Parish Councillors Mike Cropley, David Lee, John Pettifor, Roger Pinner and Daphne Spink in respect of issues concerning Caxton End, Eltisley. These Parish Council members must still declare an interest in matters in which they have been granted a dispensation. As a matter of good practice, members should also state that they have been granted a dispensation, by stating that, "I declare an interest as a resident of Caxton End, for which I have been granted a dispensation by the Standards Committee".

10. **STANDARDS COMMITTEE WORK PROGRAMME: REVIEW OF 2008/09 AND KPIS FOR 2009/10**

The Work Programme and Key Performance Indicators (KPIs) for 2008/09 had been completed successfully. The majority of KPIs would continue in 2009/10 and the parish council training element would be a focus. Parish council liaison had improved, but there was still a gap in the provision of training, with an unsustainable level of take-up on training sessions and parish forum events. The Principal Solicitor explained that the parish forum events scheduled for June and July, now postponed to the autumn due to lack of interest, covered more than the Code of Conduct, including how to handle Freedom of Information Act requests, the requirements of the Data Protection Act, employee relations and employment issues, and parish council planning powers. These sessions were not established just as a training mechanism, but were meant to be a forum where attendees could meet and discuss concerns with clerks and councillors from other authorities.

Councillor Dr DR de Lacey suggested that the Committee consider web-based training methods as not many parish councillors had evenings free for training events, and confirmed that the members of his parish council would make use of such a system, although other members were less certain.

The Standards Committee **NOTED** the 2008/09 work programme **AGREED** to establish a Parish Liaison Working Group, to include all the parish council members of the Standards Committee and those district council and independent members who wished to join, to explore ways to work with the parish councils, ensure they had the support they needed

and the training required to undertake their roles and responsibilities, and for the Committee to hear and act on their concerns.

Inclusion of items 14 and 15 on the draft 2009/10 work programme, Working with Council officers and Local Standards Committee Forum, was **DEFERRED** until the September 2009 meeting to enable consideration by the new Chairman and Vice-Chairman.

11. **STANDARDS BOARD FOR ENGLAND REVIEW OF STANDARDS FRAMEWORK**

The Standards Board for England (SBE) had decided to run a very brief consultation, conducted via the Association for Council Secretaries and Solicitors (ACSeS), on issues raised since the 2008 regulations and the transfer of assessment powers to local authorities. The Council had become aware of this consultation through its ACSeS membership and had invited comments from all district and parish councillors and clerks. The Deputy Monitoring Officer highlighted the following issues which had been discussed by the Standards Committee and its panels at meetings during the past year:

Disclosure

The law prevented full disclosure to the subject member upon the receipt of a complaint, which was a key area for review as there was a general consensus that full disclosure was required. Mr M Farrar disagreed with this on the grounds that it might be easier for the subject member's peace of mind not to know about frivolous complaints, and that it was the Local Assessment Panel's function to respond to the complaint and not to representations from the subject member. The Chairman of the Local Assessment Panel said that the Panel had to err on the side of caution and send complaints for investigation when it felt that it did not have enough information; having representations from the subject member at the start of the process might save the time and cost of an investigation, especially when an investigation revealed that there had not been a case to answer in the first place. It would also make the assessment process appear more equitable to all involved.

Vexatious Complaints

The SBE had not produced guidance on what constituted a vexatious complaint. Mr Farrar explained that his suggestion of making a deposit when submitting a complaint was only an attempt to find a means of discouraging vexatious and frivolous complaints. It was noted that requiring a deposit would create a two-tier system between those who could and could not afford to pay, and was not currently legal.

Right of Review

If a complainant sought a review of a Local Assessment Panel decision to take no further action, the review was mandatory even if the original panel felt that there was no basis for the initial complaint.

There was an inequity in the system where the complainant had the right to request a review of an initial assessment, but the subject member did not; however, if a case had been investigated and determined by a local hearing panel, the subject member had the right to appeal to the Adjudication Panel for England, but the complainant did not. The Committee felt that this must be redressed with full rights to request a review available for both subject member and complainant. The Committee also objected to the lack of a right to review of cases referred by the Assessment Panel to the SBE, which made SBE decisions "unquestionable", above and beyond those of a local assessment or hearing panel.

Acceptance of Breach

Offering a subject member the right to accept that a breach had been committed could be

included with provisions to allow the subject member to give a response to the Assessment Panel. This could help the Assessment Panel come to its conclusion without requiring that a case be sent for investigation, and could better inform the Panel when deciding if the issue could be resolved through other action like mediation or training.

Where an early acceptance of breach was made it would render an investigation and hearing unnecessary, saving costs and officer time. A subject member would also be likely to prefer to have a complaint dealt with swiftly in this way rather than to go through months of an investigation and hearing, which is currently mandatory where the investigating officer has found that a breach of the code of conduct has occurred.

Other Action

There were concerns expressed that a decision to remedy a situation through other action implied guilt on the part of the subject member, the complainant, and / or the authority even though the Assessment Panel were unable to make any kind of indication of fault when sending a complaint for Other Action.

12. ANNUAL RETURN TO STANDARDS BOARD FOR ENGLAND 2008/09

Members received the annual return, which would inform the SBE of areas of good practice. A summary of the national picture once the annual returns had been analysed by the SBE would be produced later in the year and brought to the Committee at that time. SCDC had already been held up as an example of best practice for its independent member appointments process and a researcher from the University of Tyneside, commissioned by the SBE, would be visiting the Council in the following week to interview those involved in its development. Mr Farrar commented that, in his view, the procedures for appointment of Parish and District Council members were not as comprehensive as that for Independent members.

13. STANDARDS COMMITTEE BUDGET 2008/09: REVIEW

The Principal Solicitor apologised for the late report, which would form part of the annual Standards Committee meeting in the future. She drew attention to the costs of a hearing, and explained that officer time could not be claimed from the Standards Committee budget as supporting the standards regime was part of officers' job descriptions. It was noted that it was far more cost-effective to conduct investigations in-house where possible, as external investigators could be expensive and did not always demonstrate a suitable understanding of how local government worked. The next annual report would try to include hourly rates for lawyers' time and the Monitoring Officer's time, where possible, noting that this information could be private as it related to individual salaries.

It was confirmed by the Deputy Monitoring Officer that the Council was required by law to publish notices of the outcome of local hearings, and that the current rate was just over £500 per notice.

14. UPDATE FROM ASSESSMENT AND REVIEW PANELS

Mr EM Revell, Chairman of the Assessment Panel, stated that there had been four cases since the previous meeting of the Standards Committee, for all of which the Panel had decided not to take any action. He felt that there were examples of frivolous, rather than vexatious, cases appearing, and that there was a clear need for guidance for district and parish councillors using internet message boards, as simply concluding a post with a disclaimer that these comments were made in a personal capacity only did not necessarily mean that the councillor was not acting in his or her role as a councillor, especially when the content of the posts concerned official business. It was **AGREED** to include a timely

reminder to this effect in the next *Standards Committee Newsletter*.

15. ADVICE TO, AND TRAINING OF, DISTRICT AND PARISH COUNCIL MEMBERS IN RELATION TO THE MEMBERS' CODE

This issue had already been discussed in detail as part of the 2009/10 Work Programme, and the arrangements for the postponed parish council forum events could be reviewed if the new Parish Liaison Working Group made other recommendations. Annual training for district and parish councillor, and Standards Committee members, was intended and Committee members were asked to consider their training needs and those of district councillors. The recently-published "Planning Ahead" game, created by the Planning Advisory Service and the Standards Board for England, was suggested, and it was agreed to hold short training sessions on Standards Committee panel meeting dates, with training specific to the discharge of the functions of that panel.

The next *Standards Committee Newsletter* would include a checklist for clerks to follow to ensure that they had taken account of all relevant legislation when publishing an agenda and minutes, as many of the complaints received could be avoided through ensuring that the basic public notification requirements had been met before any decisions had been taken. Standards Committee members were encouraged to check with their local parish clerks to see if the checklist had been received and if it was being used.

16. FEEDBACK FROM PARISH COUNCILS

None received.

17. LOCAL INVESTIGATIONS, HEARINGS AND REFERENCES MADE TO ETHICAL STANDARDS OFFICERS

The Committee **NOTED** the case summaries.

18. OPERATION OF CODE OF CONDUCT AND OTHER STATUTORY FUNCTIONS OF THE MONITORING OFFICER

The Adjudication Panel for England (APE) had not yet published its full judgement in the case of Boughton v Dartmouth Town Council, but this would be forwarded to Committee members as soon as it was available, and it was agreed that this case be included in the annual Standards Committee training. Councillor NN Cathcart commented that the APE judgement seemed to imply that the "smooth running of the Council" took priority over the subject member's right to free speech.

19. OPERATION OF THE COUNCIL'S "WHISTLE-BLOWING" POLICY

There had not been any issues to report. Councillor NN Cathcart reiterated his concern with the apparent lack of issues reported for this item. The Deputy Monitoring Officer explained that officers do seek advice from the Council's legal staff, and often their issues are better dealt with under existing procedures like the grievance policy or even the Code of Conduct. The whistle-blowing policy was designed to uncover corruption and serious malfeasance, which was a different issue than working relationships. The policy was promoted regularly and officers would ask their colleagues at neighbouring authorities about the use of their respective policies and report back to the next meeting. The Principal Solicitor noted that the Council had recently been awarded Investors in People status, which demonstrated that staff welfare and concerns were being taken seriously and a framework was in place for regular contact between staff and their managers. Councillor Cathcart emphasised that he did not have any evidence that the Council was

better or worse than other authorities, just that he wondered how it could be determined that the Council's policy was sound if it had never been used. The Principal Solicitor confirmed that the legal team would investigate if members raised staff concerns with them.

Councillor Mrs SJO Doggett noted that staff continued to feel let down by complaints made against members not being upheld, especially when senior managers had been involved. The Deputy Monitoring Officer acknowledged that this did have a knock-on effect on other staff coming forward to raise concerns, and was an area the Standards Committee had to address as part of its role to work with officers. The Chief Executive had let all staff know that they would receive senior management support if they had concerns to raise.

20. DATES OF NEXT MEETINGS

The dates were **NOTED**.

The Meeting ended at 12.40 p.m.
