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3 September 2010

To: Chairman – Kathy English, Independent Member  
Vice-Chairman – Alan Hampton, Independent Member

Members of the Standards Committee:

Diane Best	Independent Member
Bob Bryant	Parish Member
Georgina Butcher	Independent Member
Nigel Cathcart	District Council Member, non-group
Michael Farrar	Parish Member
Roger Hall	District Council Member, Conservative Group
John House	Independent Member
Janet Lockwood	District Council Member, Liberal Democrat Group
Cicely Murfitt	District Council Member, non-group
Tony Orgee	District Council Member, Conservative Group
Raith Overhill	Independent Member
Mary Pilfold-Allan	Independent Member
Eric Revell	Independent Member
Alex Riley	District Council Member, Independent Group
Jim Stewart	District Council Member, Liberal Democrat Group
Chris Tomsett	Parish Member
James Williams	Independent Member

and to I Dewar (Interim County Executive Officer, Cambridgeshire & Peterborough Association of Local Councils (CPALC)), for information.

Dear Sir or Madam

You are invited to attend the next meeting of **STANDARDS COMMITTEE**, which will be held in the **SWANSLEY ROOM, GROUND FLOOR** at South Cambridgeshire Hall on **WEDNESDAY, 15 SEPTEMBER 2010** at **10.00 a.m.**

Yours faithfully  
**SJ HAMPSON**  
Acting Chief Executive

**The Council is committed to improving, for all members of the community, access to its agendas and minutes. We try to take all circumstances into account but, if you have any specific needs, please let us know, and we will do what we can to help you.**

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**AGENDA**

**PAGES**

**PROCEDURAL ITEMS**

- 1. Apologies**  
To receive apologies for absence from committee members.

2. **Declarations of Interest**
3. **Minutes of Previous Meetings** 1 - 10  
 To authorise the Chairman to sign the Minutes of the meetings held on 15 June and 19 August 2010 as correct records.

4. **Chairman's Address**

**DECISION ITEMS**

5. **2010/11 Appointments to Standards Committee Panels Established under the Standards Committee (England) Regulations 2008**  
 To appoint Ms Diane Best and Mr Raith Overhill, the newly co-opted Independent Members, to their preferred Standards Committee Panels for the remainder of the 2010/11 municipal year.
6. **BASSINGBOURN-CUM-KNEESWORTH Parish Council: Applications for Dispensations** 11 - 16  
 For decision.
7. **CROYDON Parish Council: Applications for Dispensations** 17 - 24  
 For decision.
8. **Feedback from Parish Liaison Working Group** 25 - 26  
 The Parish Liaison Working Group has considered the responses received to the Committee's Parish Council Questionnaire. Its recommendations are attached. **For decision.**

**STANDING ITEMS**

9. **Update from Assessment and Review Panels**  
 The Assessment and Review Panels have not met since the last Standards Committee meeting.
10. **Advice to, and training of, District and Parish Council Members in relation to the Members' Code** 27 - 38

Document	Weekly Bulletin
Appointment to the Standards Committee of a Parish Council Member – invitation to make nominations and description of process	28 July 2010 and 18 August 2010
Standards for England Bulletin 48 (attached)	8 September 2010
Blogging Topic Guide (attached)	8 September 2010
Dual-hatted members and the Code of Conduct Quick Guide (attached)	8 September 2010

**To note.**

11. **Local Investigations, Hearings and References made to Standards for England** 39 - 42  
 To note.
12. **Operation of Code of Conduct and other statutory functions of the Monitoring Officer** 43 - 80  
 Attached **to note** are reports and extracted minutes relating to a recent

case considered by Cambridgeshire County Council, and details of a recent decision by the First-Tier Tribunal (Local Government Standards in England).

- 13. Operation of the Council's "whistle-blowing" policy**  
Nothing to report.

- 14. Date of Next Meeting**  
Wednesday 8 December 2010.

Today's Standards Committee meeting will be followed by a meeting of the Standards Committee Hearing Panel to elect a Chairman for the remainder of the 2010/11 municipal year.

#### **OUR VISION**

- We will make South Cambridgeshire a safe and healthy place where residents are proud to live and where there will be opportunities for employment, enterprise and world-leading innovation.
- We will be a listening Council, providing a voice for rural life and first-class services accessible to all.

#### **OUR VALUES**

We will demonstrate our corporate values in all our actions. These are:

- Trust
- Mutual respect
- A commitment to improving services
- Customer service

## **GUIDANCE NOTES FOR VISITORS TO SOUTH CAMBRIDGESHIRE HALL**

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### **Disturbance by Public**

If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If they continue to interrupt, the Chairman will order their removal from the meeting room. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared.

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

Minutes of a meeting of the Standards Committee held on  
Wednesday, 16 June 2010 at 10.00 a.m.

PRESENT:	Bob Bryant	Parish Member
	Georgina Butcher	Independent Member
	Kathy English	Independent Member
	Alan Hampton	Independent Member
	John House	Independent Member
	Janet Lockwood	District Council Member, Liberal Democrat Group
	Cicely Murfitt	District Council Member, non-group
	Mary Pilfold-Allan	Independent Member
	Eric Revell	Independent Member
	Alex Riley	District Council Member, Independent Group
	Chris Tomsett	Parish Member
	James Williams	Independent Member
Officers:	Holly Adams	Democratic Services Team Leader
	Fiona McMillan	Acting Legal & Democratic Services Manager and Deputy Monitoring Officer

Councillors Lynda Harford and Deborah Roberts were in attendance.

Apologies for absence were received from Nigel Cathcart, Michael Farrar, Roger Hall, Tony Orgee and Jim Stewart.

**1. ELECTION OF CHAIRMAN OF STANDARDS COMMITTEE 2010/11**

On the nomination of Alan Hampton, seconded by Cicely Murfitt, and there being no further nominations, it was **RESOLVED** that Kathy English be re-elected Chairman of the Standards Committee for 2010/11.

**2. APPOINTMENT OF VICE-CHAIRMAN OF STANDARDS COMMITTEE 2010/11**

On the nomination of Cicely Murfitt, seconded by John House, and there being no further nominations, it was **RESOLVED** that Alan Hampton be re-appointed Vice-Chairman of the Standards Committee for 2010/11.

**3. DECLARATIONS OF INTEREST**

None declared.

**4. MINUTES OF PREVIOUS MEETING**

The Chairman was authorised to sign the minutes of the 10 March 2010 meeting as a correct record.

**5. CHAIRMAN'S ADDRESS**

Kathy English thanked the Committee for her re-election as Chairman. Since the 10 March 2010 Committee meeting, members and officers had attended the Local Government Chronicle Awards, for which the Council had been shortlisted for the Standards and Ethics prize. She said that it had been an honour to be shortlisted and thanked the officers and all those involved in helping the Council reach the finalist stage.

In light of the recent announcements about the future of “the Standards Board regime”, Mrs English noted that, on 11 June 2010, the Department for Communities and Local Government published a requirement for Standards for England (SfE) to make efficiency savings equalling 18% of their 2010/11 budget, but had not abolished SfE outright. As part of her work as Standards Committee Chairman for the coming year, she would seek to ensure that, whatever happened, South Cambridgeshire District Council would retain a process through which the public and officers could raise issues of unreasonable member behaviour.

## 6. 2010/11 APPOINTMENTS TO STANDARDS COMMITTEE PANELS ESTABLISHED UNDER THE STANDARDS COMMITTEE (ENGLAND) REGULATIONS 2008

The Deputy Monitoring Officer introduced the report and explained that officers were recommending that the existing system of fixed panels be retained until the government published further information about its statement to “abolish the Standards Board regime”. An alternative would be to appoint all Standards Committee members to each of the three panels as pools from which panels would be drawn on a case-by-case basis, similar to the arrangements used for the Licensing Committee, but the administration required could prove time-consuming.

Having had regard to the legislative requirement that no members serve on both the Assessment and Review Panels, the Standards Committee **AGREED** that the following fixed panels be appointed for 2010/11:

### ***Standards Committee Local Assessment Panel***

Bob Bryant	Parish Council Member
Michael Farrar	Parish Council Member
Alan Hampton	Independent Member
Janet Lockwood	District Council Member
Eric Revell	Independent Member
Jim Stewart	District Council Member

### ***Standards Committee Hearings Panel***

Bob Bryant	Parish Council Member
Georgina Butcher	Independent Member
Kathy English	Independent Member
Michael Farrar	Parish Council Member
Alan Hampton	Independent Member
John House	Independent Member
Cicely Murfitt	District Council Member
Tony Orgee	District Council Member
Alex Riley	District Council Member
Chris Tomsett	Parish Council Member

### ***Standards Committee Review Panel***

Nigel Cathcart	District Council Member
Roger Hall	District Council Member
Dave Kelleway	Parish Council Member
Mary Pilfold-Allan	Independent Member
Chris Tomsett	Parish Council Member
James Williams	Independent Member

The Standards Committee **FURTHER AGREED** that all members of the Committee would be eligible to serve on any of the panels as required, for example, if any of the appointed members were unable to participate due to a conflict of interest.

## 7. **STANDARDS COMMITTEE WORK PROGRAMME: REVIEW OF 2009/10 AND KPIS FOR 2010/11, INCLUDING 2010 ANNUAL RETURN TO STANDARDS FOR ENGLAND**

The Chairman presented the list of Key Performance Indicators (KPIs) and congratulated everyone on the successful achievement of the 2009/10 targets. Of the new and on-going targets for 2010/11, members noted that:

- Parish Council training would be a priority;
- Web-based training would be a complement to, not a replacement of, face-to-face training; and
- The Standards Committee member training target would have been achieved if training on the revised Code of Conduct had been scheduled, but the government delays on adopting a new Code led to the training being postponed indefinitely.

The Chairman drew attention to KPI 19: Responding to proposals to abolish the Standards Board regime – “To ensure that, whatever legislative changes there might be, SCDC continues to take appropriate action to promote and maintain high standards of conduct among district and parish councillors”, which was supported unanimously by the Committee. The Deputy Monitoring Officer advised that, if the entire system were abolished, the Council could have a local procedure, as many authorities did before the Local Government Act 2000, but that there might not be any requirement for Parish Councils to participate, although they could be offered the opportunity to opt-in.

The Deputy Monitoring Officer undertook to contact Standards for England about the status of the training CD / DVD they had planned to issue to Parish Councils.

The Standards Committee **NOTED** the completed 2009/10 Key Performance Indicators (KPIs) and **AGREED** the list of new and on-going KPIs for 2010/11, subject to the deletion of KPI 15, Attendance at the 2010 Annual Assembly, following the announcement of the Assembly’s cancellation.

## 8. **AMENDMENTS TO THE CONSTITUTION - ARTICLE 9 - THE STANDARDS COMMITTEE**

The Standards Committee considered the amendments to Article 9 of the Constitution (The Standards Committee), a decision on which had been deferred from the 10 March 2010 meeting. The Chairman explained that the major change had been to remove the specific criteria for Independent Membership of the Committee and, as there had been some interest in reviewing the criteria, advised that this could be considered in the autumn once the current appointments process had concluded and further information was available on the future arrangements for Standards Committees.

The Standards Committee made two amendments to the proposals in Appendix A:

- **9.02(d) Parish Members**, fifth bullet point: “Parish Member candidates shall be nominated by parish councils at their Annual Meeting, where an election **has been** held for that parish council, or at the earliest scheduled parish council meeting after the commencement of the appointments process, ...”
- **9.02(f) Term of Appointment**: “...A **Parish Member** shall cease to be a member of the committee if he / she is no longer of ~~the a~~ Parish Council ~~which nominated him / her.~~ ...”

Subject to the above changes being incorporated, the Standards Committee unanimously **RECOMMENDED TO COUNCIL** adoption of the amendments made to Article 9 of the Constitution (The Standards Committee).

**9. 2010 ANNUAL ASSEMBLY OF STANDARDS COMMITTEES: A PLACE FOR STANDARDS - BIRMINGHAM, 18-19 OCTOBER 2010**

The Standards Committee **NOTED** the cancellation of the 2010 Annual Assembly of Standards Committees and the forthcoming refund of the booking fees.

**10. PARISH COUNCIL TRAINING: RECOMMENDATION FROM THE PARISH LIAISON WORKING GROUP**

Chris Tomsett, Chairman of the Parish Liaison Working Group (PLWG), presented the responses received to the Parish Council Questionnaire and apologised that the PLWG had not been able to meet before the full Committee meeting to form a response. He thanked officers for the summary of responses and outline analysis, and highlighted that:

- There had been a 30% response rate;
- There had been some encouraging information, but also some areas for concern, such as those Parish Councils which had not adopted obligatory Financial Regulations;
- 2/3 of the Chairmen who responded had not had any specific Code of Conduct training, nor had 1/3 of the Clerks;
- 6 Parish Councils reported that the distinction between personal and prejudicial interests was not fully understood;
- All the respondents had paid Clerks, and more than half of the Clerks had obtained a CiLCA (Certificate in Local Council Administration) or other qualification;
- 21 of 27 respondents found the Standards Committee newsletter helpful and 23 of 27 respondents used the Parish Council Toolkit.

In light of the possible changes to the Standards framework, the Committee felt that it was appropriate to wait until the September 2010 meeting before finalising a Parish Council training programme, and that officers contact those parishes which did not respond to invite them to complete the questionnaire within the next fortnight to better inform the PLWG consideration of responses.

The Standards Committee **NOTED** the responses received to the Parish Council Questionnaire and **AGREED** that the Parish Liaison Working Group use the findings to develop the 2010/11 Parish Council training programme.

**11. GAMLINGAY PARISH COUNCIL: FURTHER REQUEST FOR DISPENSATION**

Councillor Nick Howard, Gamlingay Parish Council, had applied for a four-year dispensation from matters concerning Gamlingay Community Centre, for which the Parish Council was the holding / custodian trustee. The Standards Committee previously had granted identical dispensations to all other members of Gamlingay Parish Council, and had advised any newly co-opted or elected Parish Councillors to apply for the same dispensation as soon as possibly after co-option or election.

The Standards Committee **AGREED** to grant a four-year dispensation to Councillor Nick Howard of Gamlingay Parish Council from matters concerning Gamlingay Community Centre, with the reminder that he must still declare an interest in such issues and that he has been granted a dispensation from that interest.

**11 (a) ELTISLEY Parish Council: Request for Dispensations**

*Late item accepted as urgent with the permission of the Chairman, as to defer a decision on granting dispensations would leave Eltisley Parish Council unable to discuss matters relating to the Village Green Trust or the Allotments for the Labouring Poor.*



The Standards Committee, at its 17 June 2009 meeting, had granted one-year dispensations to all members of Eltisley Parish Council from matters concerning Eltisley Village Green Trust and the Allotments for the Labouring Poor, charities for which the Parish Council was the sole trustee, and which can operate only through the members of Eltisley Parish Council. Eltisley Parish Councillors were asked to re-apply for dispensations following the 2010 elections, the applications having been received the day before the Standards Committee meeting.

The Standards Committee **AGREED** to grant four-year dispensations to Councillors Sheila Childerley, Mike Copley, Martin Lines, Roger Pinner, John Pettifor and Angela Weldon of Eltisley Parish Council from matters concerning Eltisley Village Green Trust and the Allotments for the Labouring Poor, with the reminder that they must still declare an interest in such issues and that they have been granted dispensations from that interest.

## 12. **STANDARDS COMMITTEE BUDGET 2009/10: REVIEW**

The Standards Committee budget for 2010/11 remained at £15,040, unchanged from the previous year. Following the cancellation of the Annual Assembly, a full refund for which had been promised, the spend on the current year's budget was £3,388.79. The Deputy Monitoring Officer explained that there had not been any external investigations work during 2009/10, as all investigations had been conducted internally, and that, once the investigator returned from her maternity leave, it was anticipated that she would resume local investigations as required.

The payment of travel and subsistence expenses, and co-optees' allowances, for the Independent and Parish Council Members was paid from the Democratic Representation budget as part of the Members' Allowances Scheme. There had been £4,718.99 paid to co-opted members in 2009/10, including allowances.

Members welcomed Standards for England's recommendation that decision notices be published on an authority's website, rather than the legislative requirement for publication in a local newspaper, which would save nearly £1,000 per notice, although it remained to be seen whether the government would act on this proposal.

The Standards Committee **NOTED** the budget report.

## 13. **STANDARDS FOR ENGLAND REVIEW OF THE FRAMEWORK: VERSION 2.0 - THE PROPORTIONALITY UPGRADE**

The Standards Committee **NOTED** the Standards for England review of the local framework.

## 14. **WHISTLEBLOWING POLICY: INTERNAL AUDIT MANAGER'S ANNUAL REPORT 2009/10**

The Standards Committee **RECEIVED** the internal audit manager's annual report, which demonstrated that the Whistleblowing Policy was working and that people were aware of it, and also that the anonymity of whistleblowers was protected.

The Deputy Monitoring Officer undertook to clarify with the internal audit manager that the Standards Committee did not have the responsibility "to monitor the implementation of the recommendation(s) of the investigation".

## 15. **UPDATE FROM ASSESSMENT AND REVIEW PANELS**

Eric Revell, Chairman of the Local Assessment Panel 2009/10, presented the update on cases received and noted that there had been a tendency to use the Code of Conduct complaints process to try to address issues outside its scope, such as working relationships between the parish council and other village committees. With only one exception at the very start of the civic year, all the allegations received had related to parish councillors.

It was clarified that complainants identified as "Other", rather than as parish or district councillors, could refer to council officers, parish clerks, contractors employed by parish councils, and members and employees of, for example, the local fire and police authorities.

Members commended the average of 10.4 working days between receipt of a complaint and a local assessment decision, well within the 20 working day national target.

The Standards Committee **RECEIVED** the updates from the Assessment and Review Panels.

## 16. **LOCAL INVESTIGATIONS, HEARINGS AND REFERENCES MADE TO STANDARDS FOR ENGLAND**

The Standards Committee, on 10 December 2008, had resolved that cases in which no breach of the Code of Conduct had been found or where no further action was to be taken, would be anonymised for the purposes of reporting back to the Committee. Although there was one recent case where no breach had been found, the issue had received publicity in the local paper and, with the permission of the subject member, the full report was included on the agenda.

### ***CORCOM 3768-3798-3799 (Hearing Panel, Determination Meeting, 12 April 2010)***

The Deputy Monitoring Officer explained that the subject member, Councillor Norma Kay of Waterbeach Parish Council, had appealed against the decision of the Hearing Panel to censure her after finding breaches of the Code of Conduct relating to bullying, failure to treat others with respect, and bringing her office as parish councillor into disrepute, but that the First-Tier Tribunal (Local Government Standards in England), formerly the Adjudication Panel for England, had not granted permission to appeal as it did not consider that the appeal would have any reasonable prospect of success.

Members discussed the hearing, and previous hearings:

- Members of the Hearing Panel rejected absolutely Councillor Kay's allegation that she would not have had a fair hearing but, as the Panel could make its determination based only upon the evidence presented to it, Councillor Kay's decision to resign and leave the hearing meant that the Panel could proceed only upon the Investigating Officer's report and the statements of the complainants;
- Censure was the only sanction available to a local panel when the subject member was no longer a district or parish councillor;
- The complainants were fully entitled to sit with the Investigating Officer as they had been called to attend the hearing as the Investigating Officer's witnesses;
- A last-minute demand to accommodate a Planning Inquiry had resulted in a previous hearing being conducted around a table at the side of the Council Chamber as the only facilities available with ten minutes' notice before the start of the hearing. Previous remarks about inconsistency had already been taken on board and the Standards Committee had agreed some time ago that all hearings be held in a formal setting in the Council Chamber;
- There were very different circumstances surrounding Councillor Kay's hearing and

that held for Councillor Corney in May 2009: Councillor Corney had accepted that she had breached the Code of Conduct and had asked for training, she had not disputed any of the evidence in the Investigating Officer's report nor called any witnesses, and the complainant declined to participate. As a consequence, the hearing did not last as long nor involve as many people;

- A Hearing did not cease when the subject member resigned, as the complaint still had been made and investigated, and must be addressed.

### **Other Cases**

The Deputy Monitoring Officer reported that the Hearing Panel had considered two cases on 9 June 2010, and both had been referred to public hearings. The final report in a third investigation had now been issued and the draft report for a fourth investigation was expected soon, so a Hearing Panel meeting would be required soon to consider these two latest investigation reports.

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

The Deputy Monitoring Officer had provided a mini-session on the Code of Conduct for the nine new district councillors in mid-May 2010, and a more detailed session was planned for late June or early July.

The Standards Committee **NOTED** the training materials provided and mini-sessions conducted.

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

The Deputy Monitoring Officer drew attention to two recent case summaries from Standards for England, both dealing with Fenland District Councillors who had allegedly disclosed confidential information, a situation on which there had been few previous case summaries. She undertook to find more detailed decision notices and forward them to Standards Committee members, as the Committee felt that the summaries were not sufficiently detailed to enable them to determine what had happened.

The Standards Committee **NOTED** the case summaries from Standards for England and from the First-Tier Tribunal (Local Government Standards in England).

## **19. DATE OF NEXT MEETING**

The Standards Committee **NOTED** that the next meeting would be on Wednesday 15 September 2010 at 10 am.

## **20. MEETINGS OF STANDARDS COMMITTEE PANELS**

Following the Standards Committee meeting, the Standards Committee panels met to elect their Chairmen for the 2010/11 Civic Year. Chairmen were elected as follows:

<b>Body</b>	<b>Chairman</b>
Standards Committee Hearing Panel	Georgina Butcher, Independent Member
Standards Committee Local Assessment Panel	Eric Revell, Independent Member
Standards Committee Review Panel	James Williams, Independent Member

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**The Meeting ended at 11.45 a.m.**

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

Minutes of a meeting of the Standards Committee held on  
Thursday, 19 August 2010 at 11.00 a.m.

PRESENT: Kathy English (Independent Member) – Chairman  
Alan Hampton (Independent Member) – Vice-Chairman

Members:

Bob Bryant	Parish Member
Georgina Butcher	Independent Member
Michael Farrar	Parish Member
John House	Independent Member
Cicely Murfitt	District Council Member, non-group
Tony Orgee	District Council Member, Conservative Group
Raith Overhill	Independent Member
Alex Riley	District Council Member, Independent Group
James Williams	Independent Member

Officers: Gary Duthie Senior Lawyer

Apologies for absence were received from Diane Best, Nigel Cathcart, Roger Hall, Janet Lockwood, Mary Pilfold-Allan, Eric Revell and Jim Stewart.

**21. DECLARATIONS OF INTEREST**

None

**22. CAXTON PARISH COUNCIL: REQUESTS FOR DISPENSATIONS**

Members considered applications for dispensation from 5 members of Caxton Parish Council who all lived on Ermine Street, Caxton, which in the main is a typical ribbon development along the historic Ermine Street.

Several members were concerned that Parish Councillors and the Clerk might previously have been given conflicting information concerning proximity and prejudicial interest, which had resulted in this 'abundance of caution' application.

It was felt that restriction of the dispensation to matters relating to Ermine Street would suffice and that those members of Caxton Parish Council granted dispensations should be advised within the grant letter that they must still declare an interest in all matters concerning Ermine Street, adding as a matter of good practice that they have been granted a dispensation by the Standards Committee.

Standards Committee **RESOLVED** to grant dispensations in regard to matters concerning Ermine Street, Caxton to Caxton Parish Councillors; Richard Bartram, Margaret Harrison, Kirsty Human, Nigel Pearson and Robert Steel and that those dispensations last for the duration of the current Parish Council.

**23. GAMLINGAY PARISH COUNCIL: REQUESTS FOR DISPENSATIONS**

Members considered applications for dispensation from 7 members of Gamlingay Parish Council to enable them to participate in determinations within the Parish Council of

matters relating to the Gamlingay Community Centre.

The Parish Council as a whole was custodian trustee and as such all Councillors had a personal interest in the Community Centre which would be prejudicial in matters concerning finance or regulatory matters.

It was felt that those members of Gamlingay Parish Council granted dispensations should be advised within the grant letter that they must still declare an interest in all matters concerning the Community Centre, adding as a matter of good practice that they have been granted a dispensation by the Standards Committee.

Standards Committee **RESOLVED** to grant dispensations in regard to any matters concerning Gamlingay Community Centre to Gamlingay Parish Councillors; Peter Dolling, David Finnigan, Lewis Girdwood, Maggy Halliday, Jason Nicholas, David Sadler and Ian Simpson, and that those dispensations last for the duration of the current Parish Council.

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**The Meeting ended at 11:12pm**

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**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

**REPORT TO:** Standards Committee

15 September 2010

**AUTHOR/S:** Executive Director (Corporate Services) / Legal and Democratic Services Manager

**BASSINGBOURN-CUM-KNEESWORTH PARISH COUNCIL: REQUESTS FOR DISPENSATIONS**

**Purpose**

1. The fifteen Bassingbourn-cum-Kneesworth Parish Councillors wish to apply formally for dispensations in respect of Bassingbourn Recreation Ground Charities. This is not a key decision.

**Recommendations and Reasons**

2. That the Standards Committee grant dispensations until May 2014, the duration of the current Parish Council, to Bassingbourn-cum-Kneesworth Parish Councillors Danny Bunton, Bob Clarke, Brian Dickerson, Tony Geraghty, Geoff Goater, Mike Hallett, Brenda Mead-Blandford, Daniel Nichols, Curtis Pidgeon, Lynn Pidgeon, Peter Robinson, Simon Saggars, Mark Sappol, Valerie Vigus and Rupert Webb in respect of issues concerning Bassingbourn Recreation Ground Charities, with the reminder that they are still to declare an interest in any matters concerning Bassingbourn Recreation Ground Charities as described below, and to declare that they have received a dispensation for that interest
3. That the Parish Council be advised that any new parish councillors elected or co-opted to the Parish Council should apply for similar dispensations as soon as reasonably practicable after election or co-option.

**Background**

4. Bassingbourn-cum-Kneesworth Parish Council is the sole Trustee of the Bassingbourn Recreation Ground Charities. The Trust can operate only through the members of the Parish Council.
5. Under *The Standards Committee (Further Provisions) (England) Regulations 2009*, the Standards Committee may grant a dispensation to a member in the following circumstances:
  - (a) where the transaction of business of the authority would, but for the grant of any other dispensation in relation to that business, on each occasion on which the dispensation would apply, otherwise be impeded by, or as a result of, the mandatory provisions because
    - (i) the number of members of the authority prohibited from voting on the business of the authority at a meeting exceeds 50% of those members that, but for the granting of any dispensations relating to that business, would otherwise be entitled to vote on that business; or
    - (ii) the number of members prohibited from voting on the business of the authority at a meeting would, but for the granting of any dispensations relating to that business, upset the political balance of that meeting to such an extent as to prejudice the outcome of voting in that meeting;

- (b) the member has submitted to the standards committee a written request for a dispensation explaining why it is desirable; and
  - (c) the standards committee concludes that having regard to the matters mentioned in sub-paragraph (a) above, the written request made pursuant to sub-paragraph (b) above, and to any other relevant circumstances of the case, it is appropriate to grant the dispensation.
6. Nothing in paragraph 3 above shall permit a dispensation to be granted
- (a) in respect of participation in business of the authority conducted more than four years after the date on which the dispensation is granted; or
  - (b) where the effect of the mandatory provisions from which a dispensation is sought is that
    - (i) a member is prohibited from voting on a matter at a meeting of an overview and scrutiny committee of an authority relating to a decision made by any body of which that person was a member at the time the decision was taken; or
    - (ii) a member of the authority's executive is prohibited from exercising functions which are the responsibility of the executive of the authority and which would otherwise be discharged by that member solely.

**Considerations**

7. All fifteen members of Bassingbourn-cum-Kneesworth Parish Council have applied in writing for dispensations until May 2014 in respect of any matters concerning Bassingbourn Recreation Ground Charities. Bassingbourn-cum-Kneesworth Parish Council meets the requirements of the 2009 Regulations and there is nothing in their applications to prevent the Standards Committee from granting their requests.

**Options**

8. Not to grant a dispensation in respect of issues concerning Bassingbourn Recreation Ground Charities would leave the Parish Council unable to discuss any issues concerning this part of the village, and the Trust can only operate through the Parish Council.
9. The Standards Committee has been asked to grant dispensations for the duration of the current Parish Council, although it could grant dispensations for a shorter term.

**Implications**

10. Financial	None.
Legal	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 Bassingbourn Recreation Ground Charities, for which I have been granted a dispensation by the Standards Committee".
Staffing	None.
Risk Management	None.
Equal Opportunities	None.
Climate Change	None.



**Consultations**

11. Mrs S Walmesley, Bassingbourn-cum-Kneesworth Parish Clerk.

**Effect on Strategic Aims**

12. Commitment to being a listening council, providing first class services accessible to all: The Standards Committee has previously granted similar dispensations to the members of Barrington, Barton, Coton, Eltisley, Foxton and Gamlingay Parish Councils, all of which were Trustees of local charities.
13. Commitment to making South Cambridgeshire a place in which residents can feel proud to live: Bassingbourn Recreation Ground is an amenity which the Parish Council maintains for the benefit of residents.
14. Commitment to providing a voice for rural life: The Standards Committee has the power to grant a dispensation upon request from a parish council.

**Background Papers:** the following background papers were used in the preparation of this report:

The Standards Committee (Further Provisions) (England) Regulations 2009  
Agendas and Minutes of Standards Committee 3 October 2002, 10 May 2006, 8  
November 2006, 7 June 2007, 11 March 2009, 17 June 2009, 16 June 2010  
Dispensation Applications from Bassingbourn-cum-Kneesworth Parish Councillors  
(available on the SCDC website)

**Contact Officer:** Holly Adams – Democratic Services Team Leader  
Telephone: (01954) 713030

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## Parish Council Member's Application for a Dispensation

**To: Standards Committee, South Cambridgeshire District Council**

Under Section 81 of the Local Government Act 2000, a member who has a prejudicial interest in a matter which is under consideration may not participate in the consideration of that matter by the Parish Council unless he / she has first obtained a dispensation from the Standards Committee of South Cambridgeshire District Council. The powers to grant a dispensation are governed by the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002. You may apply for a dispensation by completing this form and sending it to the Monitoring Officer of South Cambridgeshire District Council. Please do so as soon as you are aware of the possible conflict, before South Cambridgeshire District Council Standards Committee is due to meet and before the matter is due to be considered by the Parish Council. Please complete the attached form as fully as possible as the request for dispensation must be written and explain why the dispensation is desirable.

Please note that for Standards Committee to conclude that it is appropriate to grant a dispensation it must have regard to the reason for the request, the content of the written application and to all the other circumstances of the case.

***If you are granted a dispensation, please note that the Standards Committee must be notified if the circumstances under which it was granted change.***

Your Name and Parish Council / Meeting:

### **BASSINGBOURN-CUM-KNEESWORTH PARISH COUNCIL**

What is the matter which is shortly to be considered and in respect of which you seek a dispensation?

### **DECISIONS ON RECREATION GROUND MATTERS –ALL COUNCILLORS ARE TRUSTEES**

Is this matter to be considered by the Parish Council as a whole or by a sub-committee? If the latter please provide the name of the sub-committee.

### **THE PARISH COUNCIL AS A WHOLE**

What is the nature of your prejudicial interest?

### **ALL PARISH COUNCILLORS ARE TRUSTEES OF THE RECREATION GROUNDS**

What is the date of the meeting at which this matter is to be considered?

**MEETINGS FROM THE END OF SEPTEMBER 2010**

The grounds for dispensation is that the number of Members of the body that are prohibited from participating in the business of the authority exceeds 50% of those Members that are entitled or required to so participate. Please provide details confirming this:


**CONFIRMED**

Do you seek a dispensation just for the one meeting or for a longer period? If longer, please state a period not exceeding four calendar years.

**2010 -2014 MAXIMUM PERIOD**

Please set out below the reasons why you consider the Standards Committee should grant this dispensation:

**TO ALLOW MEMBERS TO MAKE DECISIONS ON RECREATION GROUND MATTER :**

Signed: .....  ..... Date: ..... 1/9/10 .....

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Standards Committee

15 September 2010

**AUTHOR/S:** Executive Director (Corporate Services) / Legal and Democratic Services  
Manager

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**CROYDON PARISH COUNCIL: REQUESTS FOR DISPENSATIONS****Purpose**

1. All seven members of Croydon Parish Council have applied formally for dispensations to enable them to remain in meetings and to discuss and vote on planning matters. This is not a key decision.

**Recommendations and Reasons**

2. That the Standards Committee grant dispensations until May 2012, the duration of the current Parish Council, to Croydon Parish Councillors Colin Friend, Tim Hancock, Michelle Hunter, Paul Martin, Susan Slator, Frank Sole and Garth Wheeler with the reminder that they
  - (a) must declare an interest in all specific planning matters in which they have a declarable interest;
  - (b) must declare the nature of that interest;
  - (c) must declare that they have received a dispensation for that interest;the dispensation to be effective only in situations where 50% or more of the Parish Council would otherwise be unable to participate.

**Background**

3. Under *The Standards Committee (Further Provisions) (England) Regulations 2009*, the Standards Committee may grant a dispensation to a member in the following circumstances:
  - (a) where the transaction of business of the authority would, but for the grant of any other dispensation in relation to that business, on each occasion on which the dispensation would apply, otherwise be impeded by, or as a result of, the mandatory provisions because
    - (i) the number of members of the authority prohibited from voting on the business of the authority at a meeting exceeds 50% of those members that, but for the granting of any dispensations relating to that business, would otherwise be entitled to vote on that business; or
    - (ii) the number of members prohibited from voting on the business of the authority at a meeting would, but for the granting of any dispensations relating to that business, upset the political balance of that meeting to such an extent as to prejudice the outcome of voting in that meeting;
  - (b) the member has submitted to the standards committee a written request for a dispensation explaining why it is desirable; and
  - (c) the standards committee concludes that having regard to the matters mentioned in sub-paragraph (a) above, the written request made pursuant to sub-paragraph (b) above, and to any other relevant circumstances of the case, it is appropriate to grant the dispensation.
4. Nothing in paragraph 3 above shall permit a dispensation to be granted

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

### Considerations

5. The parish councillors have noted on their application forms that the small size of the parish increases the likelihood that more than 50% of the parish council could be unable to participate in discussions of planning matters. They add, "Planning matters are of great local importance and the views of Parish Councils are always considered by South Cambs Planning Department, although the Parish itself has no power to determine the outcome of any planning application. A dispensation for all the serving councillors would help with any situations where an interest may preclude their participation."
6. Applications have been received from all seven members, and one is attached to this agenda as an example (all have used identical wording). All seven are available on-line. The maximum time for which a dispensation may be granted is four years; the applicants have asked for dispensations until May 2012, the duration of the current Parish Council.
7. Dispensations should not be granted solely to enable participation in matters in which an elected members has a prejudicial interest; however, the Standards Committee will appreciate that in smaller villages, networks of friends, colleagues and family members can overlap considerably, and members of a parish council often are acquainted with the majority of village residents. Rather than granting general dispensations from all planning matters, the Standards Committee could grant dispensations which came into effect only when certain specific conditions were met:
  - (a) Each individual member must consider his / her interests in relation to each planning application on the agenda and identify a declarable personal and prejudicial interest as defined by the Code of Conduct; **and**
  - (b) More than 50% of the parish council would be unable to participate without dispensations; **and**
  - (c) Each member must state individually his / her interests in relation to the agenda item, the nature of that interest, and that he / she had received a dispensation from the Standards Committee in respect of that interest, all of which must be fully recorded in the minutes of the meeting and on any representations made to the local planning authority.
8. Croydon Parish Council has adopted the Local Authorities (Model Code of Conduct) Order 2007, including Paragraph 12(2), which would enable members with a prejudicial interest to remain in the meeting room during discussion of the planning application, "for the purpose of making representations, answering questions or giving evidence relating to the business", provided that the public were also able to attend the meeting for the same purpose. In circumstances where fewer than 50% of the parish councillors had personal and prejudicial interests, these members would still

be able to speak on items without a dispensation, and would be precluded only from voting.

**Options**

9. Not to grant a dispensation could leave the Parish Council unable to discuss certain planning matters where more than 50% of the members had prejudicial interests.

**Implications**

10. Financial	None.
Legal	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 in this application as [state reason], for which I have been granted a dispensation by the Standards Committee".
Staffing	None.
Risk Management	None.
Equal Opportunities	None.
Climate Change	None.

**Consultations**

11. None.

**Effect on Strategic Aims**

12. Commitment to being a listening council, providing first class services accessible to all: The Standards Committee has previously granted similar dispensations in 2007 to the five members of Hatley Parish Council.
13. Commitment to providing a voice for rural life: The Standards Committee has the power to grant a dispensation upon request from a parish council.

**Background Papers:** the following background papers were used in the preparation of this report:

- The Standards Committee (Further Provisions) (England) Regulations 2009
- Agendas and Minutes of Standards Committee 14 November 2007
- Dispensation Applications from Croydon Parish Councillors

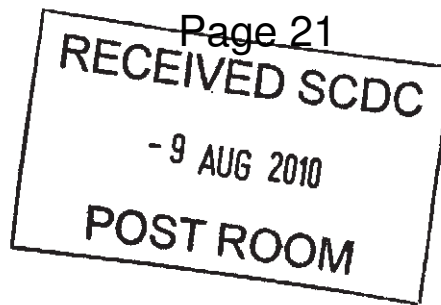
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# Croydon Parish Council

Chairman: Mr G Wheeler



Clerk to the Council  
Mrs M J Burling  
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E-mail: [croydonpc@totalise.co.uk](mailto:croydonpc@totalise.co.uk)

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South Cambs District Council  
South Cambs Hall  
Cambourne Business Park  
Cambourne  
Cambridge  
CB23 6EA

4 August 2010

**For the attention of the Standards Committee**

Dear Sirs

Please find enclosed an en bloc application for dispensation from all members of Croydon Parish Council, for consideration at your meeting on 15 September.

Yours faithfully



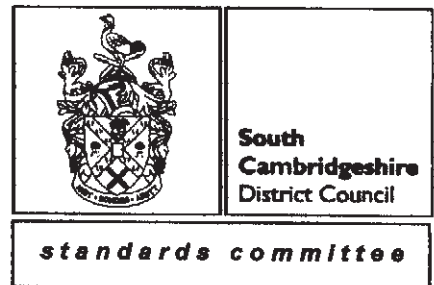
M J Burling (Mrs)  
Clerk to Council

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## Parish Council Member's Application for a Dispensation

**To: Standards Committee, South Cambridgeshire District Council**

Under Section 81 of the Local Government Act 2000, a member who has a prejudicial interest in a matter which is under consideration may not participate in the consideration of that matter by the Parish Council unless he / she has first obtained a dispensation from the Standards Committee of South Cambridgeshire District Council. The powers to grant a dispensation are governed by the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002. You may apply for a dispensation by completing this form and sending it to the Monitoring Officer of South Cambridgeshire District Council. Please do so as soon as you are aware of the possible conflict, before South Cambridgeshire District Council Standards Committee is due to meet and before the matter is due to be considered by the Parish Council. Please complete the attached form as fully as possible as the request for dispensation must be written and explain why the dispensation is desirable.

Please note that for Standards Committee to conclude that it is appropriate to grant a dispensation it must have regard to the reason for the request, the content of the written application and to all the other circumstances of the case.

***If you are granted a dispensation, please note that the Standards Committee must be notified if the circumstances under which it was granted change.***

Your Name and Parish Council / Meeting:

COWN FRIEND

Croydon Parish Council

What is the matter which is shortly to be considered and in respect of which you seek a dispensation?

Any planning matters pertaining to the Parish

Is this matter to be considered by the Parish Council as a whole or by a sub-committee? If the latter please provide the name of the sub-committee.

Parish Council as a whole

What is the nature of your prejudicial interest?

There could be an occasion where so many councillors have to declare an interest that there will be insufficient councillors to form a quorum.

What is the date of the meeting at which this matter is to be considered?

Any meeting between May and the next Parish Council elections.

The grounds for dispensation is that the number of Members of the body that are prohibited from participating in the business of the authority exceeds 50% of those Members that are entitled or required to so participate. Please provide details confirming this:

There are only seven members of Croydon Parish Council and because of the size of the parish, there is always a strong possibility that some of the councillors may have a prejudicial interest in the item under discussion.

Do you seek a dispensation just for the one meeting or for a longer period? If longer, please state a period not exceeding four calendar years.

Croydon Parish Council would ask that the dispensation be in place until the next Parish Council elections, when a new request will be made.

Please set out below the reasons why you consider the Standards Committee should grant this dispensation:

Planning matters are of great local importance and the views of Parish Councils are always considered by South Cambs Planning Department, although the Parish itself has no power to determine the outcome of any planning application. A dispensation for all the serving councillors would help with any situations where an interest may preclude their participation.

Signature

Signed: .....

Date: .....

16 JUNE 2010

**Standards Committee: Parish Liaison Working Group**

The group met on Monday 19<sup>th</sup> July '10 to consider further the responses to the survey carried out in May/June. Those present were: K English, M Farrar, B Bryant, C Tomsett. The discussion focused mainly on those areas that related to the Code of Conduct, and the key issues identified as ones to bring to the attention of the Standards Committee are listed below.

- Level of response: only 27 of 90 Parish Councils responded. The group speculated on the possible reasons for this, and suggested that the following were possible:
  - workload
  - lethargy
  - antipathy towards the Standards regime
  - awareness of the uncertainty over Government plans for the process
- Training: responses indicated a low involvement in training by Chairs, and to a lesser extent Clerks. In any Council the group saw these two people as key in the proper functioning of the PC in relation to the code. However, it was also recognised that all Councillors should be encouraged to engage in appropriate training. In discussion there were indications that new councillors coming on to PC's were displaying a greater willingness to engage in training than had previously been the case.

It was noted that training available to PC's was provided through different agencies: those indicated in the returns were CPALC, SLCC, and SCDC. (For Clerks there were also other routes to recognised qualifications). The group **recommends** that SCDC takes a clear lead in training related to the Code of Conduct, and it is suggested that this should be offered on an annual basis at an early stage of the Parish Council year - that is, following elections and/or annual meetings. Either June or September were suggested. Consideration will need to be given as to how to make this accessible to the greatest number.

- Standards Newsletter: the responses regarding this were generally positive. The group felt that the Newsletter could perhaps be used as a vehicle to raise awareness of Code related issues. One suggestion was that the inclusion of brief 'cameos' of case studies could provide a basis for useful discussion at a local level. For example, asking the question "What would you do in this situation...?"
- Visits to PCs: the practice of Standards Committee members visiting PC's was seen as an effective way of awareness raising, and that this facility should be made available to PC's. Such a visit should not just be for observation, but to make a brief input on the Code, and address questions.
- Other issues: the Group noted the other issues in the survey, such as review of financial regulations, practice related to internal audit, and the desire for a general sharing of information. It was recognised that many of these fall outside the remit of the Standards Committee, and it is suggested that there may be value in sharing some information from the survey returns with CPALC.

*cft 20<sup>th</sup> July 2010*

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## Introduction

This Bulletin comes at a time of big change for us following the Government's announcement of its intention 'to abolish the Standards Board regime'. Whilst we still await the detail of this policy, we will share with you what we know about what is proposed, and outline the timetable for our closure.

Although we have had to modify our work programme in light of this proposal, we remain 'open for business' and set out in this Bulletin our schedule of activities for the coming year. We are committed to continuing to work with you and support you in operating the standards framework successfully.

This is a sad month for us as we say goodbye to many valued staff leaving the organisation in our first wave of redundancies. We are losing people who have contributed much to this organisation, and many of whom have worked for us for some time. They will be much missed. We wish them all well in their future endeavours and thank them sincerely for their hard work.

## The Future of Standards for England and the Standards Framework

The Government's 'Programme for Government' of 20 May 2010 contained the commitment to "abolish the Standards Board regime". Primary legislation is needed to abolish Standards for England, and we expect the provisions to be included in the planned Decentralisation and Localism Bill which is due to be presented in late 2010, with Royal Assent anticipated between July and October 2011. This is likely to lead to final closure of this organisation sometime between 31 December 2011 and 31 March 2012. We have not seen any transitional provisions at this stage but will provide an update in a later Bulletin, when we know more.

In the light of these circumstances we have reviewed our business plan for this year and next. Our current priorities are to fulfil our statutory duties, to support local authorities in maintaining high standards and to assist the government in developing and implementing any new arrangements they may choose to put in place.

In the meantime, the local standards framework still exists and standards committees and monitoring officers have an obligation to keep the system operating.

### In order to assist you we will:

- Continue to provide advice and information to those who phone or write to us with queries about the standards regime via our enquiries helpline, monitoring officer helpline or press helpline. We will respond immediately where we can by telephone or in writing by post or email.
- Update our guidance on the framework to make it easier to use.

There will be changes to the content of the guidance where sections may be out of date, inaccurate or incorrect. We have received several suggestions from stakeholders and will incorporate these in the guidance where appropriate.

The format of the guidance is changing to make it easier to use and more helpful. It will highlight all statutory requirements and provide a link to the relevant legislation.

We are not proposing to produce any other new guidance products, unless a specific need is identified. All revised guidance will only be available via our website.

- Produce an updated case review.

As a result of a request from the Association of Council Secretaries and Solicitors, and to assist the standards community as a whole, we are updating the Case Review 2007 to reflect cases decided by the First Tier and Upper Tribunals since the Case Review was last updated in 2008.

- Continue to carry out investigations referred to us by standards committees.

See the article towards the end of this bulletin on the factors we take into account when deciding whether to accept cases for investigation

- Maintain existing relationships with key stakeholder organisations.

Standards for England will continue to provide support to those in the regulated and standards community who have requested our help with ethical issues.

- Meet requests for staff to give presentations or attend training events.

We will continue to provide staff and material for presentations and training events where we are requested to attend and where it fits in with our current business plan.

- Maintain our web site as a resource to support standards committees.

We will carry out routine maintenance of our website and the guidance we provide on it. We have published our Annual Report and Annual Accounts online but we will not be printing these publications.

## **An update on monitoring returns**

In June 2010 we sent out an email to all monitoring officers explaining that we had decided to postpone the return for the April to June quarter. As part of the review of the Business Plan we considered our requests for local authorities to complete quarterly monitoring. There will be no further requests for the submission of quarterly or annual returns. We do not anticipate re-establishing these procedures, unless a specific monitoring need arises in which we have to play a part.

The online questionnaires have been removed from our website and are now inaccessible. However, the information submitted by local authorities is available on request. If any authority wishes to obtain a copy we can provide them with pdf versions of any of the following:



- The standards committee composition details, correct as of the last date of monitoring (31 March 2010)
- Two years of case information, listed in chronological order by date received
- Annual Return 2008/09
- Annual Return 2009/10

Please email requests to [authorityreturns@standardsforengland.gov.uk](mailto:authorityreturns@standardsforengland.gov.uk)

Aggregated summary statistics of the quarterly return information are still available online at

<http://www.standardsforengland.gov.uk/CaseinformationReporting/Localstatistics/>

We will shortly be publishing an online report of the annual return information collected for 2009/10. This includes an introduction to the data, a key figures page, a summary of the findings and a full list of all the most common responses to each question.

## Acceptance of Complaints by SfE

We have reviewed the factors we take into account when assessing if we will accept cases in the public interest, referred to us by local standards committees, for investigation. We reviewed the factors to see whether they were still appropriate taking into account the Government's stated policy, its localist approach to regulation of local government and our reduced budget.

We concluded that both the underlying criterion of public interest and the relating factors are consistent with our statutory purpose and continue to be valid while the current standards framework remains in place. Therefore we have not made any changes to the factors or criterion. However, when considering whether to accept cases we will have to have regard to the resources we have available and take account of the relative importance of cases.

## Reappointment of Independent members

We have been asked if an authority has to follow our recommendation that independent members serve no more than two terms of four years after which new members should be recruited. Some authorities are concerned that, given the current uncertainty regarding the future of the standards regime, it may be preferable to retain those who have been trained and understand their role rather than to try to recruit and appoint new members. In light of the uncertain future of the standards framework we advise that, 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.

## Tell us how it should be done

The Standards Forum now has more than 1,100 users and over 200 posts on almost 70 different topics. The subjects of vexatious complaints, informing the subject member about a complaint and promoting ethical behaviour continue to be popular. More recently posts about subject members resigning before an election and discussions about the future of the standards regime have been generating interest.

If you have anything to say about these issues or if you want to share good practice, seek advice from your peers or simply draw attention to something you think might be relevant to others, do it on the Forum. To have your say, visit:

[www.standardsforengland.gov.uk/resources/TheStandardsForum/](http://www.standardsforengland.gov.uk/resources/TheStandardsForum/)

The Forum is open to members of standards committees, monitoring officers and other relevant council officers. If you are not currently registered for the Forum and would like to have access, please email: [forum@standardsforengland.gov.uk](mailto:forum@standardsforengland.gov.uk)

# Blogging

## Introduction

Blogging is increasingly becoming an important and legitimate part of the operation of a democratic society. It is an efficient, cost-effective and enjoyable way to get in touch with constituents and discuss important issues with the community you represent.

This guide is aimed at members who are new to blogging and social networking as well as experienced bloggers and networkers. It may also be helpful for standards committee members and monitoring officers. It explains the positive role of blogging. It provides information on how the Code of Conduct (the Code) may apply to blogging and social networking and gives some examples of tribunal cases that have dealt with the issues.

## What is a blog?

A blog is a frequently updated individual website discussing subjects ranging from the personal to the political. It may focus on one narrow subject or a whole range of subjects.

## What is social networking?

Social networking is an online method of sharing information, photos and views with contacts and associates. Examples of social networking sites are Facebook, Twitter and MySpace.

## How do members use blogging and social networking?

There are a number of different ways you can use social networking or blogging.

Social networking or blogging can be:

- sponsored by your authority e.g. a leader or members blog
- carried out as an individual
- carried out anonymously

It is important to note that when blogging the Code may apply. This will depend on the factors explored below.

### Using council provided media

If you use online media to promote your work as a member or through council websites you will be regarded as conducting the business of the authority. Communicating in this way is most likely to engage the Code.

### As an individual

The content of private, non-political blogs are less likely to engage the Code. It will again depend upon the particular facts whether or not the Code applies.

It is the content of a blog and the circumstances surrounding its creation that will determine whether or not its content falls under the Code. A disclaimer in a private blog which says that any comments are not made in an official capacity will not necessarily prevent breaches of the code being found. See Mullaney and Dorrian cases below.

### Anonymous blogging

Anonymous satirical websites raise other issues. The first point to consider is whether it can be proved that you uploaded the site content. Although this may be generally suspected, the First Tier Tribunal (Local Government Standards in England) would expect an Ethical Standards Officer to be able to prove (on a balance of probabilities) that the content has been uploaded by a member. A standards committee would also expect similar proof from an investigating officer. If proof is established it is then necessary to show that you acted, claimed to act or gave the

impression that you were acting as a member when you posted the offending comments.

## How does the Code of Conduct apply to blogging?

When considering the application of the Code to blogging and social networking, it is essential to consider whether the Code will apply to your blog and which paragraphs you should be aware of in order to ensure ethical blogging.

For the Code to apply to your blog paragraph 2 of the Code needs to be satisfied. Paragraph 2 makes it clear that the Code only applies when you are acting in your official capacity. Official capacity is defined as conducting the business of the authority or acting, claiming to act or giving the impression that you are acting as a councillor. For further information on official capacity please see our quick guide to official capacity.

The decision as to whether you are acting in your official capacity will depend on the particular facts of each case and the circumstances surrounding your blog. There are a number of factors that will be taken into account when assessing this. These include:

- **How well known or high profile you are as a member.** The more high profile you are, the more likely it is that you will be seen as acting in your official capacity when you blog or use a social networking site.
- **The privacy settings on your blog or social networking site.** If you have a private, personal blog, ensure that you have appropriate privacy settings so that you decide who can read your posts. If you have a political blog this may well be open to all readers. If constituents are able to see your posts, they may assume that you are acting in your official capacity as their representative.
- **The profile on your blog or social networking site.** You should set out clearly in your profile if this is a political or personal blog. Identifying this will enable readers to better understand if you are seeking to act in your official capacity or not. Nevertheless it may be possible in a personal blog to give the impression that you are acting as a member even though you have stated otherwise. Also, you cannot discuss council business on a personal blog and/or make gratuitously offensive remarks about others who are linked to the council and then claim to be doing so in a private capacity.

When blogging you should bear in mind the following paragraphs of the Code will apply to your online behaviour just as they would to any other form of communication.

- **Paragraph 3(1) - Treating others with respect:** The aim of the Code is not to stifle political opinions and arguments. As such, political comments and comments about ideas are less likely to be seen as disrespectful and result in a breach of the Code. However, personal jibes or remarks aimed at an individual may well be seen as disrespectful and could lead to a breach of the Code and possible sanctions.
- **Paragraph 3(2) (d) – Disclosing confidential information:** Before releasing any information on your blog or networking site, check if it is confidential and if you have the right to release it.
- **Paragraph 5 – Disrepute:** Because of your role, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an impact on your office or authority. Dishonest or deceitful behaviour in your role as a member may bring your office or the authority into disrepute.
- **Paragraph 6 (b) (i), 6(b) (ii) and 6(c) – Use of resources:** You must not use local authority resources “improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.” Also you must ensure that these resources are not used improperly “for political purposes” - including party political purposes. See the Johnson case below.

You should also consider other online activities where the Code may apply:

- **Forum posts.** If you go on to a forum and identify yourself as a member then it is likely that the Code will apply when you post entries. If you put content on the site which you could only have obtained as a member it is possible to argue that you have given the impression that you were acting as a member even if you did not identify yourself as such when you made the posting.
- **Comments made by others.** It is also important to regularly check your own blog or networking site to ensure there are no defamatory or obscene comments posted by others. If this does happen you should remove the posts as soon as you become aware of them. You should also take steps to discourage users from posting such comments in the future.
- **“Friends” on social networking sites.** You should be aware that anyone you include as a friend on social networking sites could be regarded as a “person with whom you have a close association” within the meaning of paragraph 8 of the code – personal interests. Simply including someone on a site as a friend does not establish a close association but it is one factor that would be taken into account in deciding whether such an association exists.

## Human rights considerations

In considering whether your use of social networking media have breached the Code, Article 10 of the European Convention on Human Rights (the right to freedom of expression) must also be taken into account. The First Tier Tribunal and court cases have made a number of decisions about this issue.

You are less likely to breach the Code where you are making genuine political statements. This means that you are less likely to breach the Code if your comments are about another member's political position or are a genuine expression of political differences with someone. The courts have established that this is because of the fundamental importance of freedom of political expression in a democratic society. However, any political expression should avoid being just an expression of personal anger or abuse towards someone since insults and abuse do not normally qualify for the protection of Article 10. If you make rude comments about a member of the public or an officer of an authority it is more likely that you will be found to have breached the Code.

## Examples of cases

Examples which illustrate how the First Tier Tribunal and standards committees have viewed cases involving social networking can be found in(1):

### **Councillor Mullaney APE 0400 and High Court judgment** Birmingham City Council

In this decision factors relevant to the conclusion that conduct was within "official capacity" included the following

- The subject member trespassed onto an individual's property and shot a video that he subsequently posted on You Tube. The aim of the video was to galvanise the planning department into taking action concerning the building.
- The YouTube video concerned identified the subject member at the outset.
- The subject member identified himself several times as a member.
- The video was subsequently published on the subject member's website - the homepage of which identified him as a member.
- References were made in the video to the jurisdiction of the subject member's council.
- The subject member failed to remove or edit the video when requested.
- The tribunal decision on breach was upheld by the High Court and the case was sent back to the Appeals Tribunal to consider if the sanction they applied was appropriate.
- The sanction applied was a one month suspension.

[Click here for a link to the case.](#)

### **Councillor McTigue APE 0421** Middlesbrough Council

The Appeals Tribunal accepted that

- Even if it became clear from the forum (an on-line forum hosted by the local newspaper) that an individual who was posting on the forum was a member, the Code would not automatically be engaged.
- The question was whether in the postings on the forum the member was deemed to be, or gave the impression that he or she was "acting in the role of member".
- This was fact-sensitive and would very much depend on the content of the postings.
- The subject member had used a pseudonym and stated that she was on the forum as a resident who just happened to be a member. Taking the contents of the postings as a whole the member did give the impression that she was acting in the role of member and representing the council. In a series of posts the subject member discussed council business, outlined what had happened at council meetings and referred to herself as a councillor.
- Sanction applied was a two month suspension.

[Click here for a link to the case](#)

### **Mayor Johnson** Greater London Authority Standards Committee Decision

- The Mayor of London linked in his tweet to the front page of the Sun, which on that day had announced its

decision to endorse the Conservative party.

- The standards committee found that he had breached paragraph 6(b) (ii) of the authority's Code because he tweeted using his mayoral twitter feed (thus using GLA resources) and was considered to be seeking to affect party political support.
- Sanction applied was for the monitoring officer to speak to the Mayor about his responsibilities under the code.

[Click here for a link to the case.](#)

## **Councillor Sharratt APE 0458** South Ribble Borough Council

- The member was a journalist who published a small journal.
- The member neither claimed nor gave the impression of acting as a representative of the council. The magazine was 'published for fun', and a member of the public would be in no doubt, the panel said, that the journal was not a matter that was the business of the council.
- The Standards Committee accepted the argument that Cllr Sharratt used the magazine to conduct public discourse on the council and party issues, and that his activities on the council, the magazine and the party were seamlessly connected. However, the First-tier Tribunal disagreed. It said the decision in *Livingstone v APE (2006) EWHC 2533* referring to 'activities which are apparently within the performance of a member's functions' should be narrowly construed.
- The appeals tribunal rejected the finding of the standards committee and concluded there had been no breach of the Code.
- No breach.

[Click here for a link to the case.](#)

## **Councillor Barnbrook APE 470/471** London Borough of Barking and Dagenham

- The member appealed the decision of the standards committee of the London Borough of Barking and Dagenham.
- The member published a video on a website concerning statements about knife crime that were inaccurate.
- The key question considered by the tribunal was whether the member was acting in his official capacity when making the video.
- There was no evidence to support the position that the member was conducting the 'business of the Council' and the parties did not put forward any arguments to this effect
- The Tribunal was drawn to the conclusion that the making of the video was not proximate enough to the role of member so as to bring him into the ambit of acting in his capacity as a member. The Tribunal considered the following factors in reaching its conclusion:
  - The member was making a video on behalf of the BNP with its primary purpose being party political;
  - He was not identified as a member for the London Borough of Barking & Dagenham;
  - He was not taking forward an issue relevant primarily to the London Borough of Barking & Dagenham;
  - He was not taking forward an issue on behalf of an individual constituent; and,
  - The video dealt with a range of issues and the Appellant did not concentrate upon issues within the London Borough of Barking & Dagenham.
- No breach.

[Click here for a link to the case.](#)

## **Other issues to consider**

There are also considerations apart from the Code that should be taken into account when using online media. The following is a brief guide to some of the legal pitfalls(2) in establishing personal blogs. Almost all of these can be avoided if your online content is objective, balanced, informative and accurate.

In the main, you have the same legal duties online as anyone else, but failures to comply with the law may have more serious consequences.

### **Libel**

If you publish an untrue statement about a person which is damaging to their reputation they may take a libel action against you. This will also apply if you allow someone else to publish something libellous on your website if you know about it and do not take prompt action to remove it. A successful libel claim will result in an award of damages against you.

## **Bias and Predetermination**

If you are involved in determining planning or licensing applications, you should avoid publishing anything on your blog that might suggest you have already made up your mind about a matter you may be involved in determining. Otherwise, the decision runs the risk of being invalidated.

## **Copyright**

Placing images or text on your site from a copyrighted source (e.g. extracts from publications, photos etc) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission in advance. Breach of copyright may result in an award of damages against you.

## **Data protection**

Avoid publishing the personal data of individuals unless you have their express written permission.

## **Obscene material**

It goes without saying that you should avoid publishing anything in your blog that people would consider obscene. Publication of obscene material is a criminal offence.

# **Conclusion**

Blogging and social networking are excellent ways to engage a wider audience. In order to blog successfully, you should ensure that you comply with the Code and any other legal requirements.

It is also important to note that, the ethical use of online social media is not limited to what is covered in the Code. You should also consider the Ten General Principles of Public Life. While you may not be investigated or censured for using online media in certain ways, your conduct might still be viewed as less than exemplary and attract adverse publicity for your office and authority.

## **Helpful links:**

You can find further guidance and information on blogging and social networking as a member from the sources below:

- [Blogging quick guide](#)
- [Official capacity quick guide](#)
- [www.civicsurf.org.uk](http://www.civicsurf.org.uk) a resource for blogging members
- [www.socialbysocial.com](http://www.socialbysocial.com) a primer for harnessing social media for social good
- [IDeA's Connected Members: A guide to using social media](#)

(1) These cases were heard during the period where the Adjudication Panel for England was in operation. The functions of the Adjudication Panel for England have now been transferred to the First-Tier Tribunal (Local Government Standards in England) and the Adjudication Panel for England has been abolished.

(2) This section is based on material produced by and with the permission of Victoria McNeill, Head of Legal at Norfolk County Council.

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# Dual-hatted members and the Code of Conduct

## What is a dual-hatted member?

Dual-hatted members are members who serve on two or more relevant authorities; for instance, a member who is both a district and parish council member.

## When should a dual-hatted member declare an interest?

If a dual-hatted member is taking part in a council meeting and an issue is under discussion which affects that member's other authority, then provided that they do not have a prejudicial interest, under paragraph 9(2) of the Code of Conduct the dual-hatted member only needs to declare a personal interest if they intend to speak on the matter involving the other authority. If the member does speak on the matter then they must declare a personal interest, but they are still able to vote.

Members must consider carefully, however, if the nature of the matter under discussion means that their membership of another authority may also give rise to a prejudicial interest.

For dual-hatted members who would not otherwise have a prejudicial interest for any other reason, a prejudicial interest will arise as a result of membership of the other authority if all of the following conditions are met:

- the matter affects the other authority's financial position or is about a licensing or regulatory matter applied for by the other authority
- the matter does not fall within one of the exempt categories of decisions under paragraph 10(2)(c) of the Code
- a reasonable member of the public with knowledge of the relevant facts would believe that the member's ability to judge the public interest would be impaired

Standards for England takes the view that where a regulatory application, including a matter of consent or approval, is made by a body on a member's register of interests, or a matter is discussed that would impact upon the financial interests of a body on a member's register of interests, then a prejudicial interest will arise. For example if a parish council planning application was being considered at a district council meeting, a member of the planning committee who is also a parish council member would need to declare a personal and prejudicial interest when that matter is considered, leave the chamber and not vote.

## Predetermination and dual-hatted members

A dual-hatted member does not automatically have an interest in an item just by virtue of having considered the issue at the meeting of a different authority. If the issue does not meet the normal criteria for needing to declare a personal interest, then an interest does not need to be declared. However, the issue of predetermination or bias may need to be considered where members sit on different bodies determining matters. Further information on this can be found here.

Find out more

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at [enquiries@standardsforengland.gov.uk](mailto:enquiries@standardsforengland.gov.uk)
- Use the scenarios we have developed to help dual-hatted members develop a clearer understanding of when they need to declare an interest at a meeting of one of their authorities.

## Dual-hatted member scenarios

The scenarios have been developed from real queries that we have received and the subsequent advice we have given.

The exercise can be completed on your own or as a group. If you are considering the scenarios as a group exercise you should allow yourselves up to 1.5 hours including discussion time to complete the task.

The scenarios (along with Standards for England's responses) can be found [here](#).

**SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL**

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**REPORT TO:** Standards Committee 15 September 2010  
**AUTHOR/S:** Executive Director (Corporate Services) / Legal and Democratic Services Manager

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**LOCAL INVESTIGATIONS, HEARINGS AND REFERENCES MADE TO STANDARDS FOR ENGLAND****Purpose**

1. To update members on local investigations and hearings, and a case which was referred to Standards for England (SfE) for investigation and has now been completed.
2. On 10 December 2008 the Standards Committee resolved that cases in which no breach of the Code of Conduct has been found or no further action is to be taken should be anonymised for the purposes of reporting back to the Committee and that only in cases where a breach has been found should the relevant member be identified to the Committee; however, one of the cases in which no breach was found received publicity in the local paper both before and after referral to Standards for England, and, with the subject member's permission, the full decision notice is appended.

**Recommendation**

3. That the Standards Committee note the report.

**Cases**

4. **CORCOM 3886 (Hearing Panel, Determination Meeting, 23 July 2010)**  
A complaint about the conduct of Melbourn Parish Councillor Christopher Stead was received by the Monitoring Officer on 22 January 2010 and, following consideration by the Local Assessment Panel on 10 February 2010, was referred for a local investigation. The investigation found that there had been one breach of the Code of Conduct – failure to treat others with respect – but that there was no case to answer for the allegation of bullying, and the matter proceeded to a public hearing on 23 July 2010. The subject member did not attend the hearing.
5. Based upon the Investigating Officer's report and documentary evidence, there having been no representations nor further evidence submitted by the subject member, the Hearing Panel accepted the findings of fact as set out in the Investigating Officer's report and the reasoning of the Investigating Officer, and found that Councillor Stead had breached the following provision of Melbourn Parish Council's Code of Conduct:  
(a) Paragraph 3(1): treat others with respect
6. The Hearing Panel appreciated that Councillor Stead was, in the opinion of the Chairman of Melbourn Parish Council, a hard-working Parish Councillor, and that Councillor Stead had given up his own time to volunteer to serve on the Parish Council; however, the Panel found that the language used by Councillor Stead in his

messages on the "Speakers' Corner" forum was totally inappropriate and unacceptable.

7. The Panel required that Councillor Stead, within 28 days from the date of the hearing (20 August 2010), provide a written apology to Melbourn Parish Council for the language he used, making specific reference to any offence his statements caused to two fellow Parish Councillors, a copy of this apology to be sent to the Monitoring Officer and to the Clerk to Melbourn Parish Council for inclusion on a Parish Council agenda. If no apology had been forthcoming within 28 days from the date of the hearing, the Panel felt that it had no further alternative than to suspend Councillor Stead from his role as a Parish Councillor for three months, such suspension to begin immediately from 21 August 2010.
8. The Standards Committee was subsequently informed that Councillor Stead attended a Melbourn Parish Council meeting on 26 July 2010 and presented a written statement in which he indicated that he did not intend to apologise, and therefore Councillor Stead's three-month suspension from Melbourn Parish Council took effect from 21 August 2010.
9. The Hearing Panel's decision was published in the *Cambridge News* on 8 September 2010, in accordance with the requirements of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 to publish in one or more newspapers circulating in the area of the authorities concerned:
  - (a) that the standards committee found that the member who was the subject of the hearing had failed to comply with the code of conduct of the authority concerned or the code of conduct of any other authority concerned;
  - (b) the details of the failure;
  - (c) the reasons for the decision reached by the standards committee;
  - (d) the sanction imposed, and
  - (e) that the member concerned may apply for permission to appeal against the finding under the provisions of Part 3 of these Regulations.
10. The cost of the public notice was £397.80 plus VAT.
11. **CORCOM 3946 (Hearing Panel, Determination Meeting, 6 September 2010)**

A complaint was made to the Monitoring Officer on 27 February 2010 about the conduct of Councillor Bill Agg, Chairman of Caxton Parish Council, alleging that he had breached the following provisions of Caxton Parish Council's Code of Conduct:

  - (a) Paragraph 5: bringing your office or authority into disrepute.
  - (b) Paragraph 6(a): using your position as a member improperly to confer on or secure an advantage or disadvantage;
  - (c) Paragraph 9(1): failing to declare a personal or prejudicial interest;  
Paragraph 12(1): having a prejudicial interest and failing to act appropriately, and / or seeking improperly to influence a decision about that business.
12. The Local Assessment Panel met on 15 March 2010 and referred the allegations for investigation. The complainant was informed that allegations about the conduct of the Clerk were outside the remit of the Standards Committee.
13. The Investigating Officer found that there was no case to answer in respect of any of the allegations. The Hearing Panel held a Consideration Meeting on 9 June 2010 to receive the report but did not feel that it was willing to accept at that time the finding of no failure to comply with the Code of Conduct, and referred the matter to a determination hearing.

14. The Hearing Panel Determination Meeting was held on 6 September 2010 and the outcome will be reported orally to the Standards Committee on 15 September 2010.
- CORCOM 4099 (Hearing Panel, Determination Meeting, 10 September 2010)**
15. The Monitoring Officer received a complaint on 26 March 2010 that former Councillor Michael Giles of Gamlingay Parish Council, which alleged that Councillor Giles had breached the following provisions of Gamlingay Parish Council's Code of Conduct:
- (a) Paragraph 6(a): using your position as a member improperly to confer on or secure an advantage or disadvantage;
  - (b) Paragraph 9(1): failing to declare a personal or prejudicial interest
  - (c) Paragraph 12 (1): having a prejudicial interest and failing to act appropriately; and
  - (d) Paragraph 13 (2): failing to register interests.
16. The Local Assessment Panel met on 1 April 2010 and referred the allegations for investigation. The Investigating Officer presented her final report to a Consideration Meeting of the Hearing Panel on 21 July 2010, having found potential breaches of paragraphs 9(1) and 12(1), but not finding potential breaches of paragraphs 6(a) and 13(2). The Hearing Panel, in accordance with Regulation 17(1)(b) of the Standards Committee (England) Regulations 2008, accepted the Investigating Officer's finding of a failure to comply with paragraphs 9(1) and 12(1) and the matter was automatically referred to a public hearing. The Hearing Panel felt that it was not willing to accept the Investigating Officer's finding (of no failure to comply with paragraphs 6(a) and 13(2)) at this time and that the matter should be further considered at a public hearing.
17. In accordance with Regulations 18(2) and 18(8) of the Standards Committee (England) Regulations 2008 and the SCDC Procedure for the Local Investigation of Referred Complaints, the Hearing Panel instructed the Investigating Officer to conduct further enquiries to help it reach a reasoned decision at the hearing.
18. On 29 July 2010 Mr Giles phoned the District Council to advise that he had resigned from Gamlingay Parish Council and would not be attending any hearing. As a formal complaint had been received and still must be addressed regardless of the resignation of the subject member, the Hearing Panel held a Determination Meeting on 10 September 2010. The outcome of this meeting will be reported orally at the Standards Committee meeting on 15 September 2010.
- CORCOM 4058 (Standards Committee Hearing Panel, Determination Meeting, 4 October 2010)**
19. The Local Assessment Panel referred this parish council case to the Monitoring Officer on 1 April 2010 for local investigation. The Investigating Officer's final report was issued on 15 July 2010 and the matters have been referred to a public hearing on 4 October 2010. The outcome of this hearing will be reported to the Standards Committee at its 8 December 2010 meeting.

**Background Papers:** the following background papers were used in the preparation of this report:

Standards Committee Local Hearing Panel Decision Notices CORCOM 3886, 3946  
Local Authorities (Code of Conduct) (Local Determination) Regulations 2003  
Standards Committee (England) Regulations 2008  
SCDC Constitution

**Contact Officer:** Holly Adams – Democratic Services Team Leader  
Telephone: (01954) 713030

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**STANDARDS COMMITTEE: MINUTES**

**Date:** Friday 29<sup>th</sup> January 2010

**Time:** 2.30 p.m. – 4.25 p.m.

**Place:** Shire Hall, Cambridge

**Present:** Councillors P Downes and V Lucas

Independent members: Mr D Boreham, Dr K Gaseltine and Mrs M Sanders

**Officers:** Q Baker and M Brown

**Apologies:** Councillors K Churchill, J Powley and T Sadiq

...

**24. REPORT TO UPDATE THE STANDARDS COMMITTEE ON OTHER ACTION**

The Committee received a report updating members on the Assessment Sub Committee's decision to request that the Monitoring Officer take "Other Action" in response to a complaint made against a member of the Council for an alleged breach of the Code of Conduct.

The Committee noted that the report had provisionally been designated as an exempt item for discussion in the absence of the press and public. The Committee discussed whether, on balance, it was in the public interest for the item to be considered in private session or whether the need for transparency and openness overrode the factors supporting discussion in private. The Committee agreed that the report should not be exempt and should be discussed in public session.

The Committee received a report setting out the details of a complaint made against Councillor L Wilson alleging that he had breached the Code of Conduct by failing to treat others with respect contrary to paragraph 3(1) of the Code of Conduct and may have caused the Council to breach equality enactments contrary to paragraph 3(2)(a). The complaint arose from a letter written by Councillor L Wilson about travellers which was published in the Camborne Crier. The Assessment Sub-Committee had considered the complaint and referred it to the Monitoring Officer with a request that he undertake "Other Action" comprising:

- Writing to Councillor L Wilson setting out the observations of the Sub-Committee in relation to the wording of the letter at the centre of the complaint.
- Inviting Councillor L Wilson to attend an awareness raising session focussed on the Members' Code of Conduct and the equality duty under S.71 of the Race Relations Act 1976.

- Inviting Councillor L Wilson to write an open letter to the Camborne Crier setting his earlier letter in an appropriate context.

The Committee received a report on the action taken by the Monitoring Officer in response to the Sub-Committee's request and Councillor L Wilson's response to the actions requested of him.

Members noted that subsequent to the publication of the letter in the Camborne Crier, Councillor L Wilson had written to the editor of Cambridge Evening News, setting his letter to the Camborne Crier in context. Whilst welcoming the clarification, the Committee considered that the two newspapers had different readerships and that Councillor Wilson's second letter should be directed to the newspaper which published his original letter i.e. the Camborne Crier.

Members noted that Councillor L Wilson had not responded to the request that he attend an awareness raising session and discussed the Monitoring Officer's view as to whether this would take place without a further request being made.

The Committee discussed the adequacy of Councillor L Wilson's response to the Monitoring Officer's requests and agreed that they fell short of what was required. Members noted that whilst Councillor L Wilson could not be required to undertake the action requested, failure to do so could give rise to a complaint that he had breached the Code of Conduct by bringing his office into disrepute.

It was resolved:

- (i) that the Monitoring Officer be requested to write to Councillor L Wilson repeating the request that he attend an awareness raising session focussed on the Members' Code of Conduct and the equality duty under S71 of the Race Relations Act 1976 and inviting Councillor L Wilson to write an open letter to the Camborne Crier setting his earlier letter in an appropriate context, as set out in paragraphs 5.2 and 5.3 of the original Decision Notice; and
- (ii) that the Monitoring Officer write to the complainant letting him know the outcome of the Committee's further consideration of his complaint.  
**(Action: Q Baker)**

...



**Agenda Item No:9**

**CONFIDENTIAL – NOT FOR PUBLICATION** It will be recommended that the Committee resolve that the following report be excluded from the press and public on grounds that it contains exempt information under Paragraph 7C<sup>1</sup> of Part 1 of Schedule 12A for the Local Government Act 1972, as amended, and that it would not be in the public interest for this information to be disclosed.

**(Note: The Committee subsequently decided that on balance it was in the public interest for this report to be debated in public)**

**REPORT TO UPDATE STANDARDS COMMITTEE ON OTHER ACTION**

**To: Standards Committee**

**Date: 29<sup>th</sup> January 2010**

**From: Head of Legal Services & Monitoring Officer**

**Purpose: To consider the action taken by the Monitoring Officer in response to a direction to take other action and to consider whether to issue any further direction.**

**Recommendation: It is recommended that:-**

**The Standards Committee considers the action taken and either:-**

- a) decides it is satisfied with the action taken or,**
- b) issues a further direction**

<b><i>Officer contact:</i></b>		<b><i>Member contact</i></b>	
Name:	Quentin Baker	Name:	Mr. David Boreham
Post:	Head of Legal Services & Monitoring Officer	Portfolio:	Chairman of the Standards Committee
Email:	quentin.baker@cambridgeshire.gov.uk	Email:	
Tel:	01223 727961	Tel:	

<sup>1</sup> As added by S.8(6) of the Standards Committee (England) Regulations 2008

## **1. Summary**

- 1.1. On 21st October 2009 a complaint was received regarding a member of Cambridgeshire County Council alleging that they had breached the Council's Code of Conduct for members. The matter was duly reported to the Local Assessment Sub-Committee which considered the complaint at a meeting on 26<sup>th</sup> November 2009. The report relating to the complaint is attached at appendix A.
- 1.2. Following consideration of the report the Sub-Committee decided to direct the Monitoring Officer to take other action as set out in the attached decision notice at appendix B.
- 1.3. This report is intended to update members of the Standards Committee on the action I have taken and any response by the subject member in this case.

## **2. Background**

- 2.1. A complaint, received on 21<sup>st</sup> October 2009, was referred to the Local Assessment Sub-Committee and was considered at its meeting on the 26<sup>th</sup> November 2009. The complaint arose from an article that appeared in the Cambourne Crier in its August 2009 edition. The Sub-Committee concluded that the matter was most appropriately dealt with by directing that other action be taken by the Monitoring Officer and the action is set out at paragraphs 5.1 to 5.3 of the decision notice.
- 2.2. The Standards Committee Regulations<sup>2</sup> require that where a direction for other action is made, the Monitoring Officer to whom the direction is made shall submit a written report to the Standards Committee within three months of the direction being made, giving details of the action taken to comply with the direction.
- 2.3. I can confirm the following actions; I wrote to Cllr L Wilson by letter dated 2<sup>nd</sup> December 2009 and I attach a copy of that letter as appendix C. As you will see my letter includes an invitation to Cllr Wilson to attend an awareness raising session and also invites him to write to the editor of the Cambourne Crier.
- 2.4. To date, I have not received any indication from Cllr Wilson as to whether he is willing to attend an awareness raising session and I assume that the absence of any response in this regard is an indication that he is not intending to do so.
- 2.5. Regarding the letter to the editor, I have received an email from Cllr Wilson attached to which was a copy letter which he confirms was sent to the editor of the Cambridge Evening News and to the complainant prior to the complaint being lodged. I attach these documents as appendix D and E.

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<sup>2</sup> S.13(4)(C) of The Standards Committee (England ) Regulations 2008

2.6. I am required to report back to the Standards Committee within three months of the date of receiving an instruction and this report is submitted in fulfilment of that requirement.

2.7. The following is an extract from the SFE guidance on other action:-

*If the standards committee or sub-committee **is** satisfied with the action described in the monitoring officer's report, it should give notice of this to all of the following:*

- *the subject member*
- *the person who made the allegation*
- *the standards committee of any other authority involved*
- *any parish council concerned*

*The matter is then closed.*

*If the standards committee or sub-committee is **not** satisfied, it must give another direction to the monitoring officer, which must again be to take some kind of other action. The standards committee cannot at this stage decide that the matter should be investigated. This is discussed further in the section below<sup>3</sup>.*

2.8. In view of the above I would ask that the Standards Committee consider the circumstances surrounding this matter and decide whether it wishes to issue a further direction or not.

Appendix A – Report to Local Assessment Sub-Committee

Appendix B - Decision Notice

Appendix C - Letter from Quentin Baker to Cllr L Wilson dated 2<sup>nd</sup> December 2009

Appendix D - Email correspondence between Q Baker and Cllr L Wilson

Appendix E - Copy letter from Cllr L Wilson

Source Documents	Location
None	Room 4B, Shire Hall, Cambridge

<sup>3</sup> SFE Other Action Guidance page 11 paras 40-41

**CONFIDENTIAL – NOT FOR PUBLICATION.** The Committee will be recommended to resolve that the following report be excluded from the press and public on grounds that it contains exempt information under Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, and that it would not be in the public interest for this information to be disclosed.

**CODE OF CONDUCT COMPLAINT 03/09**

**To:** Standards Committee Assessment Sub-Committee

**Date:** 26<sup>th</sup> November 2009

**From:** Head of Legal Services & Monitoring Officer

**Purpose:** To consider an allegation that Councillor Lister Wilson has breached the provisions of the Members' Code of Conduct

**Recommendation:** The Sub-Committee is recommended to consider the complaint, in accordance with the procedure adopted by the Standards Committee, and decide which of the following options are appropriate:

- referral for investigation
- referral for other action
- decision to take no further action.

<b><i>Officer contact:</i></b>		<b><i>Member contact</i></b>	
Name:	Quentin Baker	Name:	
Post:	Head of Legal Services and Monitoring Officer	Portfolio:	
Email:	quentin.baker@cambridgeshire.gov.uk	Email:	
Tel:	01223 727961	Tel:	

## **Complaint Re Cllr Lister Wilson**

### **1 Background**

- 1.1 On the 21<sup>st</sup> October 2009 a complaint was received from Mr Gavin Clayton, (the Complainant), alleging that Cllr Lister Wilson, (Subject Member), had breached the Cambridgeshire County Council Members' Code of Conduct. The complaint relates to an article, attributed to Cllr Wilson, which appeared in the August 2009 edition of the 'Cambourne Crier'.
- 1.2 The text from the email containing the complaint and copy of the article which is at the centre of the complaint is attached, is attached at Appendix 'A'.

### **2 Summary of Allegation**

- 2.1 The complainant alleges that Cllr Wilson wrote the article which appears at page 32 of the August edition of the Cambourne Crier. The article is entitled 'County Council on travellers' sites in South Cambridgeshire – A letter to the Crier'. The complainant alleges that the language used in the article is disrespectful to travellers and constitutes a breach of Para 3(1) of the members' code.
- 2.2 The complainant further alleges that the article is discriminatory and constitutes a breach of Para 3(2)(a) of the code because it renders the County Council in breach of its duties under S.33 of the equality Act 2006.

### **3 Documentation**

- 3.1 The following documents are attached at Appendix 'A', for the purposes of the assessment of this complaint:-
- Extract of email received from the Complainant on 21 October 2009;
  - Extract from the August edition of the Cambourne Crier (P.32).

### **4 Jurisdiction**

- 4.1 Before an assessment of the complaint commences the Sub Committee must be satisfied that it has jurisdiction to deal with this matter, in particular it must be satisfied of the following:-
- a) that the complaint is made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council and;
  - b) the Subject Member had signed up to the Members' Code of Conduct in force at the time the alleged action took place and;
  - c) the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority and;

- 4.2 I can confirm that the Subject Member was a member of Cambridgeshire County Council at the time of the alleged breach and had signed the code of conduct.
- 4.3 The article was attributed to “Councillor Lister Wilson, Member for the Bourn Division, Cambridgeshire County Council”. In the circumstances, if proven, it would appear that the Subject Member was acting, claiming to act or giving the impression of acting as a representative of Cambs County Council.

## 5 Assessment

- 5.1 Where the Sub-Committee are satisfied that the matter falls within their jurisdiction they are required to undertake an assessment to determine whether the complaint appears to show that a breach of the Code may have occurred. If the Sub-Committee are satisfied in this regard it must decide whether or not the information submitted in support of the complaint warrants any action being taken, either an investigation or some other form of action, or whether no further action is warranted.

### Provisions of the Code that are Potentially Engaged

- 5.2 Para 3(1) requires a member must treat others with respect. Guidance from the SFE has emphasised that this provision is not intended to stifle comment on matters of genuine public debate.

*Paragraph 3(1) is not intended to stand in the way of lively debate in local authorities. Such discussion is a crucial part of the democratic process. Differences of opinion and the defence of those opinions through members' arguments and public debate are an essential part of the cut and thrust of political life<sup>1</sup>.*

Although the provision is primarily directed at comments and actions directed at another individual, it may also extend to comments or actions directed to groups of people. The guidance states that a breach under this provision may be established by conduct ‘directed at a general class or type of person’<sup>2</sup>.

- 5.3 Para 3(2)(a) require that a member does not do anything which may cause their authority to breach any of the equality enactments (as defined in S.33 of the Equality Act 2006). S.33 includes the Race Relations Act 1976, S.71 of which imposes a duty on local Authorities to;
- a) eliminate unlawful racial discrimination; and
  - b) promote equality of opportunity and good relations between persons of different racial groups.

Having consulted the Equality and Human Rights Commission I can confirm that Irish Gypsies are a separate ‘racial group’ for the purposes of the Race Relations Act 1976.

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<sup>1</sup> The Case Review 2007. SBE. P.23

<sup>2</sup> as above

### **Assessment of What Action, if any, is Warranted**

5.4 Below I list the published criteria for the Assessment Sub-Committee to refer to in order to assist in making its decision as to whether any action is warranted. The criteria are not exhaustive and intended only as a guide for the Sub-Committee. The options for action are set out below in section 5.

- How long ago were the events that led to the complaint;
- Were the events complained of an isolated incident or part of a series;
- How likely is a reoccurrence of the events complained of;
- How serious was the potential breach of the Code of Conduct;
- What sort of sanction might be imposed if the complaint were proven;
- Does the complaint appear to be malicious, politically motivated or tit-for-tat;
- Has the complaint has already been the subject of an investigation or other action relating to the Code of Conduct;
- Has the complaint been the subject of an investigation by other regulatory authorities;
- How difficult and costly would it be for any investigation to reach a conclusion on the facts relating to the complaint;
- Would the investigation of the complaint be in the public interest;

5.5 Having considered the information submitted by the complainant and any other information submitted by the Monitoring Officer the Sub-Committee is invited to decide on one of the four options for action set out below.

## **6 Options for the Assessment Sub-Committee**

6.1 The Assessment Sub-Committee is required to consider the information submitted by the complainant and the further information included by the Monitoring Officer and decide on one of the following options for disposing of this matter:-

- Decide that no further action be taken or,
- Refer the matter for investigation either to the Monitoring Officer or to the Standards Board for England or,
- Refer the matter to the Monitoring Officer for 'Alternative Action'. (N.B. Subject to consultation with the Monitoring Officer).

6.2 The Sub-Committee is therefore asked to consider the information contained in the attached papers and decide on which option they feel is appropriate.

Quentin Baker  
Monitoring Officer  
18-11-09

**Cambridgeshire County Council Standards Committee**  
**Local Assessment Sub-Committee**

**Decision Notice<sup>1</sup>: Direction to Monitoring Officer to take Alternative Action**

Reference No: 011445 2009

Subject Member: Cllr Lister Wilson

**1 Background**

- 1.1 On the 21<sup>st</sup> October 2009 a complaint was received from Mr Gavin Clayton, (the Complainant), alleging that Cllr Lister Wilson, (Subject Member), had breached the Cambridgeshire County Council Members' Code of Conduct. The complaint relates to an article, attributed to Cllr Wilson, which appeared in the August 2009 edition of the 'Cambourne Crier'.
- 1.2 The complaint, contained in an email from the complainant, and a copy of the article giving rise to the complaint, were considered by the Local Assessment Sub Committee at a meeting on 18 November 2009.

**2 Summary of Allegation<sup>2</sup>**

- 2.1 The complainant alleges that Cllr Wilson wrote the article which appears at page 32 of the August edition of the Cambourne Crier. The article is entitled 'County Council on travellers' sites in South Cambridgeshire – A letter to the Crier'. The complainant alleges that the language used in the article is disrespectful to travellers and constitutes a breach of Para 3(1) of the members' code.
- 2.2 The complainant further alleges that the article is discriminatory and constitutes a breach of Para 3(2)(a) of the code because it renders the County Council in breach of its duties under S.33 of the equality Act 2006.

**3 Evidence Considered**

- 3.1 The sub-committee considered the following documents for the purposes of this assessment:-

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<sup>1</sup> This notice is issued in accordance with Regulation 8(5) of the Standards Committee (England) Regulations 2008.

<sup>2</sup> Produced in accordance with S.57C(2) of the Local Government Act 2000 (as amended).



- Extract of email received from the Complainant on 21 October 2009;
- Extract from the August edition of the Cambourne Crier (P.32) containing an article attributed to County Councillor Lister Wilson.
- Confirmation that Cllr Lister Wilson had signed the declaration undertaking to abide by the Members' code of conduct.

#### **4 Jurisdiction**

4.1 The sub-committee was satisfied that:-

- a) the complaint was made against a person who, at the time the alleged action took place, was a member of Cambridgeshire County Council and;
- b) the Subject Member had signed up to the Members' Code of Conduct in force at the time the alleged action took place and;
- c) the Subject Member was conducting the business of their authority or acting, claiming to act or giving the impression of acting as a representative of the authority. In this regard the sub-committee were persuaded by the fact that the article was attributed to County Councillor Lister Wilson.

#### **5 Decision**

5.1 The Sub-Committee decided to refer the matter to the Monitoring Officer (MO) with a direction that the MO write to the Subject Member setting out the observations of the Sub-Committee in relation to the wording of the Article at the centre of this complaint.

5.2 The Sub-Committee further directed the Monitoring Officer to invite the Subject Member to attend an awareness raising session focussed on the Members' Code of Conduct and the equality duty under S.71 of the Race Relations Act 1976.

5.3 The Sub-Committee also directed the Monitoring Officer invite the Subject Member to write an open letter to the Camborne Crier, setting his earlier letter in an appropriate context.

#### **6 Reasoning**

6.1 In considering the complaint the Sub-Committee focussed their minds on three provisions of the code of conduct as follows as these were thought to be the most relevant to the alleged conduct giving rise to the complaint;

- i) Failure to treat others with respect – Paragraph (1).
- ii) Action by the Subject Member that may cause their authority to breach any of the equality enactments as defined in S.33 of the Equality Act 2006, and in particular S.71 of the Race Relations Act 1976 – Paragraph 3(2)(a).

iii) Bringing ones office or authority into disrepute – Paragraph 5

- 6.2 The Sub-Committee considered the letter and formed the view that the wording used in some parts, in particular, that in paragraph 3, was ill advised given the status of the Subject Member as a County Councillor. In that role he was a focus for members of the community and his words may carry additional weight and influence because of it.
- 6.3 The Sub-Committee acknowledged the fact that travellers' sites and their activities were a matter of public interest and debate and the code of conduct was not intended to stifle public debate about matters of concern, even where that was controversial or contentious. However, the Sub-Committee formed a consensus, that the content of paragraph 3 was inappropriate and went beyond the bounds of acceptable language. The Sub-Committee concluded that the words were intemperate and when taken together, gave the impression of a diatribe directed towards travellers. The choice of words was thought to be unwise and on the border line of being disrespectful.
- 6.4 The Sub-Committee noted that the content of the letter was inflammatory in the sense that it implied that travellers, as a group, were more likely to behave unlawfully. The Sub-Committee were of the view that such generalisations were unhelpful to good community relations and could potentially place the County Council in breach of its duty to promote good relations between persons of different racial groups.
- 6.5 In the particular circumstances of this case including the nature of the available evidence and that likely to be elicited by any investigation as well as the borderline nature of the conduct, the Sub-Committee concluded that the most effective way of addressing the issues arising was to utilise its powers to direct the County Council's Monitoring Officer to take other action. The actions directed are listed above and were devised with the intention of raising the Subject Member's awareness of the potentially adverse impact of this piece of correspondence.

## **7 Right of review**

- 7.1 At the written request of the complainant, the Standards Committee can review and change a decision not to refer an allegation for investigation or other action. A different Sub-Committee to that involved in the original decision will undertake the review.
- 7.2 The Standards committee must receive the complainant's written request within 30 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If the committee receives a request for a review, we will deal with it within a maximum of three months of receipt. The committee will write to all the parties mentioned above, notifying them of the outcome of any such review.

**8 Terms of reference**

8.1 The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of authority members and the requirements for dealing with this.

8.2 The regulations set out the framework for the operation of a locally-based system for the assessment, referral and investigation of complaints of misconduct by members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

**9 Additional Help**

9.1 If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000. We can also help if English is not your first language.

**Signed** ..... **Date** .....

**Signed on behalf of:**

**David Boreham**  
**Independent Chair of the Local Assessment Sub-Committee**

My Ref: 9/QB//011445  
Your Ref:  
Date: 02 December 2009  
Please ask for: Mr Q Baker  
Direct Dial No: 01223 727961  
Fax No: 01223 717074  
E-mail: quentin.baker@cambridgeshire.gov.uk

**Directorate of People, Policy and Law**  
Corporate Director: Stephen Moir

Cllr Lister Wilson  
Wheatfield House  
Royston Road  
Littlington  
Royston  
SG8 0RL

**Legal Services**  
Box RES 1001  
Shire Hall  
Cambridge  
CB3 0AP

DX 137872 CAMBRIDGE 9

Dear Cllr Lister Wilson

**Re: Complaint**

I am writing to you following the recent meeting of the Local Assessment Committee at which the recent complaint against you was considered. As you will see from the attached decision notice, the Sub-Committee decided to refer the matter to me with a direction that I do a number of things as follows:-

- i) Write to you setting out the observations of the Local Assessment Sub-Committee in relation to the wording used in the article giving rise to this complaint.
- ii) Invite you to attend an awareness raising session focussed on the Members' Code of Conduct and the equality duty under S.71 of the Race Relations Act 1976.
- iii) Invite you to write an open letter to the editor of the Cambourne Crier setting your article in an appropriate context.

Regarding the first of these, from the decision notice you will see that whilst the members of the Sub-Committee did not feel that the complaint warranted referral for investigation, they did feel that some action was necessary because they felt that the wording used in parts of your article, most notably, paragraph 3.

The sub-Committee felt that the role of a County Councillor adds weight or credibility to the words of someone holding that position and as such care must be taken when issuing public pronouncements. In this case the Sub-Committee felt that, in places, the article was worded in such a way as to give the impression of a diatribe directed against a minority group. The language used was described as 'inflammatory and intimidating', and its focus on travellers gave

rise to a real possibility that it might encourage ill feeling towards this group as a whole. The comments referred to 'Travellers' as a group and implied that all travellers were likely to commit crime. This level of generalisation was felt to be unhelpful, particularly from a County Councillor who, by reason of their membership of the Council, must be mindful of the Council's statutory obligations to promote equality and good relations between persons of different racial groups.

Regarding the awareness raising session I would be most grateful if you would firstly confirm that you are content to attend the session and secondly, let me have your suggestions as to what might be convenient dates and times for you. As for timing, I do not envisage the duration of the meeting to be any longer than one hour.

As for the letter, I have drawn your attention to the Sub-Committee's request and if it would be of assistance, I would be very happy to provide additional guidance on what you might wish to include in the letter.

Yours sincerely

Quentin Baker  
Head of Legal Services & Monitoring Officer

**APPENDIX D**

**Copy of email correspondence with Cllr L Wilson**

I wonder if the triumverate had been given the attached letter which I sent to the Cambridge News four days after a synopsis of my article appeared in the paper?

It would seem that this letter puts the original article in context and answers points which are made in the letters you've already sent to me.

Having said that I also sent a copy of this letter to the complainant long before he made his complaint but, it's as well to know, that he still went ahead with his complaint.

Regards

Lister

-----Original Message-----

From: Baker Quentin [<mailto:Quentin.Baker@cambridgeshire.gov.uk>]  
Sent: 30 December 2009 11:50  
To: Wilson Lister  
Subject: RE: Re Complaint

David Boreham is the Independent Co-opted Chairman of the Standards Committee and he chaired the Local Assessment Sub-Committee which dealt with this matter. He was joined on the Sub-Committee by Cllrs Lucas and Downes.

Rgds  
Quentin

-----Original Message-----

From: Lister Wilson [<mailto:lister@listerwilson.net>]  
Sent: 30 December 2009 11:36  
To: Baker Quentin  
Subject: RE: Re Complaint

No problem. I'm working on it as I write this.

Hope that you had a pleasant Christmas too. By the way, I was going to say that I worked at the bottom of Queen Anne's Road for 10 years and that's how I was able to watch the daily progress building the Railway Museum.

I need to know who else was on the Local Assessment Sub Committee apart from David Boreham. And in that connection, who is David Boreham?

Regards

Lister Wilson

-----Original Message-----

From: Baker Quentin [<mailto:Quentin.Baker@cambridgeshire.gov.uk>]  
Sent: 30 December 2009 11:32  
To: Wilson Lister  
Subject: Re Complaint

Dear Cllr Wilson,

I hope you had a pleasant Christmas.

I am writing as a follow up to our discussion before Council at the beginning of December. I understood that you were preparing a letter in response to mine and I thought it may be helpful to mention that the next meeting of the Standards Committee is scheduled for the 29th January and I shall be expected to give an update at that meeting. It would be helpful if I could have your response before that date.

Regards

Quentin

Quentin Baker  
Head of Legal Services & Monitoring Officer Cambridgeshire County  
Council  
Tel: 01223 727961

**APPENDIX E**

The Editor  
Cambridge News  
Milton  
Cambridge

29<sup>th</sup>. July 2009

Re: Travellers in Cambourne

Dear Paul

I need to balance the article in Tuesday's Cambridge News headed "Gypsy sites will hit house prices", before I'm targeted by the Travelling community for misrepresenting them.

As Chairman of the Health Scrutiny Committee at Cambridgeshire County Council for the last two years, I was increasingly drawn to the huge difference in health and life expectancy between the settled population and the Travellers. This was a theme of my original article which contained such facts as very high infant mortality (up to twenty times that of the settled population), astonishingly low life expectancy – around 35 years shorter, and health needs which go with that life style.

In Cambourne we already have settled Traveller families. Indeed this is the pattern we would welcome for any more and the Parish Council has said so. Housing, I contend, is the most basic right in a contented population. With permanent housing goes a near doubling of life-expectancy, a good education for good jobs and all one's children surviving. So I wonder why Travellers continue to travel when the disadvantages seem so clear.

My article listed nine breaches of the law, all traced to some Travellers and all featured at some time in the last 5 years in the Cambridge News. I did not make any accusations at all but others drew their own conclusions like Basil Burton of the Romany Rights Association and my colleague Councillor Kindersley. I wonder if either of them read what I wrote. The jobs market is collapsing for everyone but it's especially hard for Travellers as their traditional employment is overtaken by machinery or immigrant workers.

I know settled Travellers, I have bought their services and even employed them. So let's be very clear about this – life in even a luxury caravan has more drawbacks than living in a house. I know because I've done my homework. Welcome to a place of your own in Cambourne and a brighter future.

Yours sincerely

Lister Wilson  
County Councillor for the Bourn Division  
Cambridgeshire County Council



**STANDARDS COMMITTEE: MINUTES**

**Date:** Wednesday 28<sup>th</sup> April 2010

**Time:** 2.30 – 4.05p.m.

**Place:** Shire Hall, Cambridge

**Present:** Councillors C Carter (substituting for Councillor Sadiq) P Downes, G Harper (substituting for Councillor Churchill), V Lucas and J Powley.

Independent members: Mr D Boreham, Dr K Gaseltine and Mrs M Sanders

**Officers:** Q Baker and M Brown

**Apologies:** Councillors K Churchill, and T Sadiq

...

**37. REPORT TO UPDATE STANDARDS COMMITTEE ON OTHER ACTION**

The Committee received a report updating members on the Assessment Sub Committee's decision to request that the Monitoring Officer take "Other Action" in response to a complaint made against a member of the Council for an alleged breach of the Code of Conduct.

The Committee received a report setting out the details of a complaint made against Councillor L Wilson alleging that he had breached the Code of Conduct by failing to treat others with respect contrary to paragraph 3(1) of the Code of Conduct and may have caused the Council to breach equality enactments contrary to paragraph 3(2)(a). The complaint arose from a letter written by Councillor L Wilson about travellers which was published in the Camborne Crier. The Assessment Sub-Committee had considered the complaint and referred it to the Monitoring Officer with a request that he undertake "Other Action" comprising:

- Writing to Councillor L Wilson setting out the observations of the Sub-Committee in relation to the wording of the letter at the centre of the complaint.
- Inviting Councillor L Wilson to attend an awareness raising session focussed on the Members' Code of Conduct and the equality duty under S.71 of the Race Relations Act 1976.
- Inviting Councillor L Wilson to write an open letter to the Camborne Crier setting his earlier letter in an appropriate context.

The Standards Committee in January 2010 received a report on the action taken by the Monitoring Officer in response to the Sub-Committee's request and Councillor L Wilson's response to the actions requested of him. The Committee agreed that the Monitoring Officer be requested to write again to Councillor L Wilson repeating the request that he attend an awareness raising session focussed on the Members' Code of Conduct and the equality duty under S71 of the Race Relations Act 1976 and inviting Councillor L Wilson to

write an open letter to the Camborne Crier setting his earlier letter in an appropriate context, as set out in the original Decision Notice. The Committee believed that this was a constructive and proportionate response to the complaint.

The Committee received a further report setting out the response received from Councillor L Wilson which indicated that there was little prospect of Councillor Wilson being willing to attend an awareness raising session focussed on the Members' Code of Conduct and the Council's equality duty.

The Committee noted that it could not direct that Councillor Wilson attend the awareness raising session and expressed concern that Councillor Wilson's refusal to attend the session undermined the role of the Committee in securing compliance with the Council's Code of Conduct.

It was resolved:

That the Monitoring Officer be requested to take the following further action on the complaint by writing to Councillor Wilson expressing the Committee's concern and regret that Councillor had felt unable to attend the awareness raising session and commenting that such a failure could be perceived as being a potential breach of the Code of Conduct.

...

**REPORT TO UPDATE STANDARDS COMMITTEE ON OTHER ACTION**

*To:* **Standards Committee**

*Date:* **28<sup>th</sup> April 2010**

*From:* **Head of Legal Services & Monitoring Officer**

*Purpose:* **To consider the action taken by the Monitoring Officer in response to a direction to take other action and to consider whether to issue any further direction.**

*Recommendation:* **That the Standards Committee notes the action taken and the response of the Subject Member and considers whether to issue a further direction or to take no further action.**

<b><i>Officer contact:</i></b>		<b><i>Member contact</i></b>	
Name:	Quentin Baker	Name:	Mr. David Boreham
Post:	Head of Legal Services & Monitoring Officer	Portfolio:	Chairman of the Standards Committee
Email:	quentin.baker@cambridgeshire.gov.uk	Email:	
Tel:	01223 727961	Tel:	

## **1. Summary**

- 1.1. On 21st of October 2009 a complaint was received regarding a Member of Cambridgeshire County Council alleging that they had breached the Council's code of conduct for Members. The matter was duly reported to the Local Assessment Sub-Committee which considered the complaint at a meeting on 26<sup>th</sup> November 2009. The report relating to the complaint was previously circulated to Members of the Standards as appendix 'A' to the report of the Monitoring Officer considered at the meeting of the Standards Committee held on 29th January 2010.
- 1.2. Following consideration of the report the Assessment Sub-Committee decided to direct the Monitoring Officer to take other action as set out in the decision notice dated 2nd December 2009, appendix 'B' to the report of 29th January 2010.
- 1.3. The Monitoring Officer reported back to the Standards Committee at its meeting on 29th January 2010 and following consideration of that report the Standards Committee decided to issue a further direction to the Monitoring Officer and a record of that decision is attached to this report at appendix 'A'.
- 1.4. This report is intended to update members of the Standards Committee on the action taken by the Monitoring Officer and any response by the Subject Member.

## **2. Background**

- 2.1. A complaint received on 21<sup>st</sup> October 2009 was referred to the Local Assessment Sub-Committee and was first considered at its meeting held on the 26<sup>th</sup> November 2009. The complaint arose from an article that appeared in the Cambourne Crier in its August 2009 edition. The Sub-Committee concluded that the matter was most appropriately dealt with by directing that other action be taken by the Monitoring Officer.
- 2.2. The Monitoring Officer carried out the action requested by the Standards Committee and reported back to the Standards Committee at its meeting of the 29th January 2010.
- 2.3. The Standards Committee made a further direction to the Monitoring Officer who wrote, once again, to the Subject Member in accordance with the direction.
- 2.4. The Standards Committee Regulations<sup>1</sup> require that where a direction for other action is made, the Monitoring Officer to whom the direction is made shall submit a written report to the Standards Committee within three months of the direction being made, giving details of the action taken to comply with the direction.

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<sup>1</sup> S.13(4)(C) of The Standards Committee (England ) Regulations 2008

### 3. Actions Taken

- 3.1. On 12 February 2010 the Monitoring Officer wrote to the Subject Member enclosing the decision notice setting out the reasoning of the Committee and inviting the Subject Member to attend an awareness raising session. The letter, dated 11th February 2010, is attached as appendix 'B'.
- 3.2. The Subject Member responded to the letter in an email sent on 12th February 2010 which is included in the email trail attached as appendix 'C' to this report. In the email, the Subject Member states that he is not keen on attending an awareness session. He goes on to mention that he had written an article and sent it to the Cambourne Crier in time for publication in the latest edition but that the Cambourne Crier had not published it. A copy of the email from the Subject Member, with the article, is included in the email trail attached at appendix 'C' to this report.

### 4. Standards for England Guidance

- 4.1. The Monitoring Officer is required to report back to the Standards Committee within three months of the date of receiving an instruction and this report is submitted in fulfilment of that requirement.
- 4.2. The following is an extract from the SFE guidance on other action:-

*If the standards committee or subcommittee **is** satisfied with the action described in the monitoring officer's report, it should give notice of this to all of the following:*

- *the subject member*
- *the person who made the allegation*
- *the standards committee of any other authority involved*
- *any parish council concerned*

*The matter is then closed.*

*If the standards committee or subcommittee is **not** satisfied, it must give another direction to the monitoring officer, which must again be to take some kind of other action. The standards committee cannot at this stage decide that the matter should be investigated. This is discussed further in the section below<sup>2</sup>.*

- 4.3. In view of the above the Standards Committee is requested to consider the circumstances surrounding this matter and decide whether to issue a further direction or not.

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<sup>2</sup> SFE Other Action Guidance page 11 paras 40-41

Appendix 'A' – Decision Notice 11-02-10

Appendix 'B' - Letter dated 11-02-10 from Monitoring Officer to Cllr Wilson

Appendix 'C' - Email correspondence between 12-02-10 - 24-02-10, from Cllr Wilson to the Monitoring Officer with attached article.

<b>Source Documents</b>	<b>Location</b>
Report and minutes of the Standards Committee – 29/01/10	Room 114, Shire Hall, Cambridge



**IN THE FIRST-TIER TRIBUNAL  
GENERAL REGULATORY CHAMBER  
(Local Government Standards in England)**

**CASE NO:** LGS/2009/0484

**ON APPLICATION FROM:**

Ethical Standards Officer (ESO) of Standards for England  
Application reference No: SBE-06451-X767Q  
Dated: 16 December 2009

**APPLICANT:** Jonathan Wigmore, Ethical Standards Officer, Standards for England

**RESPONDENT:** Councillor Isabella Forsyth-Fraser of Campbell Park Parish Council

**DATE OF HEARING:** 30 March 2010

**VENUE:** Ramada Encore Hotel, Milton Keynes

**DATE OF DECISION:** 12 April 2010

**BEFORE**

**Judge: Nicholas Holden  
Member: Neil Pardoe  
Member: Narendra Makanji**

Attendances: Councillor Forsyth-Fraser  
For the Applicant (ESO): Miss Jabeen Mirza  
For the Respondent: Councillor S Crooks

**Subject matter: Reference about possible failure to follow the Code of Conduct**

## **DECISION OF THE FIRST-TIER TRIBUNAL**

The Respondent was suspended for a period of three months from Campbell Park Parish Council

### **REASONS FOR DECISION**

#### **Background**

1. The Tribunal received an application in respect of a reference from an Ethical Standards Officer ('ESO') in relation to an allegation that the Respondent had failed to comply with Campbell Park Parish Council's Code of Conduct when she improperly sought to interfere with the award of the Certificate in Local Council Administration (CiLCA) to Mr Dawson the Parish Clerk and Manager to Campbell Park Parish Council and that, in so doing, she unfairly disparaged his professional reputation to senior members and officers of national organisations. It is further alleged that the Respondent lied to the Parish Clerk in saying that the circumstances of his CiLCA award had caused a furore at the National Association of Local Councils (NALC), and that the position of the official who had awarded the Parish Clerk his qualification was in some jeopardy.
2. The Respondent did not comment on the reference. However, in a letter of 10 December 2009 the Respondent made detailed comments on the ESO's investigation and draft report.
3. Prior to the hearing the Respondent made an application to the Tribunals Service for the hearing to be postponed for about six months on medical grounds because she was unable to prepare for the hearing or to attend. In the event the Respondent did attend the hearing. After the opening formalities the Tribunal inquired if the Respondent wished to make any applications or to raise any preliminary matters. The Respondent stated that she did not and thus she made no application for an adjournment on medical grounds. Both the Respondent and her representative indicated that she was happy for the hearing to go ahead.
4. At the hearing the Tribunal was careful to acknowledge the Respondent's medical condition and to assure the Respondent and her representative that if any short adjournments were required either the Respondent or her representative should interrupt the proceedings and the Tribunal would promptly grant an adjournment.
5. The Tribunal was aware that on 18 March 2010 there had been a hearing held by the Milton Keynes Council Standards Sub-Committee relating to allegations against the Respondent. The Sub-Committee had determined, in the absence of the Respondent that she had breached the Code and it had imposed the maximum sanction available to it of suspension for six months from both the Parish Council



and the Milton Keynes Council. The Tribunal was only provided with a copy of the full decision of the Sub-Committee during this hearing.

6. The Respondent's representative advised the Tribunal that it was the Respondent's intention to appeal that decision on several grounds.
7. During the course of his investigation the ESO's Investigating Officer carried out interviews with those involved. These interviews were recorded and verbatim written records were then produced from those recordings. References in this decision to interview statements are to the verbatim written records of such interviews.

### **Relevant legislation**

8. The Council has adopted a Code of Conduct which includes the following paragraphs:

*Paragraph 2(1)*

*"... you must comply with this Code whenever you—*

*(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or*

*(b) act, claim to act or give the impression you are acting as a representative of your authority,*

*and references to your official capacity are construed accordingly."*

*Paragraph 5*

*"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute."*

*Paragraph 6(a)*

*"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"*

### **Findings – the Respondent's official details**

9. The Tribunal has found that the Respondent has been a member of Campbell Park Parish Council (and its predecessor) since 1993. Her current term of office commenced in 2008 and will end in May 2012. The Respondent currently serves on the following committees: Finance and General Purposes; Personnel; and Community Development and Environment. The Respondent is also a member of Milton Keynes Council.
10. On 16 April 2008, the Respondent gave a written undertaking to observe the Code of Conduct and she received training on the Code of Conduct at Milton Keynes Council on 18 June 2007.
11. At the time of the events, (March and April 2008), the Respondent represented the Council on the Milton Keynes Association of Urban Parish Councils (MKAUPC). She was also a member of the Buckinghamshire Association of Local Councils (BALC), having been elected to that office by MKAUPC, and a member of the National Association of Local Councils (NALC), having been elected to that office by BALC. In addition, the Respondent was a member of the South East Region County Associations Forum (SERCAF), an organisation comprised of representatives from the county associations of South East England.

12. NALC is one of the bodies comprising the Monitoring and Verification Board, responsible for awarding the CiLCA.
13. There is some uncertainty as to whether the Respondent was a nominee of the Parish Council in respect of MKAUPC. The ESO pointed out that the Respondent's declaration of acceptance of office stated:

*"I am a member or hold a position of general control or management of the following body/ies to which I have been appointed or nominated by the Council – Milton Keynes Assoc Urban Local Councils."*

In addition the ESO noted that in the minutes of Parish Council meetings on 19 June 2007 and 13 May 2008 the Respondent's name appears in a list of members appointed to represent the Parish Council on the Milton Keynes Association of Urban Parish Councils. Further in the minutes of the Annual General Meeting of MKAUPC the Respondent is described in the following way: *"I Fraser (Chair) Campbell Park PC"*. In the ESO's view these facts indicated that the Respondent was a nominee of her Parish Council.

14. The Respondent stated that it had been her understanding that she had not been nominated by her Parish Council. However, she accepted that the minutes recorded a group nomination from her Parish Council and she had, at least initially, formed part of that group nomination.
15. The Respondent's status was considered relevant by the ESO to the question whether the Respondent was acting in her official capacity for the purpose of the Code of Conduct. The Tribunal deals with this point below.

#### **Findings – the events leading to the ESO's allegation**

16. In late 2006 the Parish Council went through the process of appointing a new Parish Clerk and Manager. Mr Dawson was the successful candidate and he started work as the Parish Clerk and Manager on 2 January 2007. It was a condition of his appointment that he obtained the Certificate in Local Council Administration (CiLCA). In addition Mr Dawson had to complete a six month probation period. On 27 July 2007 Councillor Kent, Chair of the Council's Personnel Committee, wrote to Mr Dawson and confirmed that he had satisfactorily completed his probationary period. However, Mr Dawson had not at this date been awarded the CiLCA.
17. Mr Dawson had submitted the necessary work for the CiLCA in August 2007 and failed. He resubmitted the necessary work and on 20 February 2008 was informed that he had again failed because three sections were unsatisfactory. Mr Dawson appealed and the Chief Verifier found that in relation to one of the sections Mr Dawson had good grounds for his appeal and thus he awarded a pass. In relation to the other two sections the Chief Verifier upheld the original decision that they were fails. However, the Chief Verifier then reviewed the whole of the work submitted by Mr Dawson and concluded that in spite of the two failures overall Mr Dawson had reached the required standard and in his opinion *"it would be iniquitous to ask Mr Dawson to submit another portfolio when I am of the view that he has submitted sufficient evidence to pass.."* Accordingly the Chief Verifier instructed that the CiLCA be awarded to Mr Dawson.
18. The Tribunal has seen the full letter (address to the Society of Local Council Clerks (SLCC) in which the Chief Verifier set out his reasoning both in relation to the

three sections to which Mr Dawson's appeal related and his decision to award the CiLCA. While the Tribunal heard no argument about the quality of the Chief Verifier's judgement the Tribunal found that on its face the Chief Verifier's letter appeared to be a careful, thorough and balanced consideration of Mr Dawson's appeal which would not have lead a reader to the view that the standards applied to the award of the CiLCA were being undermined. The SLCC copied the Chief Verifier's letter to Mr Dawson as an enclosure in notifying him of the success of his appeal.

19. On the basis of the above facts the Tribunal found that the CiLCA qualification was properly award to Mr Dawson and that there was nothing to indicate that the Chief Verifier's decision to award Mr Dawson the CiLCA had been based on other than relevant criteria.
20. In March 2008 the Respondent was told that Mr Dawson had been awarded the qualification on appeal, together with the information that this was despite Mr Dawson not having passed all the portfolio sections, and that the Chief Verifier had said that it would be 'iniquitous' to make him submit further work. The evidence was that this information was given to the Respondent by an officer of SLCC.
21. On a date between Wednesday 19 and Friday 21 March 2008 a conversation took place, in Mr Dawson's office at the Parish Council, between the Respondent and Mr Dawson ("the conversation") in which the Respondent told Mr Dawson that she knew he had obtained his qualification on appeal; that the decision had caused a 'furore' at NALC; that he would probably receive a letter from NALC on the matter; and that the position of the Chief Verifier was in some jeopardy.
22. NALC did not intend to write to Mr Dawson about his CiLCA award, and the position of the Chief Verifier was not in jeopardy.
23. Any 'furore' relating to the circumstances of the Parish Clerk's CiLCA award did not arise until after the Respondent had herself complained about the matter, initially in an email that she sent to the Chief Executives of NALC and the SLCC on 25 March 2008, and subsequently when she addressed meetings of NALC and SERCAF on 1 and 25 April 2008.
24. On 25 March 2008 the Respondent wrote the above mentioned email, addressed to four people involved in various local government organisations which had an interest in the award of the CiLCA qualification. The email read:

*"Dear Irene,  
I am replying to your email, but am forwarding it to John Findlay & Nick Randle & Ken Cleary. (I would be grateful if you would all read Irene's email)  
I am outraged. We have a qualification which is already not of the highest standing, and certainly does not best serve those many superb clerks our sector has.  
This judgment demeans my council. We are now foist with a clerk who patently does not understand our sector nor the legal structure pertaining to it.  
There is no earthly reason why a clerk who patently fails should be passed, just because some arbitrary decision has been made, that he or she has to sit a third time.*

*In doing this the chief arbiter has now foisted upon my council a clerk who is not up to the grade.*

*I insist this is fully investigated it is against all laws of natural justice.*

*Should this not be properly investigated and this decision rescinded I personally will take this to the highest level of government.*

*Cllr Isabella Fraser.*

*Nalc Rep Buckinghamshire and Milton Keynes."*

25. The fact that Mr Dawson was confirmed in his position as Parish Clerk and Manager at the end of his six months probation period provides ample evidence that his performance in the job was satisfactory. The ESO refers to interview statements from Councillor's Petchy and Goss, both members of the Parish Council, which confirm that Mr Dawson's performance was actually more than satisfactory.
26. In her interview statement the Respondent herself, the gist of which she repeated at the hearing, described Mr Dawson in the following way *"he is a first rate clerk. His paperwork is good. He's organised and if he is asked to do something he does it instantly"*. The Respondent did however express some reservations about Mr Dawson role as the manager of the other staff of the Parish Council in her interview statement.
27. However, looking at this evidence overall the Tribunal found that there were no grounds for the Respondent to raise any concerns about the performance of Mr Dawson in the context of the CiLCA in her email of 25 March 2008.

#### **Findings - disputes of fact**

28. In stark contrast to her statements before the hearing, when the Respondent had stated that she intended to "contest this most vigorously" and to call witnesses, the Respondent accepted at the hearing that the facts were as stated in the ESO's report.
29. The Tribunal thus found that the facts were as set out in the ESO's report and outline above.

#### **Findings - Official Capacity**

30. Paragraph 2(1) of the Code sets out the circumstances in which it applies to a member. In paragraph 2(1)(a) the obligation to comply with the Code applies whenever a member conducts the business of their authority, which includes the business of the office to which the member has been elected or appointed.
31. The ESO baldly states that "it is a known fact that the Respondent was not conducting the business of the Council when she sent her email". In the Tribunal's view that is true on the ordinary meaning of the words "conduct the business of your authority" but it does not address the extension of these words to the "business of the office to which you are elected".
32. The Respondent was elected as a member of the Parish Council and therefore holds the office of parish councillor and the Code will apply when she conducts the business of that office. Thus, the Tribunal had to decide whether the writing and sending of the email amounted to conducting the business of the office to which the Respondent was elected.

33. The Tribunal found that those things which formed the basis of the work of a councillor would fall within the words "the business of the office to which they were elected or appointed". Thus, for example, when a member was contacted by an elector to help with a problem which broadly related to the work of public bodies, say the quality of a road repair following work by a water company, the member may well deal with their own authority, other local authorities or public bodies as well as private bodies like water utilities. In such circumstances the member is conducting the business of their office.
34. In the Tribunal's judgment a person elected to the office of councillor will, as part of discharging the business of their office, have an interest in the efficient running and administration of their own authority and, in many circumstances, other public bodies because it involves the use of public money.
35. The Respondent had such an interest and she wished to be involved in bodies that supported local authorities through local and national organisations. In particular she was keen to see that there were qualifications for Parish Clerks and that the standard of those qualifications was set and maintained at an appropriate level. It was a prerequisite for membership of the local and national bodies with which the Respondent was involved that she was a member. In the Tribunal's judgment when acting in connection with her work on such bodies the Respondent was conducting the business of her office even though the matters she was dealing with may apply equally to all councils as well as her own.
36. While this finding may be reinforced by the fact that the Respondent was nominated by her Parish Council it is not a necessary prerequisite for the finding, because there was a sufficient link to the business of her office even if she acted as an individual councillor without nomination.
37. Paragraph 2 further provides that the Code applies to a member when they act, claim to act or give the impression of acting as a representative of their authority.
38. In the Tribunal's judgment this provision requires a full review of the surrounding facts and there is no one determining factor. Thus while in the Tribunal's judgment it may be relevant that the member is known to be a member of a particular council or to be nominated to be on a body by their council or to describe herself as councillor, it is not conclusive. The Tribunal noted that councils routinely nominate members for the membership of outside bodies such as charities, appointment panels and planning bodies. When acting on these bodies members no doubt have a strong predisposition to representing the views of the council which nominated them and other members as well as the public may well perceive the member as representing the views of the nominating council. However, in many cases the nominated member's overriding obligation under the law will be to the body concerned and they are not simply acting as a conduit for the views of their council. Thus in the Tribunal's judgment in most cases something more will be needed, to bring a member within this provision, than the simple fact that the member's position on the body is reliant on their status as a councillor or as a councillor nominated to the body concerned.
39. The Tribunal found the approach taken by the ESO in his report was sound as it identified the matters which related to whether there was a connection between the Respondent's comments and the Parish Council. The following factors indicated that the Respondent's actions did not give the impression of acting as a representative of the Parish Council:

- the email was sent from her private email address and not her official Council address;
- she signed the email using her NALC title;
- at interview, she stated that she wrote the email on behalf of all BALC members in respect of standards that BALC members were questioning;
- the Chief Verifier, when responding to the Respondent's email stated: "*I am also not clear whether the Respondent is speaking on behalf of Campbell Park Parish Council, or as an individual councillor, or as a NALC representative ...*"

40. On the other hand the following extracts from the email indicate a close connection with the Parish Council:

*"This judgment demeans my council. We are now foist with a clerk who patently does not understand our sector nor the legal structure pertaining to it"*

*"...the chief arbiter has now foist upon my council a clerk who is not up to the grade."*

41. Weight was added to the view that the Respondent was acting, claiming to act or gave the impression of acting as a representative of their authority by the fact that the minutes of the Parish Council clearly stated that she was nominated by the Parish Council to Milton Keynes Association of Urban Parish Councils for the relevant period.
42. Further, as the ESO notes, the Respondent's comments about the Parish Clerk's suitability for the role must have drawn, at least in part, from her dealings with him on Council business. In any event, his suitability for the role clearly was Council business and at interview, the Respondent agreed that it could be inferred from the content of her email that she had been acting in her role as a member of the Council.
43. The ESO adopted an objective assessment of the content of the email and concluded that it would leave the notional reasonable person with the impression that the Respondent was acting as a representative of her Council when she sent her email. The Tribunal found that an objective approach based on a reasonable person test was the correct approach.
44. In the Tribunal's judgment there are factors pointing both ways. The Tribunal found the fact that the Chief Verifier, a person perhaps as well placed as any to take on the role of the reasonable person, was uncertain as to the Respondent's role and this was an indication that the matter may well fall outside the Code. No doubt this uncertainty arose because the Respondent described herself primarily by reference to her position in NALC and sent the email from her home address and not from her council email address.
45. However, against this was the personal and strong language linking her concerns to Mr Dawson (albeit not by name) as Parish Clerk and to her own Parish Council. Looking at the language of the email overall, albeit including the email address used by the Respondent and how she signed herself, the Tribunal found that the reasonable person would find the language used provided a strong link to the Parish Council and to strong and, apparently known and established, concerns about the poor performance of the Parish Clerk, and on this basis a reasonable person would conclude that the Respondent fell within paragraph 2 because she

acted, claimed to act or gave the impression she was acting as a representative of her Parish Council.

46. In relation to the conversation the Tribunal concluded that the Code applied under paragraph 2 because the conversation took place on Parish Council premises in Mr Dawson's office, it related directly to Mr Dawson's position as Parish Clerk and Manager because it was a condition of his appointment that he obtained the CiLCA, the Respondent had been part of the interview panel which had appointed Mr Dawson and she was a member of the personnel committee. The Tribunal found that all these factors would lead the reasonable person to conclude that the Conversation related to the business of the Parish Council as defined in paragraph 2.

### **Findings – human rights**

47. The Respondent raised no objection to the application of the Code based on her freedom of expression under Article 10 of the European Convention on Human Rights. However, it is well established law that the right must be considered in the context of the Code and the ESO provided a detailed consideration of the impact of his report on the Respondent's right to freedom of speech.
48. In the Tribunal's judgment the Respondent in both her email and conversation with Mr Dawson went beyond what should be considered acceptable in terms of political challenge or disagreement. The Respondent's comments were disparaging and insulting about Mr Dawson's abilities. The freedom of expression of one person should not be allowed to cause harm to another person and in this case the Respondent's views, having no basis in fact, were clearly damaging to Mr Dawson. Thus the Tribunal concluded that in relation to the conversation with Mr Dawson and the personal attacks on Mr Dawson in the email there was no public interest that should be afforded the protection of political expression. For this reason the Tribunal found that there had been no unlawful interference with the Respondent's right to freedom of expression.

### **Findings – breach of the Code**

49. At the hearing the Respondent accepted the reasoning in the ESO's report that she had breached paragraphs 5 and 6 of the Code.

50. Paragraph 5 of the Code provides:

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

51. In the Tribunal's view the test is an objective one and is to be decided on the basis of whether the notional reasonable person would conclude, on the basis of the relevant facts, that the Respondent had brought her office of councillor or her authority into disrepute.
52. A member's conduct will bring that member's authority into disrepute if it could reasonably be regarded as reducing public confidence in the authority being able to fulfil its functions and duties. The significance of the words 'could reasonably be regarded' is that it is not necessary to prove that a member's actions have actually diminished public confidence or harmed the reputation of the authority: a breach will arise if the conduct is reasonably capable of having that effect.

53. The Tribunal has found that there were no grounds for criticism of Mr Dawson's performance as Clerk and Parish Manager and that he was properly awarded the CiLCA qualification. It follows that there were no grounds on which the Respondent could have reasonably made the comments about Mr Dawson contained in her email of 25 March 2008 nor, as the Tribunal has already found, were there any grounds for the Respondent's comments made in the conversation.
54. In the Tribunal's judgment the making of groundless, and thus untrue, comments critical of Mr Dawson's competence in the most disparaging language must in the mind of the reasonable person bring the office of the member making those comments into disrepute. The reasonable person will always expect a member to act on the basis of the facts known to her and not to allow emotion to be the basis for making groundless statements that personally disparage, in strong language, an officer of her council. Thus the Tribunal found that the Respondent had breached paragraph 5 of the Code because her conduct could be reasonably be regarded as bringing her office into disrepute.
55. However, the Tribunal found that the Respondent's conduct had a strong personal element as she had, as she acknowledged to the Tribunal, a fiery temperament which at times predominated. In the Tribunal's judgment, while a reasonable person might question whether a person with such a temperament was suited to public office, they would be likely to conclude that was essentially a personal failing which reflected badly on the member rather than on her authority. Thus the Tribunal found that the Respondent could not reasonably be regarded as bringing her authority into disrepute.
56. Paragraph 6(a) of the Code provides:
- "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"*
57. It was the Respondent's stated object in her email to get the CiLCA awarded to Mr Dawson rescinded and she expressed considerable determination about this stating that *"I personally will take this to the highest level of government"*. On a number of occasions the Respondent has stated that it was never her actual intention to get the CiLCA rescinded as this was an unrealistic objective and it was always about the CiLCA rather than Mr Dawson personally.
58. While the Tribunal shared, to a degree, the Respondent's subsequently stated view that rescission of Mr Dawson's CiLCA was not a realistic objective nonetheless the Tribunal found that on any reading of the email rescission was clearly an outcome greatly desired by the Respondent. Such an outcome would have been a substantial disadvantage to Mr Dawson because he would have had to resit the CiLCA examination as his appointment as Parish Clerk and Manager was subject to his gaining this qualification. Thus the Tribunal found that the unjustified attempt, whether or not it had a realistic chance of success, to get Mr Dawson's CiLCA rescinded amounted to an attempt by the Respondent to use her position as a member to improperly confer on Mr Dawson a disadvantage under paragraph 6 of the Code.
59. In addition there was also the fact that Mr Dawson had been disparaged in very strong language to those who received the email and these were people who were involved in professional organisations he would have to deal with and to



which he was known. It was inevitable that the Respondent's views, even though groundless, would damage Mr Dawson's reputation. In the Tribunal's judgment the language used by the Respondent would lead the reasonable person reading her email to conclude that Mr Dawson was incompetent. In the Tribunal's judgment the making of such unfounded statements was an attempt by the Respondent to use her position as a member to improperly confer a disadvantage on Mr Dawson in breach of paragraph 6.

60. On the evidence before the Tribunal it is clear that Mr Dawson's reputation has been besmirched without justification and it is the Tribunal's hope that its decision will go some way to undoing any harm caused by the Respondent to Mr Dawson's reputation.

### **Findings – sanction**

61. During the hearing the Respondent made a full and public apology for her conduct which she acknowledged had breached the Code, and for the unjustified attack on Mr Dawson's reputation and for the anxiety she had caused Mr Dawson.
62. As the Tribunal has noted the Standards Sub-Committee had already made a finding against the Respondent and in the normal course of events the Tribunal would have taken this into account when considering what sanction to impose. However, in this case the Tribunal decided to place virtually no weight on the decision because there was to be an appeal and thus the eventual outcome was uncertain. The Tribunal was also mindful that the actual events under consideration at this hearing predated the events dealt with by the Standards Sub-Committee.
63. The Tribunal was mindful that there was the possibility that if the sanction it imposed ran concurrently with the sanction imposed by the Standards Sub-Committee it could be argued that the Respondent would not suffer any additional sanction in respect of the matters which were the subject of this hearing.
64. While acknowledging that this argument had merit the Tribunal decided that on the particular facts it did not hold good. In the Tribunal's judgment any sanction it imposed would be seen as confirming that the Respondent's conduct had been in breach of the Code and unacceptable. In addition her fulsome public apology at the hearing made this plain to those involved and to the public. Thus while it was open to the Tribunal to adjourn and await the outcome of the appeal it decided that the considerable delay that would result, the extra anxiety it would cause to the Respondent (particularly in view of her current health problems) and the limited impact the outcome was likely to have on the Tribunal's deliberations outweighed any possible advantage. Thus the Tribunal decided to come to its decision on sanction in respect of the findings of fact and breaches of the Code relating to the subject matter of this hearing, immediately.
65. The Tribunal considered the application of the guidance issued by the Principal Judge and in particular that part of the guidance dealing with sanction which states:

*"Disqualification is the most severe of the sanctions...[and it is]... most likely to be appropriate where the Respondent has deliberately sought to misuse his or her position in order to disadvantage some other person."*

66. On the basis of the above findings the Tribunal found that this part of the guidance strongly indicated that this was a case in which it should consider the disqualification of the Respondent from office.
67. Up to the hearing, the case for disqualification as the appropriate sanction was reinforced by the following factors. The Respondent had not given any indication that:
- she accepted that her conduct was wrong;
  - her conduct had harmed Mr Dawson’s reputation;
  - it was inevitable that she had caused unnecessary anxiety to Mr Dawson in the Conversation;
  - her criticism of Mr Dawson was untenable because it had no basis in fact;
  - her criticism of the award of the CiLCA to Mr Dawson on appeal was unjustified because it was not based on fact;
  - she had breached the Code;
  - she thought she owed Mr Dawson an apology.
68. At the hearing it was clear that the Respondent had undergone a very substantial change of heart. As is noted above the Respondent did not dispute the facts and she accepted that she had breached the Code in the manner outlined above. When dealing with sanction she accepted that some substantive sanction was inevitable.
69. This was a remarkable change in the Respondent’s position and the Tribunal naturally approached such a last minute change of position with some caution. However, the Tribunal found that substantial credit was to be given to the Respondent when considering sanction because she had publicly and very clearly accepted that her conduct was wrong and breached the Code. In addition she gave a very full and public apology to Mr Dawson and made it clear that she would not go back on what she had said to the Tribunal.
70. In addition Mr Crooks, acting as the Respondent’s representative, made some telling points in the Respondent’s favour:
- her long service on the Parish Council and substantial period on the Milton Keynes Council;
  - as her official details demonstrated she was involved in both local and national local government organisations;
  - that support for her came from across party lines;
  - that she played an important part in delivering a stadium and professional football to Milton Keynes;
  - that she is a tireless worker for her electors;
  - she has managed to increase her majority in spite of not representing either of the main political parties;
  - her real concern has always been the quality of the CiLCA as a qualification;
  - she is of a fiery disposition and there was no malice or dishonesty or intention to mislead;
  - a lesson had been learned and there was a recognition that high standards were needed in local government;
  - even at 74 years old she still felt that she had a lot to give to the community and wanted very strongly to continue with her public work;
  - she was genuinely an outstanding public servant.

71. In addition the Tribunal took into account the Respondent's medical condition. In particular the debilitating effect that the pain associated with arthritis can have on a person and while this could not excuse the Respondent's conduct it may well have an impact on her ability to control her emotions. Similarly in the period prior to the hearing and following the unsuccessful knee operation that the Respondent underwent in July 2009 the increased pain may well have had an impact on the Respondent's ability to see things in their true perspective.
72. In the Tribunal's view the views expressed by Mr Dawson in his interview statement were relevant to the question of sanction because he was still the Parish Clerk and Manager and the question of the likely working relationship between Mr Dawson and the Respondent as a prominent member of the Parish Council was a factor to be weighed in the balance. The Tribunal arrived at this view because it went to the efficient administration of the Parish Council and anyway Mr Dawson was the wronged party and in the Tribunal's judgment it was right to take account of how the Tribunal's decision might affect Mr Dawson personally in the future.
73. The Tribunal found that Mr Dawson's interview statement indicated that he had taken a mature approach to the situation and even though he had (quite properly) made the complaint which had led to the hearing and he was the wronged party his assessment of the Respondent was free of hyperbole and indicated little or no personal animosity to the Respondent. Indeed Mr Dawson acknowledged that the Respondent was an able member in some respects with a lot of useful knowledge about the Parish and he gave an example of his modifying his views based on the Respondent's comments. In the Tribunal's assessment Mr Dawson had gone out of his way to leave the way open to there being an effective working relationship between himself and the Respondent even if the relationship was unlikely to be a close one. It was much to Mr Dawson's credit that he took such an approach and it reassured the Tribunal that the Respondent continuing as a member of the Parish Council was not likely to have an adverse impact on its running or on Mr Dawson personally.
74. In the Tribunal's judgment the acceptance by the Respondent, even at a late stage, that her conduct was wrong, that she had breached the Code and was sorry for its impact on Mr Dawson, was genuine. The Tribunal gave this change in position by the Respondent considerable weight and found that it made suspension, rather than disqualification, the appropriate sanction.
75. In the Tribunal's view even if the Respondent had learnt her lesson it was necessary to demonstrate both to the public and to other members that such behaviour did not go without consequences, both to reassure the public as to the conduct of members and to discourage other members from making groundless comments which are detrimental to the reputation of others.
76. The Tribunal was unimpressed with the argument that the Respondent is known to have a fiery temperament and that this should count in her favour. It is too easy for a person with such a temperament to put the responsibility on others to cope with it rather than to take responsibility and control their temperament. It is in the Tribunal's judgment simply unacceptable for a member to attempt to make a virtue out of being of a fiery temperament. If a person knows they have such a temperament they must control it and if, on occasion they fail to control it, a reasonable person with insight into their own shortcomings will apologise quickly and fulsomely.

77. This case demonstrates very clearly that members who fail to control their temper are not effective in their work because instead of being able to effectively pursue the point of public interest, in this case the quality of the CiLCA qualification, their own conduct becomes the issue.
78. The email and the conversation were made by the Respondent in her role as a Parish Councillor and in the Tribunal's judgment these facts made it appropriate to limit the suspension to the Respondent's role as a parish councillor. In the Tribunal's judgment a period of three months suspension would be sufficient to make clear that the Respondent's conduct had been unacceptable without unduly disrupting her work as a parish councillor.
79. The Tribunal was under no illusions that it would take a considerable effort on the part of the Respondent to ensure that in future her comments were based on fact and expressed in moderate language. However, in the Tribunal's judgment a lenient sanction was appropriate based in a large part on accepting the Respondent's personal contrition at face value together with giving weight to the submissions of her representative.
80. The decision of the Tribunal was unanimous.
81. Any request for the decision to be reviewed or for permission to appeal needs usually to be made to the First-tier Tribunal within 28 days of receipt of the Tribunal's reasoned decision. Such applications need to be in writing.

Nicholas Holden

**Judge**

12 April 2010