

STANDARDS COMMITTEE

Venue: Town Hall, Moorgate
Street, Rotherham.

Date: Thursday, 11 September
2008

Time: 2.00 p.m.

A G E N D A

1. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
2. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
3. Minutes of the previous meeting held on 12th June, 2008 (herewith) (Pages 1 - 5)
4. Draft Evaluation Criteria (herewith) (Pages 6 - 11)
5. Standards Board for England Guidance on Investigations (herewith) (Pages 12 - 65)
6. Investigation Manual (report herewith) (Pages 66 - 100)
7. Standards Board for England Bulletins Nos. 39 and 40 (herewith) (Pages 101 - 114)
8. Joint Meeting with the Audit Committee/Corporate Governance Group - to consider arrangements

STANDARDS COMMITTEE
12th June, 2008

Present:- Mr. M. Andrew (in the Chair); Councillors Austen and Hodgkiss; Ms. J. Bartrop and Messrs. I. Daines, D. Foster and N. Sykes and Councillors D. Bates and J. Sharman (Parish Councils' representatives)

Apologies for absence were received from Councillors Clarke and Slade, Mrs. A. Bingham, Mr. J. Maric and Councillor A. Buckley (Parish Councils' Representative).

The Chairman welcomed Councillor Austen and Parish Councillors D. Bates and J. Sharman to their first meeting of the Committee and introductions were made.

1. MINUTES

Resolved:- That the minutes of the meeting of the Committee held on 8th May, 2008 be approved as a correct record.

2. APPOINTMENT OF VICE CHAIRMAN

The Chairman reported that this was Jill Bartrop's last meeting as Vice-Chairman and independent member of the Committee following her resignation due to work commitments.

In so doing he thanked Jill for the support given to him personally as Chairman and generally to the Committee.

Resolved:- (1) That the Committee places on record its appreciation of the service given by Jill Bartrop to the Committee as both Member and Vice-Chairman.

(2) That Mrs. A. Bingham be appointed Vice-Chairman of this Committee.

3. COMPLAINT - APPOINTMENT OF ASSESSMENT PANEL

The Assistant Chief Executive, Legal and Democratic Services, reported receipt of allegations and indicated the need to appoint an assessment panel to consider the allegations.

Resolved:- (1) That an Assessment Panel meeting be held on Friday, 4th July, 2008 at 10.00 a.m.

(2) That Councillor Hodgkiss, Messrs. M. Andrew, I. Daines and N. Sykes and Parish Councillor J. Sharman be appointed to the said Panel.

4. STANDARDS BOARD FOR ENGLAND GUIDANCE - ROLE AND MAKE UP OF STANDARDS COMMITTEES

The Assistant Chief Executive, Legal and Democratic Services, presented the submitted guidance from the Standards Board for England regarding

the role and make up of standards committees.

The guidance covered:-

- Functions of standards committees :

- adopting the Code of Conduct
- publicising adoption of the Code of Conduct
- training members on the Code of Conduct
- monitoring the effectiveness of the Code of Conduct
- giving Standards Committees a wider role
- granting dispensations
- politically restricted posts

- Size and composition of standards committees

- Independent members:

- choosing an independent member
- skills and competencies of independent members
- recruiting independent members from another standards committee
- ceasing to be an independent member
- role of the chair
- induction of independent members
- remuneration of independent members
- indemnities for independent members
- complying with the Code of Conduct and register of members' interests

- Parish and town council representatives

- choosing parish and town council representatives

- Other members of standards committees

- executive members on the standards committee
- elected members on the standards committee
- substitute members

- Supporting standards committees

- role of the monitoring officer

- Operation of standards committees

- validity of meetings
- agendas and reports for standards committee meetings

Discussion and a question and answer session ensued and the following issues were covered:-

- local Code of Conduct
- terms of reference of the Committee
- Committee's work programme
- Remuneration Panel and remuneration for independent members and parish council representatives

Resolved:- (1) That the information be noted.

(2) That the local Code of Conduct and the Committee's terms of reference be sent to members.

(3) That the Committee's work programme be reviewed.

(4) That the issue of remuneration for independent members and parish council representatives be referred again to the Remuneration Panel.

5. STANDARDS BOARD FOR ENGLAND GUIDANCE - LOCAL ASSESSMENT OF COMPLAINTS

The Assistant Chief Executive, Legal and Democratic Services, presented the submitted guidance from the Standards Board for England regarding the local assessment of complaints.

The guidance covered :

- Regulations
- Background
- Responsibilities
- Pre-assessment :
 - publicising the complaints system
 - submission of complaints and accessibility
 - acknowledging receipt of a complaint
 - pre-assessment reports and enquiries
- Assessment
 - initial tests
 - developing assessment criteria
- Decision :

- initial assessment decisions
- referral for local investigation
- referral to the Standards Board for England
- referral back to a standards committee from the Standards Board for England
- referral for other action
- decision to take no action
- notification requirements – local assessment decisions

- Review :

- reviews of 'no further action' decisions
- notification requirements – reviews of local assessment decisions

- Other issues to consider :

- access to meetings and decision making
- withdrawing complaints
- multiple and vexatious complaints
- case history
- confidentiality
- anonymous complaints
- members with conflicts of interest
- officers with conflicts of interest
- personal conflicts
- complaints about members of more than one authority

Discussion ensued on the need to develop criteria against which new complaints would be assessed.

Resolved:- (1) That the information be noted.

(2) That further guidance be sought on the development of assessment criteria and the Assistant Chief Executive, Legal and Democratic Services, submit draft criteria to a future meeting of this Committee.

6. SUMMARY OF RESPONSES TO CONSULTATION PAPER ON ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND

The Committee noted the submitted summary of responses received by the Department of Communities and Local Government to the above consultation paper.

7. NATIONAL ASSOCIATION OF LOCAL COUNCILS (NALC) - STANDARDS COMMITTEE COMPACT PILOT

The Assistant Chief Executive, Legal and Democratic Services, reported receipt of an approach to take part in a compact pilot being managed by

NALC following a government grant to provide capacity building initiatives for the parish council sector.

The grants were for two projects:-

- a pilot peer mentoring programme for parish councillors
- a pilot implementing a model compact between County Associations, standards committees of principal authorities and the Society of Local Council Clerks

Resolved:- (1) That the information be noted.

(2) That the invitation for the Committee and the Monitoring Officer to participate in the compact pilot be accepted.

(3) That the Assistant Chief Executive, Legal and Democratic Services, liaise with the Yorkshire Local Councils Association regarding the parishes in Rotherham to be involved.

8. ANNUAL ASSEMBLY OF STANDARDS COMMITTEES - BIRMINGHAM - 13TH AND 14TH OCTOBER, 2008

Resolved:- That, following the resignation of Ms. J. Bartrop, the Assistant Chief Executive, Legal and Democratic Services, liaise with the new Vice-Chairman Mrs. A. Bingham regarding her attendance at the above.

9. EXCLUSION OF THE PRESS AND PUBLIC

Resolved:- That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 7(a) of Part I of Schedule 12A to the Local Government Act 1972 (information referred to the Monitoring Officer from an Ethical Standards Officer).

10. INVESTIGATIONS UNDER SECTION 59 OF THE LOCAL GOVERNMENT ACT 2000

The Committee noted the submitted reports of the Ethical Standards Officer following investigations of allegations against two Councillors (Case Nos. SBE 20196.07 and SBE 20197.97.)

Initial Assessment of Standards Complaints

Assessment and Review Criteria

1 Introduction

This paper sets out the criteria which the Assessment Sub-Committee will apply in conducting the initial assessment of allegations of failure by members to observe the Code of Conduct.

The authority takes all allegations of member misconduct extremely seriously and seeks to secure the highest standards of conduct at all times. The initial assessment process determines whether the complaint appears to show that there has been a breach of the Code of Conduct, and then whether the complaint should be subject to a formal investigation (either by the Standards Board for England or locally under the direction of the authority's Monitoring Officer), whether the authority's Monitoring Officer should be directed to take other appropriate actions in respect of the complaint, or whether no action should be taken in respect of the complaint.

2 Local resolution of complaints

The Standards Committee is acutely aware that the formal investigation of complaints is costly and time consuming. Whilst formal investigation may be necessary in some cases, many complaints can often be dealt with more rapidly and effectively if an early, informal resolution of the matter can be achieved.

The Standards Committee has instructed the Monitoring Officer, where a complaint has been received, to explore the potential for local resolution to the satisfaction of the complainant, to avoid the need for a formal investigation. But any attempts at local resolution do not take away from the right of a complainant to have their complaint of member misconduct considered by the Sub-Committee.

3 Which complaints can be considered?

The Assessment Sub-Committee must consider every complaint that a member of the authority (or of any Parish or Town Council within its area) has failed to comply with the Code of Conduct which that authority has adopted. Accordingly, it has no jurisdiction in respect of any complaint which relates to:

- (a) persons who are not members of the authority (or a Parish or Town Council in its area)
- (b) conduct which occurred at a time when the person against whom the complaint was made was not a member of the authority (or of a Parish or Town Council in its area)

- (c) conduct which occurred before the relevant authority adopted a Code of Conduct. All local authorities were required to adopt a Code of Conduct in 2001. In practice, the Sub-Committee will expect complaints to be made promptly after the events to which they relate (see below)
- (d) conduct which occurred in the member's private life, as the Code of Conduct only applies to a member's conduct as a member of a local authority
- (e) conduct which occurred when the member was acting as member of another authority. Where a member is also a member of another authority (other than a Parish or Town Council within its area) which has its own Code of Conduct, then the complaint should be addressed directly to that authority.
- (f) complaints which do not relate to the apparent misconduct of a relevant member but are, for example, about the policies and priorities of the authority, or are a request for the provision of a service by the authority, or are a complaint about the conduct of an officer of the authority

Such complaints will not be referred to the Assessment Sub-Committee but will instead be dealt with by the Monitoring Officer who will advise the complainant as to the most appropriate avenue for proper consideration of their complaint or request.

4 Does the complaint appear to show a breach of the Code of Conduct?

The first assessment which will be undertaken by the Sub-Committee will be to determine whether the complaint appears to show that a breach of the Code of Conduct may have occurred.

For this purpose, the Sub-Committee will take into account the complaint letter and any other information which is readily available to them. Accordingly, it is the responsibility of a complainant to set out clearly:

- (a) who the complaint is against
- (b) what they understand that the relevant member did
- (c) why they consider that the member's conduct amounted to a breach of the Code of Conduct

And to provide copies of any documents which they want the Sub-Committee to consider.

Following receipt of your complaint, the Monitoring Officer will collect any other information which is readily available and which may assist the Sub-Committee in its consideration of the complaint. This will not include conducting interviews with witnesses, but may include providing the Sub-Committee with copies of the agenda, reports and minutes of a meeting of the authority at which the alleged misconduct occurred, or providing copies of the member's entry in the register of members' interests.

The Sub-Committee will then consider whether, on the basis of the complaint and that additional information, there appears to have been a breach of the Code of Conduct.

If the Sub-Committee concludes that the evidence does not disclose an apparent breach of the Code of Conduct, it has no further jurisdiction in respect of the matter.

5 Possible actions where an apparent breach of the Code of Conduct has occurred

Where the Sub-Committee has concluded that there appears to have been a breach of the Code of Conduct, it has four options available to it. These are as follows:

(a) direct the Monitoring Officer to secure that the complaint is investigated locally

A local investigation will normally be appropriate where the alleged conduct is sufficiently serious to merit the imposition of a sanction against the member, but not so serious that it would merit a greater sanction than the authority's Standards Committee could impose following a formal hearing. In practice, this means that a local investigation would not be appropriate where the appropriate sanction is likely to be a suspension as a member of the relevant authority for a period of more than 6 months, or disqualification as a member of any local authority. See paragraph 5(b) below for more detailed grounds for referring a complaint to the Standards Board for England.

However, recognising that a formal investigation is an expensive and time-consuming process, and can only address the immediate subject matter of the complaint, the Sub-Committee can direct the Monitoring Officer to take other appropriate action short of a formal investigation – see paragraph 5(c) below.

In addition, particularly where the conduct complained of is not sufficiently serious to merit any action or occurred a considerable time ago, the Sub-Committee may determine that no action should be taken in respect of it. For more detail, see paragraph 5(d) below.

(b) refer the matter to the Standards Board for England with a request that the Board undertakes a national investigation into the complaint;

The following factors will be considered by the Sub-Committee to be factors which support referring the complaint to the Standards Board for England for a national investigation:

- (i) that the complaint is so serious that, if proven, the conduct complained of merits a sanction in excess of that which could be imposed by the Standards Committee. In practice this means that the appropriate sanction would be either a suspension from the relevant authority for a period of more than 6 months, or a disqualification from any local authority
- (ii) that the investigation required is so extensive that it would impose an unreasonable burden on the authority and/or that any hearing conducted on the basis of that investigation would be unreasonably complex for the Standards Committee

- (iii) that the status of the member against whom the complaint has been made or of the person by whom the complaint has been made is such that either the authority could not conduct a full and impartial investigation and hearing, or that there is likely to be a public perception that the authority could not conduct a full and impartial investigation and hearing
 - (iv) that so many members of the Standards Committee have a conflict of interest in respect of the matter that the authority is going to be in difficulty in organising an impartial Hearings panel for the matter
 - (v) that the complaint raises significant or unresolved legal issues where a national ruling would be helpful
 - (vi) that the authority itself has an interest in the outcome of the investigation and/or hearing, for example where the report may lead to a judicial review of a decision of the authority
 - (vii) that there are other exceptional circumstances which would prevent the authority from securing a timely, full and impartial investigation and/or hearing of the matter, or which are likely to give rise to the perception that the authority cannot secure a timely, full and impartial investigation and/or hearing of the matter.
- (c) **direct the Monitoring Officer to take other appropriate action short of a formal investigation;**

The Assessment Sub-Committee cannot impose a sanction on the member against whom the complaint has been made without a formal investigation and hearing. But it can direct the Monitoring Officer to take a range of other actions, including providing training for members, securing conciliation or mediation between competing interests, or reviewing procedures to minimise conflict.

In some instances, the conduct complained of may be a symptom of wider conflicts within the authority. A formal investigation and hearing would only deal with the particular complaint and may not resolve such underlying conflicts.

Such alternative action is therefore most suitable where:

- (i) the conduct complained of is a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct
- (ii) the conduct complained of is apparently common to a number of members of that authority, demonstrating a lack of awareness or recognition of the particular provisions of the Code of Conduct
- (iii) the conduct complained of is not so serious that it requires a substantive formal sanction such as suspension or disqualification

- (iv) the complaint reveals a lack of guidance, protocols and procedures within the authority, for example on the use of resources or the process of decision-making
 - (v) the member complained of and the person making the complaint are amenable to engaging in such alternative action, as there is no power to require them to participate.
- (d) **decide to take no action in respect of the complaint.**

The following factors are likely to lead the Sub-Committee to decide to take no action in respect of the matter:

- (i) the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.
- (ii) the complaint is anonymous. The Sub-Committee can protect the confidentiality of the identity of the complainant where that is justified by a real fear of intimidation or victimisation. However, where this is not an obvious risk, the fact that the complainant has not disclosed his/her identity can indicate that the complaint is less serious, is malicious or is politically motivated
- (iii) a significant period of time has elapsed since the events which are the subject of the complaint. This is both because, where a matter is serious, it would be reasonable to expect the complainant to make a complaint promptly, and because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence
- (iv) the complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. This could be where the matter is such that there is unlikely to be any firm evidence on the matter.

6 Confidentiality

As a matter of fairness and natural justice, a member should usually be told who has complained about them and what the complaint is about. There may be occasions where the complainant requests that their identity is withheld. Such a request should only be granted in circumstances which the Assessment Sub-Committee consider to be exceptional, for example: -

- (a) the complainant has reasonable grounds for believing that he/she will be at risk of physical harm if his/her identity is disclosed
- (b) the complainant is an officer who works closely with the member and they have a reasonable fear of intimidation or victimisation if their identity is disclosed
- (c) the complainant suffers from a serious health condition which might be adversely affected if his/her identity is disclosed. The Assessment Sub-Committee may wish to request medical evidence.

7 Withdrawing complaints

Where the complainant purports to withdraw the complaint before the Assessment Sub-Committee has had the opportunity to take a decision on it, the Sub-Committee will consider whether to accept such withdrawal.

- (a) Where the complainant submits further evidence demonstrating that the complaint was ill-founded, it may be appropriate for the Sub-Committee formally to resolve that the complaint as amended shows no evidence of a breach of the Code of Conduct, so that the matter is formally concluded.
- (b) Where the alleged misconduct is simply a matter of alleged failure on the part of the respondent to treat the complainant with respect, and raises no wider issues of public interest, the Sub-Committee will normally accept such withdrawal.
- (c) However, where the complaint raises issues of wider public interest, it may be appropriate for the Sub-Committee to ensure that such wider issues are formally investigated and resolved.

8 Review

Where the Assessment Sub-Committee has resolved to take no action in respect of a matter (that is, not to refer the matter to the Standards Board for England for investigation, and not to refer the matter to the Monitoring Officer either for investigation or for other appropriate action), the complainant may request the Review Sub-Committee to review the decision of the Assessment Sub-Committee.

Such a review shall be conducted in two stages:

- (a) First, the Review Sub-Committee will determine whether the original decision of the Assessment Sub-Committee was unreasonable on the basis of the information available to the Assessment Sub-Committee at the time of its decision and in accordance with these approved criteria for assessment. This review shall be conducted on the basis of the original complaint, the Monitoring Officer's report to the Assessment Sub-Committee, the decision-notice of the Assessment Sub-Committee and any information contained within the complainant's request for a review. Note that this is a review of the initial decision, rather than a reconsideration of the matter de novo.
- (b) Second, the Review Sub-Committee shall consider whether there is any new evidence which demonstrates that the initial assessment decision is no longer the correct decision. This consideration shall take into account any new information provided by the complainant and/or the Monitoring Officer.

If the Review Sub-Committee determines that the initial decision was unreasonable, or that new information now available to the Sub-Committee demonstrates that the original decision is no longer the correct decision, it shall take a new decision in relation to the matter in accordance with these approved criteria.

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LOCAL INVESTIGATIONS AND OTHER ACTION



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introduction

This guidance on local investigations and other action is for standards committees and monitoring officers. The guidance provides information on the Standards Committee (England) Regulations 2008 (the regulations).

The regulations set out the framework for dealing with allegations of misconduct by members, including carrying out investigations and taking steps other than investigation. We will refer to steps other than investigation as 'other action'.

The regulations state that anybody who has had a case referred to them by a standards committee must take the following guidance into account. Also, they must follow the regulations and have effective procedures in place for conducting investigations and hearings, known as determinations.

The guidance applies to monitoring officers and anyone nominated by a monitoring officer to carry out investigations or other action, employed or engaged by:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

It also covers police authorities in Wales. However, the Commissioner for Local Administration in Wales handles allegations of misconduct about members of Welsh police authorities. For this reason, references to standards committees in this guide should be read as references to the Commissioner for Local Administration in Wales. Also, references to the Adjudication Panel for England should be read as the Adjudication Panel for Wales.

introduction

Welsh police authorities should note that they are subject to the previous regulations as amended by the Standards Committee (England) Regulations 2008:

- the Relevant Authorities (Standards Committee) Regulations 2001
- the Local Authorities (Code of Conduct)(Local Determination) Regulations 2003, as amended in 2004

Any reference in this guidance to a 'standards committee' includes a reference to any sub-committees. These include those established to make an initial assessment of an allegation, to review an initial assessment decision and to hold a determination hearing.

Any reference in this guidance to 'you' is a reference to a monitoring officer, a deputy monitoring officer or any person nominated by them to carry out their functions.

Furthermore, any reference to the 'subject member' is a reference to the member who is the subject of the allegation.

You can contact the Standards Board for England on **0845 078 8181** or email **enquiries@standardsboard.gov.uk**

conflicts of interest

Interests and natural justice

Standards committees and monitoring officers are at the heart of the standards framework. They promote, educate and support members in following the highest standards of conduct and ensuring that those standards are fully owned locally.

Under the Code of Conduct, members must have regard to the advice of the monitoring officer when it is given as part of the monitoring officer's statutory duties. Monitoring officers will advise their council and its standards committee on the adoption and promotion of high ethical standards including their authority's Code.

Monitoring officers have four main roles in relation to the Code of Conduct:

- They provide advice to the standards committee.
- They advise subject members.
- They deal with cases of alleged misconduct referred to them by standards committees and ethical standards officers. This is a statutory role that can be delegated.
- They advise members about conduct issues.

An investigation could create a potential conflict of interest between these roles. For example, it is likely that a conflict of interest would arise if you were asked to investigate an allegation against a member and you had advised them on the same issue.

In such situations, you should delegate the investigation to somebody else.

Advising standards committees

We have previously recommended that monitoring officers should act as main advisers to standards committees on cases referred by ethical standards officers for local determination. However, they should not do so if they have an interest in the matter that would prevent them from performing the role independently.

It is vital that standards committees have access to appropriate advice on cases that have been referred for local investigation, as well as those referred only for a hearing. Monitoring officers will need to ensure that there is someone able to advise the standards committee throughout the process of investigation.

The Standards Board for England believes that you should not conduct an investigation and advise a standards committee at a hearing about the same case. You therefore need to consider whether it is more important to investigate the matter and delegate the role of advising the standards committee, or to delegate the investigative role.

If you advise the sub-committee dealing with initial assessment, you would not be prevented from advising the sub-committee dealing with review decisions. Advising either sub-committee about a case would not stop you from carrying out an investigation into that case.

4 LOCAL INVESTIGATIONS AND OTHER ACTION

conflicts of interest

Where you have made a complaint to the standards committee, this will normally mean that you should not provide advice to the committee and its sub-committees about the case. However, where you are doing nothing more than making a complaint on behalf of others, you may be able to continue giving advice to those bodies. However, where possible you should seek to avoid making complaints on behalf of others.

Personal conflicts

Take care to avoid any personal conflicts of interest. You must not participate if you find that you have a direct or indirect interest in an investigation. For example, you must not participate if you have a direct financial interest, or a family member or friend is involved. Instead, you should notify the standards committee, the member concerned and the complainant, explaining:

- that you will not take part in the investigation
- the nature of your interest
- who will carry out the investigation in your place

conducting investigations

Referral of allegations

The Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007, provides that standards committees can refer complaints that a member has breached the Code of Conduct to a monitoring officer for investigation or other action.

Ethical standards officers appointed by the Standards Board for England may also refer complaints to you, but this is most likely to be a direction for other action.

When referring a complaint, the standards committee or the ethical standards officer will forward details of the complaint to you, along with any other information that they consider appropriate.

Disclosure of information

The information that a monitoring officer obtains during the course of a local investigation is covered by Section 63 of the act. You must treat this information as confidential until the investigation is completed. You may only disclose it for the purposes set out in Section 63(1) as amended by Regulation 12 of the regulations. These purposes include carrying out your functions under the act and the regulations. Please see the section **Confidentiality** on **page 10** for further information.

When a matter is referred to you by your standards committee or an ethical standards officer for investigation or other action, you must inform:

- the subject member
- the complainant
- the standards committee of any other authority concerned
- the relevant town or parish council if the subject member is a town or parish member

We would suggest that the notice sent to the town or parish council is sent to the parish clerk, unless sending it to the chairman of the council is more appropriate because of the parish clerk's involvement in the complaint.

This requirement to notify is subject to any direction given by an ethical standards officer or the standards committee.

You should also explain to them what will happen next.

Conducting your investigation or other action

You must always be aware of your obligations under the Data Protection Act 1998, the Human Rights Act 1998 and other relevant legislation, when carrying out an investigation or other action.

When conducting an investigation you have the power to make inquiries of any person you think necessary. However, there is no obligation for them to respond. If you have difficulties obtaining a response, your standards committee may consider referring the matter to the Standards Board for England to investigate, as ethical standards officers have the power to compel a witness to provide information.

conducting investigations

During an investigation you can require your authority and any other authority concerned to provide you with any advice or assistance you need to help you with your investigation. All authorities other than parish councils must do this at their own cost. Parish councils can require the district or unitary council responsible to cover any reasonable costs incurred by the parish council in providing advice and assistance with the investigation.

We provide information on conducting investigations and taking other action in our guide **How to conduct an investigation**. This is not statutory guidance, but practical information that you may find helpful.

Evidence of new breaches

During the course of an investigation, you may uncover evidence of conduct by members that breaches the Code of Conduct, but extends beyond the scope of the investigation referred to you.

Your powers as an investigator relate only to the allegation that you have been given. You may uncover evidence of a possible breach that does not directly relate to the allegation you are investigating. If this happens, you should tell the person you obtained the information from that you cannot investigate the possible breach as part of your existing investigation. You should also tell them that they may wish to make a separate complaint to the relevant standards committee.

Alternatively, you may wish to refer the matters to the standards committee yourself as a new complaint for them to make an initial assessment on. There might also be cases where you refer the original case back to the standards committee. Please see the section **Referring cases back to standards committees** on **page 8** for further information.

Referring cases back to ethical standards officers

During the course of an investigation referred to you by an ethical standards officer, circumstances may arise that prompt you to ask them to take the case back from you. These circumstances could include:

■ Evidence of further breaches

You may uncover evidence of a further possible breach that relates directly to the investigation, revealing for instance, a consistent pattern of behaviour.

■ Obstruction of an investigation

The ethical standards officer is likely to accept a case back only if they believe you have genuinely been prevented from completing the investigation. An example of this is where a subject member refuses to cooperate with your investigation.

Cases where an officer obstructs an investigation are not a matter for the

conducting investigations

Standards Board for England. It may, however, be a disciplinary matter for your authority to consider under the terms of the officer's contract of employment.

When you request an investigation to be referred to an ethical standards officer, you must state in writing to them the reasons why you believe they should carry out the investigation. All requests must be made prior to the completion of your investigation.

You can ask an ethical standards officer to take a case only once during the course of an investigation. It is therefore important to make sure you are satisfied that this is the correct course of action to take.

The ethical standards officer will respond to your request within 21 days. They will either direct you to continue with your investigation or accept the matter as requested.

Referring cases back to standards committees

During the course of an investigation, circumstances may arise that prompt you to ask the standards committee to take the original case back from you. You can only do this during an investigation in either of the following situations:

- You believe that evidence is uncovered suggesting a case is more or less serious than may have seemed apparent to the standards committee originally. Furthermore, if the standards committee had been aware of that evidence, it would have made a

different decision about how the case would be dealt with.

- The subject member has died, is seriously ill or has resigned from the authority and you are of the opinion that it is no longer appropriate to continue with the investigation

In this context 'seriously ill' means that the member has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition. You would be expected to establish this from a reliable independent and authoritative source other than the subject member. Stress brought on by the investigation is not likely to fall into this category.

When you request that an investigation be referred back to the standards committee, you should explain in writing the reasons why you believe it should be referred back to that committee.

All requests must be made before you complete your investigation. Please see the section **Completion of an investigation** on **page 11** for further information.

You should notify the subject member and the complainant of a decision to refer the allegation back to the standards committee, and provide time scales within which the matter will be dealt with.

conducting investigations

The committee must deal with your referral as it would deal with an initial complaint. If the standards committee decides to refer the allegation back to you, it can limit the circumstances in which the case can be referred back to it again. The standards committee can decide that the case may only be referred back to it again in the circumstances set out in the second bullet point above.

You should note that it is not possible to refer a case back to your standards committee if you were instructed to take other action rather than carry out an investigation. This is because Regulation 16, which allows a referral back, only applies to cases referred for investigation.

Deferring an investigation

An investigation should be deferred when any of the following conditions are met:

- There are ongoing criminal proceedings or a police investigation into the member's conduct.
- You cannot proceed with your investigation without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceeding.
- Your investigation might prejudice another investigation or court proceeding.

An investigation may also need to be deferred:

- when there is an ongoing investigation by another regulatory body
- because of the serious illness of a key party
- due to the genuine unavailability of a key party

When it is clear that there is an ongoing police, or other investigation, or related court proceedings, you should make enquiries about the nature of the police, or other investigation, or the nature of any court proceedings.

If at any time during the investigation you become aware of any circumstances that might require the investigation to be deferred, you should notify the subject member of this. If you are not the monitoring officer you should notify the monitoring officer and seek their consent to the deferral.

The decision to defer an investigation should be taken by you, the monitoring officer. If you have asked someone else to carry out the investigation, they will need to gather sufficient information from the complainant, subject member, and from the police or other organisation involved, to enable you, as the monitoring officer, to come to a decision. You may wish to seek legal advice at this stage. The reason for the decision to defer should be specifically set out in the investigation file with supporting documentation attached.

In some cases, it will be possible to investigate some of the alleged conduct, where there is no overlap with another

conducting investigations

investigation or court proceedings. The investigator should highlight those areas where investigation may be possible in the investigation plan.

In some cases, it will be possible to investigate the alleged conduct in parallel with another investigation, for example where the Local Government Ombudsman is investigating a council's decisions and you are investigating the conduct of an individual member involved in making the decision. You may need to work closely with the other organisation, and agree the steps that each party will take.

You might also consider asking the standards committee to refer the investigation to the Standards Board for England in these cases, to allow closer cooperation between the two investigators.

When a decision is taken to defer an investigation, you should inform:

- the subject member
- the complainant
- the standards committee of any authority concerned
- the relevant town or parish council if the subject member is a town or parish member

You should ask the police, other relevant organisation or individual in writing to keep you informed of the outcome of any police or other investigation, court proceedings or other relevant matter. You should note any important dates, for example of committal hearings, in the investigation plan review. In addition, you may wish to make further

contact with the police, other body or individual to ask for an update on the matter.

A deferred investigation should be kept under regular review, in the interests of natural justice. You may wish to seek legal advice at regular intervals, for example every three months, from the date of the deferral decision about the reasonableness of continued deferral.

Once a decision is taken to begin the investigation again you should notify in writing:

- the subject member
- the complainant
- the standards committee of any authority concerned
- the relevant town or parish council if the subject member is a town or parish member

You should also review the investigation plan in light of the outcome of any police investigation or court proceedings.

Confidentiality

You must treat the information that you gather during your investigation as confidential. This will help ensure that your investigation is seen as fair. Maintaining confidentiality reduces the risk of evidence being viewed as biased, and preserves the integrity of the investigation.

Note: the fact that an investigation is being conducted does not need to remain confidential.

conducting investigations

We recommend that you also ask the people you interview, and anyone else aware of the investigation, to maintain confidentiality. You should remind members of their obligations under paragraph 4(a) of the Code of Conduct regarding the disclosure of information that they receive in confidence. In addition, members should be reminded of the requirements of Section 63 of the act.

You must not disclose information obtained in an investigation unless:

- the disclosure will enable the standards committee, an ethical standards officer, the Local Government Ombudsman, the Audit Commission and Welsh equivalent, the Electoral Commission or the Adjudication Panel for England to perform their statutory functions
- the disclosure will assist the monitoring officer to perform their statutory functions
- you have permission to disclose it from the person the information relates to
- the information has already lawfully been made public
- the disclosure is made for the purposes of criminal proceedings in the UK
- you are required to do so by a court or similar body

Any draft report that you issue on the outcome of the investigation should be

marked as confidential. This is to preserve the integrity of any further investigation that you may need to undertake.

Information about confidentiality of documents in relation to standards committee hearings is included in our guidance, **Standards Committee Determinations**.

Timescales for an investigation

There are many factors that can affect the time it takes to complete an investigation. Nevertheless, it is important that there are realistic targets for the completion of an investigation. This allows standards committees to monitor the progress of investigations and explore reasons for any delays. The Standards Board would recommend that most investigations are carried out, and a report on the investigation completed, within six months of the original complaint being assessed by the initial assessment sub-committee.

Completion of an investigation

It is important to know when an investigation has been completed. Once an investigation is completed, a case cannot be referred back to an ethical standards officer or the standards committee. Furthermore, the timescale for holding a hearing to consider the outcome of a local investigation is normally three months from the completion of that investigation.

On completion of an investigation, the monitoring officer must make one of the

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findings required by Regulation 14(8) of the regulations, and write a report. Once a final report has been written and dated by the monitoring officer, the investigation should be regarded as completed. Where the report is being written by another person, the position will depend on the functions that were delegated to that person by the monitoring officer. In general, the investigation should be regarded as completed when the monitoring officer receives the final report and accepts that no further investigation is necessary.

reports

Purpose of the report

The report should be treated as an explanation of all the essential elements of the case and a justification for any possible sanction, if one is suggested. Normally sanctions are a matter for the standards committee, so an investigation report should not normally suggest a sanction.

Producing a draft report

When you have concluded your investigation, you should consider whether to produce a draft report before your final report. Where you can, you will need to form conclusions about the evidence on the balance of probabilities. A draft report is issued to the parties in the investigation for review and comment. It gives you the opportunity to check facts and ensure that all aspects of the case have been explored in sufficient detail.

When deciding whether to produce a draft report, ask yourself:

- Are the facts in the matter complex or ambiguous?
- Are the facts of the case disputed?
- Do the parties expect to receive a draft for comment?

Issuing draft reports

If you decide to issue a draft report, copies should be sent for comment to the complainant and to the subject member. The draft should not be sent to other witnesses or parties interviewed, but you should seek confirmation of their evidence from them before issuing the report. You might do this by sending them extracts from your report that refer to them or their evidence.

At this stage, the subject member or complainant may comment on the draft report. You may decide to redraft your report based on the comments received. If you make significant changes to your first draft following the comments received you may consider issuing a second draft. Occasionally, responses may reveal a need for further investigation. Once you have considered whether the responses add anything of substance to the investigation, you will be able to make your final conclusions and recommendations.

Final reports

The final report must be sent to:

- the subject member
- the standards committee of your authority
- the standards committee of any other authority of which the subject member is a member, if requested

reports

A copy may also be made available to the complainant and others as part of the hearing process.

The report must make one of the following findings:

- that there has been a failure to comply with the Code of Conduct (a finding of failure)
- that there has not been a failure to comply with the Code (a finding of no failure)

If you consider that there has been no breach of the Code, you should explain in a covering letter to the people listed above that the report will be sent to the standards committee for consideration. You should also state that it is possible the standards committee will reach a different conclusion.

If you consider that there has been a breach of the Code, you should make it clear that there will be a hearing into the allegations.

If the subject member is a town or parish councillor, you should advise the relevant parish/town clerk of the outcome of your investigation.

The report should be accompanied by information explaining the circumstances under which the standards committee may conduct a hearing into the allegations. It should also explain the procedure for these events.

Report checklist

Your report should contain the information listed below.

- a 'confidential' marking
- a 'draft' or 'final' marking
- the date
- the legislation under which the investigation is being carried out
- a summary of the complaint
- the relevant sections of the Code
- evidence
- your findings of fact
- your reasoning
- your finding as to whether there has been a failure to comply with the Code

The level of detail required will vary for each report, depending on the complexity of information to be considered and presented.

In addition, the letter you send with the draft report should explain that the report does not necessarily represent your final finding. The letter should also explain that you will present a final report to the standards committee once you have considered any comments received on the draft report.

Furthermore, the letter you send with the final report should explain that the report represents your final findings and will be presented to the standards committee. It is important that the report has the date of its completion on the front page. This provides clear evidence of when the time within which a hearing should be held begins. The date of the hearing should be within

reports

three months from the date the monitoring officer, or delegated officer, completes the final report.

The report will contain documents that you have relied on in reaching your conclusions. These may include:

- a chronology of events
- records of telephone conversations, letters and notes of interviews with witnesses

When the report is considered by the standards committee, it will normally be as an appendix to a covering report from the monitoring officer, which will be on the agenda of the standards committee. Both reports can be kept confidential under paragraph 7C of Schedule 12A of the Local Government Act 1972, until the committee decides at the hearing whether it wishes to meet in public.

You can find information about confidentiality of documents in relation to standards committee hearings in our guidance, **Standards Committee Determinations**.

Consideration of the final report

If you find that there has been a breach of the Code of Conduct, you must refer the case for determination. Advice on determinations can be found in our **Standards Committee Determinations** guidance.

If you consider that there has not been a breach of the Code, the standards committee must decide at a meeting if it agrees with this. At the meeting, the standards committee should simply consider the report. It should not seek to interview witnesses or take representations from the parties.

The standards committee's role here is to decide, based on the facts in the report, whether it agrees that the Code has not been breached or if there is a case to answer. If the standards committee believes there is a case to answer, there will be a hearing.

If the standards committee agrees that the Code has not been breached, the standards committee must arrange for a notice to be published in a local newspaper. It can also arrange for the notice to be published on the authority's website and in any other publication. The notice should state the standards committee's finding, and give reasons for it. In cases where the standards committee finds that the Code has not been breached, the subject member is entitled to insist that the notice is not published anywhere.

If the standards committee agrees with the monitoring officer's 'finding of no failure' to comply with the Code, it must, as soon as possible after making its decision, give written notice of its finding to:

- the subject member
- the complainant
- any ethical standards officer concerned

reports

- the relevant town or parish council if the subject member is a town or parish member

We would suggest that the notice sent to the town or parish council is sent to the parish clerk, unless sending it to the chairman of the council is more appropriate because of the parish clerk's involvement in the complaint

You will need to consider how any 'finding of no failure' decisions are recorded for the minutes of the standards committee. Publication of the details of such cases on an authority website where the minutes of authority meetings are routinely stored may well undermine the purpose of a member's right not to have the notice published.

Standards committees may make recommendations to their authorities on matters arising from the report, such as revision of the council's protocols or training on the Code.

delegation of investigations

Under Section 82A of the Local Government Act 2000, monitoring officers can delegate functions, including investigations, to their deputy or to any other named individual.

However, monitoring officers should maintain the function of overseeing the investigation. As with monitoring officers, deputies and nominated people do not have to be legally qualified but are obliged to take account of any guidance issued for monitoring officers by the Standards Board for England.

Under Section 5(1)(b) of the Local Government and Housing Act 1989, local authorities must provide you with sufficient resources to perform your duties. Under Section 82A of the Local Government Act 2000, deputies and other officers have the right to the same support as monitoring officers.

In many authorities, monitoring officers will be able to appoint a member of staff to carry out their investigation. Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities. This is to make sure that an experienced officer is available to carry out an investigation, should the need arise. Authorities may also decide to outsource the investigation to another organisation or individual.

Monitoring officers should record the scope of the delegation in writing and keep this on the investigation file. This is to ensure that there is no confusion concerning the role and authority of the

person delegated to conduct the investigation. You should be particularly clear about who is responsible for writing the draft and final reports. If the monitoring officer intends to advise the standards committee at a hearing they should avoid being involved in the preparation of the investigation report. However, they may want to be able to reserve the right to decide when the report is of an acceptable quality to be put to their standards committee.

You should inform the relevant parties when you delegate an investigation, so that they know who is dealing with the case and in case they need to provide the investigator with more information.

other action

When dealing with allegations, a standards committee or ethical standards officer can decide that some form of action other than investigation or determination is needed at a local level. The standards committee must consult its monitoring officer before reaching that decision. An ethical standards officer will also consult the monitoring officer before issuing a direction of this kind.

The standards committee or ethical standards officer may, for instance, direct you to consider what recommendations to make to your authority about wider issues for that authority that are raised by the case. For example, a relatively minor alleged infringement of the Code, by a member who is accused of misusing their authority's IT equipment, might identify shortcomings in the authority's policy about members using that equipment.

The standards committee or ethical standards officer might decide that the best way to deal with the allegation is to direct the monitoring officer to review the policy, and make recommendations for improvement to the authority.

Alternatively, the standards committee or ethical standards officer may try to ensure the parties concerned attempt some form of mediation. Further information on when standards committees may consider other action to be appropriate can be found in our guidance called the **Local assessment of complaints**.

Once a standards committee refers an allegation for other action, an investigation

into that allegation can no longer take place. However, if a standards committee refers an allegation for investigation, the monitoring officer may consider once the investigation has started, that the issues would be more appropriately dealt with through other action. Please see the section **Referring cases back to standards committees** on **page 8** for the conditions that must be satisfied before this can happen.

If the monitoring officer makes a request to the standards committee that the allegation is dealt with through other action rather than investigation, the monitoring officer should inform the subject member and the complainant of this request. They should also give the subject member and the complainant the opportunity to comment before the standards committee makes any decision.

When you have been given a direction to carry out other action, you should report back to the standards committee or ethical standards officer, within three months, on the outcome of your actions or with details of your proposed actions.

If the standards committee or ethical standards officer is satisfied with the action specified in the report they must notify:

- the subject member
- the complainant
- the standards committee of any authority concerned
- the relevant town or parish council if the subject member is a town or parish member

other action

If the standards committee is not satisfied with the action specified in the report they can give you further directions about how to deal with the case. This cannot include a direction to carry out an investigation.

If an ethical standards officer is not satisfied with the action specified in the report they can require you to arrange for the publication of a statement in a local newspaper. The statement should give details of the other action directed by the ethical standards officer, the reasons why the ethical standards officer is dissatisfied with the action taken, and your response.

notes

HOW TO CONDUCT AN INVESTIGATION

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introduction

This is a guide for monitoring officers carrying out investigations and other action relating to allegations referred to them by standards committees or ethical standards officers.

This guide provides an introduction to the practice of investigation and is designed to assist anyone delegated to investigate allegations of misconduct. You should be aware that the process can be a frightening and stressful experience for the subject member, witnesses and complainant.

What follows is an outline of the principles by which the Standards Board for England conducts its investigations. It does not aim to be prescriptive and is not statutory in nature, but it is worth bearing in mind that the processes outlined below have been tested at the Adjudication Panel for England. Many are also based on specific recommendations by the Adjudication Panel tribunals

We hope this guidance will assist you in ensuring that:

- you establish what happened in a fair and objective manner
- you set out clearly the reasoning for the finding reached
- you complete the investigation promptly and proportionately

You can contact the Standards Board for England on **0845 078 8181** or email **enquiries@standardsboard.gov.uk**

2 HOW TO CONDUCT AN INVESTIGATION

planning the investigation

You will need to keep a written record to demonstrate what was considered at the start of each investigation. This document is most likely to take the form of an investigation plan. Please see **Appendix 1** of the **Local investigations toolkit** for an **Investigation plan** template. The following areas should be covered in the plan:

- The complaint made against the subject member. You may find it necessary to seek clarification from the complainant.
- The paragraphs of the Code of Conduct that may have been breached. Please note that you do not need to accept the complainant's interpretation of what paragraphs may have been breached. It is helpful to breakdown each potential failure to comply into the component parts of each provision. For example, in considering paragraph 6(a) you will need evidence to demonstrate that:
 - the member used their position
 - the member used their position improperly
 - the member conferred or attempted to confer an advantage or disadvantage
- The facts which need to be determined to establish if the member breached the Code and to decide what the appropriate finding might be. They need to include:
 - facts which would establish if the conduct happened as alleged
 - facts that would need to be proven to show that the conduct constituted a breach of the Code
 - facts which might aggravate or mitigate the alleged breach, for example, provocation or an apology
- The evidence that you would need to determine the issues outlined in your plan. This includes who you will need to interview and why.
- The evidence that has been supplied by the complainant or, in the case of an investigation plan review, the evidence that you have gathered.
- How you plan to gather the evidence that you need.
- How long you think it is likely to take you.

If at any stage in the investigative process there are significant changes to any of the above areas, an investigation plan review may need to be completed. Please see **Appendix 2** of the toolkit for an **Investigation plan review** template.

At the start of the investigation you should contact the complainant and subject member to advise them of your contact details and provide them with a preliminary timescale for the investigation. Please see **Appendix 3** of the toolkit for a **Contact parties letter** template.

planning the investigation

At the end of your investigation you should have documents which chart the approach you took to the investigation, the reasons for this approach, and when you changed your approach. You do not need to share these documents with the parties involved in the investigation – they are for you to use as you wish. Their main function is as a planning tool, but they also provide an audit trail should your investigation be the subject of a complaint or review.

documentary evidence

Documentary evidence should be sought before you conduct any interviews and at the earliest opportunity.

When drafting the investigation plan it is helpful to make a list of the documents you need and who they will be obtained from. This list can then form the basis of the first contact you make with the parties and other witnesses.

It is a good idea to invite the subject member to provide an initial response to the allegation in writing when first making written contact with them. This gives members the opportunity to admit to the breach if they would like to do so, and could then save time and effort for all involved. A written response may also provide you with additional useful information before the interview stage. Please see **Appendix 3** of the toolkit for a **Contact parties letter** template.

How to compile documentary evidence

- Requests for information should be made in writing, even if the initial contact was made by phone.
- Explain the legal authority you have for asking for the documents.
- Explain the broad purpose for which you need the document, for example “an investigation into the conduct of Councillor X”. You do not need to provide the detail of the complaint against the member at this stage.

- Outline the confidentiality requirements that relate to the information request.
- Set a deadline for response.
- Provide a contact name and number for further enquiries.

What if...

The evidence is held on a computer?

- It is good practice to identify the person using the computer in investigations that rely on computer generated documents.
- It may be appropriate to search the hard drive for deleted or corrupted documents. A specialist firm may be employed to facilitate this.

The information is highly sensitive?

- In certain cases, you may wish for a subject member or other party not to be made aware of a request for evidence. For example, if you consider that this might lead to destruction of evidence by one of the parties or to the improper collaboration of witnesses. In such circumstances it may be appropriate to arrange to meet with the witness, having given them a brief outline of your role. You can then make your request for the relevant documents during the meeting. It is important here that you explain what powers you have to obtain information. If in doubt, it may be prudent to seek legal advice on how to proceed.

documentary evidence

The request for information is refused?

- Remind the party of any legal obligation they have to provide information, for example, Regulation 14(4)(b) of the Standards Committee (England) Regulations 2008.
- While there may be a legal obligation on an individual or organisation to provide documents, enforcing such obligations is likely to involve time consuming and costly legal proceedings. It may be easier to see if there is another route to obtaining the same information.

interviews

Your goal in interviewing is to obtain the most informed, reliable evidence possible. It is not to ambush or catch out interviewees. The following guidance on interviewing will assist you in achieving this.

Order of interviews

You will normally interview the subject member at the end of the investigation, when you have gathered all your evidence. This will give you the opportunity to put that evidence to the subject member and obtain their responses to it. However, it could save time if you find out at the outset that the subject member admits part or all of the allegations. You could ask for an initial response to the allegations to establish this. Please see **Appendix 3** of the toolkit for a **Contact parties letter** template. This response could be provided orally or in writing.

You may decide to carry out consecutive interviews on the same day if you are concerned that witnesses may collude or use information provided to them.

If you have already interviewed the subject member and complainant, you may wish to re-interview them near the end of the investigation. This may allow you to get them to agree facts. It also gives the interviewees an opportunity to comment on issues that have been raised during the course of the investigation. It provides an opportunity to present potential inconsistencies to the relevant parties for comment.

The format of the interview

It might be more appropriate to conduct face-to-face interviews than telephone interviews if:

- the matters involved are sensitive
- the interviewee is vulnerable
- you will need to refer to multiple documents during the interview
- the interviewee wishes to have a legal representative present
- the interview is with the subject member

It may be more appropriate to conduct a telephone interview if:

- there are significant resource implications, either in terms of cost or time in conducting a face-to-face interview
- the interview does not fall into one of the categories outlined above

If a subject member or witness insists on a face-to-face interview then serious consideration should be given to their request. You should specifically check that there is no medical or disability-related reason for their request. If there is, then you should conduct a face-to-face interview. If there is no medical or disability-related reason, then the decision is at your discretion. If you still wish to proceed with a telephone interview despite their request, then you should outline your decision in writing on the file. This is to show that it was both proportionate and reasonable.

interviews

Do not conduct joint interviews. It is important that each witness gives their own account without having their recollection influenced by hearing another person's account.

An interviewee may have a friend or adviser present. That person should not be someone who is a witness and they should be asked to keep the matters confidential.

If an interviewee is a vulnerable person or a minor, you may wish to ensure that you are accompanied by another person.

The venue

If you are conducting a face-to-face interview try to ensure that the venue is:

- mutually convenient
- on neutral territory
- in a private room where you cannot be overheard
- a place where the interviewee will feel comfortable and is unlikely to be seen by people whose presence may intimidate or upset them, for example, the complainant or subject member
- safe for you, the investigating officer

Occasionally it may be appropriate to conduct an interview at the home of the interviewee. This should generally be at the request of the interviewee.

Information you must provide interviewees

You should provide the following information in writing to the interviewee:

- Confirmation of the agreed time, date and venue or that it is a telephone interview.
- Confirmation that the interview will be recorded, if appropriate.
- Confirmation that the interviewee can have a legal or other representative with them, but that the representative must not be a potential witness in the investigation. They should also not be a member of the standards committee or a council officer. Ask that they provide you with the name and status of their representative before the interview.
- The legal framework within which you are conducting the interview.
- How the information they give you in the interview may be used.
- The circumstances in which the information that they give you during the interview may be made public.
- The confidentiality requirements that they are under as an interviewee.
- Details and copies of any documents you may refer to during the interview.
- In the case of the subject member, details and copies of any evidence you have gathered and which you may refer to in your report. You do not have to disclose witness testimony prior to the interview, depending on the nature of that testimony and whether you

interviews

want the interviewee's account prior to putting the witness's testimony to them. However, you may wish to disclose a witness's testimony during an interview once you have obtained the interviewee's own account. You could also consider providing an outline of the areas you intend to cover at interview.

- Your contact details if they have any questions or concerns before the interview.

Please see **Appendix 4** of the toolkit for a **Pre-interview letter** template.

Note: if you only need to confirm one or two factual details with a council officer you may contact them by phone and do not need to forewarn them. However, when obtaining this information you should:

- orally outline all of the information you would otherwise have provided in writing as set out above
- check that they are happy to give it to you then, rather than at an agreed date in the future
- confirm the detail of information they do provide, in writing

Special circumstances

If an interviewee is disabled you should make reasonable provisions to cater for their specific needs. If an interviewee is vulnerable or a minor, then they should

always be accompanied by a third party at the interview.

Structuring an interview

Interviews should be planned in advance. You can plan your questions using the following suggested format:

- Divide the information you require into discreet issues. For example, Issue 1: The planning meeting on date x; Issue 2: The planning meeting on date y.
- Make a note of the evidence you have already obtained about each issue.
- Note how you would briefly summarise the evidence to the interviewee.

Please see **Appendix 5** of the toolkit for an **Interview plan** template

Conducting the interview

All important interviews should be audio recorded where possible. The only exception is when the interview is likely to cover only a small number of factual matters. In this case, it may be more appropriate to resolve these factual matters in writing.

Before recording an interview you should:

- obtain the consent of the interviewee before you start recording the interview
- ask them to record their consent on the record once you have started the recording

interviews

- offer to send the interviewee a copy of the transcript or draft interview statement, whichever is applicable. If they ask, you can send them a copy of the recording too.

If you are concerned that the interviewee may share the transcript with other witnesses, you can delay sending the transcript or recording until you have completed all of your interviews.

The interviewee should not normally be allowed to make a recording of the interview. This is to prevent collusion between interviewees and any possibility of record tampering. Standards Board investigators tend to use digital voice recorders to record face-to-face interviews.

At the start of the interview

- 1) When the interviewee arrives, try and put them at ease.
- 2) Before you start the formal interview, inform the interviewee that there is a standard interview preamble that you must take them through. This ensures that any rapport you have established is unlikely to be lost when you take them through the legal framework of the interview.
- 3) Confirm that the interview will be recorded and put the recording device in a visible place on the desk.
- 4) With their permission start recording.
- 5) Ask them to confirm for the record that they consent to the recording.
- 6) Confirm for the record who you are, and the powers under which you are conducting the interview.
- 7) State the date and time for the record.
- 8) Confirm that they received your letter outlining the arrangements for the interview.
- 9) Confirm that they read and understood your letter and ask if they have any questions about any of the information within it.
- 10) If the interview is with the subject member, repeat orally all of the information contained in your letter.
- 11) If the interviewee is at all unclear about anything, then repeat orally all of the information contained in your letter.
- 12) Explain that they can take a break whenever they choose.
- 13) Explain that you will offer them a break if the interview goes over an hour, even if they have not said that they want one.
- 14) Tell them how long the interview is likely to take and ask them if they have a time by which it needs to end.
- 15) Explain that they can ask you to rephrase a question if they don't understand it.

interviews

Please see **Appendix 6** of the toolkit for a suggested **Interview preamble**.

During the interview

- 1) Start the interview with the subject member with some background questions. These could include 'how long have you been a member', or 'what training have you had on the Code of Conduct?'
- 2) Do not ask multiple questions. Ask one question at a time, and do not ask another question until the interviewee has answered your first question.
- 3) Do not dart back and forth between different issues as you are liable to confuse yourself and the interviewee.
- 4) Tackle one subject issue at a time.
- 5) Ask open questions about information the interviewee or other witnesses have provided about the issue.
- 6) Drill down. In other words, ask open questions about one specific issue until you have all the information you need on it.
- 7) Where relevant ask the interviewee to reconcile differing accounts.
- 8) Ask closed questions to confirm the information you have obtained about the specific issue.
- 9) Move onto the next issue using the same method. Start with a broad open question about the subject, drill down for information with specific open questions. Conclude the area by asking closed questions to confirm what you have been told.
- 10) If you are interviewing with someone else, the first interviewer should ask the open questions about each subject area. The second interviewer should then pick up on points to be clarified at the end of each subject area and ask closed questions to confirm what was said.
- 11) Do not ask leading questions, for example, 'You said this to the clerk, didn't you?'
- 12) Do not ask the interviewee to speculate.
- 13) Accurately put the evidence of other interviewees to the interviewee and ask for their response.
- 14) When asked, explain the relevance of your question.
- 15) Do not allow the interviewee's lawyer or representative to answer a question.
- 16) You must allow the interviewee to stop and obtain advice whenever they choose.
- 17) If the interviewee becomes upset or unwell you must offer them a break.
- 18) Never raise your voice.

interviews

- 19) Only interrupt if the interviewee is being unreasonable or is not providing relevant information.
- 20) You should be mindful of avoiding oppressive or repetitive questioning. If an interviewee will not properly answer a question, despite significant attempts to obtain a satisfactory response, then you should move on to another point or issue.
- 21) Do not question the subject member about matters which fall outside the scope of the original allegation.
- 22) If the interviewee wants a break, record the time of the break on the record and the time you resume the interview. Ask the interviewee to confirm for the record that you did not discuss anything about the case with them during the break.
- 3) If the content of the transcript is disputed, check the discrepancies against the recording.
- 4) If the transcript is confirmed by the recording, write to the interviewee to inform them of this. In these circumstances, when the matter is referred to the standards committee, submit the transcript, the recording, the interviewee's letter outlining the dispute, and your response.

Please see **Appendix 7** of the toolkit for an **Interview statement/transcript letter** template.

Evaluating the information

- 1) Review your investigation plan in light of the information gathered during the interview.
- 2) Review all the evidence you gather to determine if there are any gaps in it.
- 3) Take a view on all disputed relevant matters. Your own opinion on the evidence is sufficient. However, if you are unable to come to a decision, you may need to seek further information or decide that you are unable to reach a conclusion.
- 4) Weigh up all the evidence and decide if the alleged conduct occurred.
- 5) If you decide that the subject member acted as alleged, you will need to consider whether their conduct involved a failure to comply with the Code of Conduct.

Closing the interview

- 1) State the time the interview finished.
- 2) Thank the interviewee for their time and outline what will happen next.

After the interview

- 1) Send the interviewee a copy of the transcript.
- 2) State in the letter that if you do not hear from them by a specified date, you will assume the transcript is agreed.

interviews

- 6) If you decide the member breached the Code, consider whether you have evidence of any mitigating or aggravating circumstances. If not, you may need to seek further information.

reports

Drafting the report

When you have concluded your investigation, you will need to write up your findings in a report to the standards committee. The report should contain the following information:

Title page

You must state:

- who the report is for
- who the report is by
- the date of the report

Executive summary

You must state:

- the full allegation and who it was made by
- the provisions of the Code of Conduct that were considered
- a conclusion as to whether there has been a failure to comply with the Code
- the finding

Member X's official details

You must state:

- when the member was elected
- the member's term of office

- any other relevant authorities they are a member of
- details of any committees on which the member serves or has served
- the date a member ceased to be a member, where relevant
- the date the member signed an undertaking to abide by the Code
- full details of any training the member has received on the Code

Relevant legislation and protocols

You must state:

- any relevant extracts from the Code
- any relevant extracts from any other legislation or protocols considered in the report

Evidence gathered and the investigator's consideration of it

When gathering and considering evidence you may wish to follow this procedure:

- 1) Start by summarising who you have obtained information from.
- 2) Outline chronologically the facts that you have established.
- 3) Set out undisputed facts as facts. Do not summarise them or preface them 'he said' or 'the minutes state'. If they are undisputed just state them as fact.

reports

4) Where there is a disputed fact, outline the different views and your conclusion on them. You need to form a conclusion based on the balance of probabilities. Also state why you have reached this conclusion. For example:

- The clerk, Councillor Jones and Councillor Smith met at Councillor Jones's house on y date at x time.
- At interview the clerk stated that Councillor Jones said...
- At interview Councillor Smith stated that Councillor Jones told the clerk...
- At interview Councillor Jones stated that he told the clerk...
- I have considered the following issues when deciding what Councillor Jones said to the clerk... I consider that on the balance of probabilities Councillor Jones told the clerk...because...

5) Include all the relevant evidence you have gathered even if it does not support the conclusions you have reached.

6) Include any mitigating or aggravating factors, such as the state of mind of those involved.

7) When you refer in the report to material in the evidence bundle, identify the document referred to.

Summary of the material facts

- Summarise the facts needed to confirm the conclusions you have reached.
- Where there was a disputed fact, you will only need to include the conclusion you came to.

The subject member's additional submissions

- Outline information or opinions submitted by the subject member, which you did not consider relevant to the case.
- Outline why you do not deem information or opinions submitted by the subject member to be relevant.

Reasoning as to whether there has been a failure to comply with the Code of Conduct

- Take each alleged breach in turn.
- Outline which part of the Code of Conduct you are considering. Explain the test you are applying when determining if there has been a failure to comply with the Code.
- Explain in detail, giving reasons, why you do or do not consider that the conduct constitutes a breach of the Code.
- Do not introduce any new facts or opinions. You must only refer to evidence or opinions that have been outlined earlier in the report.

reports

- Make sure your explanation of the test you are applying, and the reasons for your conclusions, are detailed and clear enough to understand for a lay person with no legal background.

Finding

You will need to make a finding about each alleged breach of the Code.

- Outline in detail the reason for your decision.
- Refer to aggravating or mitigating facts, which must be outlined in the facts section earlier in the report.

Schedule

- List the exhibits with the title **Schedule of evidence taken into account**. Please see **Appendix 9** of the toolkit for a **Schedule of evidence** template.
- Exhibit all the evidence upon which you have relied when reaching your conclusion.
- In complex cases it may be appropriate to provide a chronology.
- Provide a list of unused material.

Chronology

Where a case is complex it may be helpful to provide a chronology of important events in the case.

Issuing a draft report

Please see **Appendix 8** of the toolkit for a **Report** template

Who should I send the draft to?

- You should issue a draft report, sending a copy to the subject member and the complainant and inviting their comments by a specified date. This is helpful if the report is complex or your conclusions are likely to be disputed by either party.
- The draft should not be sent to other witnesses or parties interviewed, but you should seek confirmation of their evidence from them before issuing the report.

How should it look?

- Ensure that the draft report is clearly marked as 'Draft'.
- You must state that the report may be subject to change and does not represent your final conclusion.
- If you have found the subject member in breach, you should send them copies of the evidence that you have relied upon when reaching this conclusion.
- You must consider whether any of the information in the draft report, or evidence bundle, is confidential information that should not go into the public domain. For example, medical

reports

details or personal contact details. Information of this nature should be edited from the draft and final report unless it is essential to the reasoning.

- Send an accompanying letter stating:
 - that the report is confidential
 - that it can be discussed with a legal representative
 - the date by which comments must be received

Please see **Appendix 10** of the toolkit for a **Draft report cover letter** template

- It is important to keep a copy of the draft and the bundle of evidence that you send to the subject member. This acts as a record of what information the member has received and prevents duplication of work when issuing the final bundle.

Comments on the draft

- Responses to your draft may reveal the need for further investigation, or they may add nothing of relevance. Occasionally, responses may reveal a need for further investigation and may result in changes to the report. These changes may be significant enough for you to consider issuing a second draft. Once you have considered whether the responses add anything of substance to the investigation, you will be able to make your final conclusions and recommendations.

- Where comments on the draft are critical of the investigation or the investigator, you may need to consider how to respond to the complaints made. You should not let such criticisms prevent a draft report being finalised unless this is unavoidable. In particular, the investigation process, including writing the report, should not be suspended while a complaint about the investigation is dealt with. The only exemption to this is in the circumstances listed in the section **Complaints about an investigation** on **page 25**.

- A party may disagree with:
 - the interpretation of the Code or other legislation
 - the analysis of the evidence
 - the analysis of an individual's conduct
 - conclusions reached in an investigation
 - the scope of the investigation
 - how and who evidence was obtained from

These complaints will normally focus on the draft or final report. They will not usually criticise the actions of a specific individual. However, they may criticise an individual for reaching certain conclusions.

You should avoid getting drawn into lengthy correspondence with the subject member or other interested parties in this situation.

reports

Comments received before the draft is issued

- If the comments are made by the subject member, then you should respond in writing.
- If the subject member does not understand either the Code or the investigative process, then you should seek to explain the position to them. Failure to do so may be taken into account at any subsequent hearing. However, you only need to show that you took all reasonable steps to address the subject member's confusion.
- If comments are made by the complainant or a third party, you can either respond to their comments or ask them to wait until they have read the draft report.

Comments received in response to the draft report

- You should keep a written record of your consideration of any comments received on the draft.
- It is best practice to provide a written response to the party explaining your position or referring them to the relevant paragraph of the report. This can be done when they are sent the final report.
- Add to the bundle of evidence any critical comments received on the draft.

Comments received after the final report has been issued

Write to the party explaining that the investigation is now closed and refer them to the person who is dealing with the standards committee hearing. Refer the party to the Adjudication Panel for England if the matter has been referred to it.

Comments received after the hearing

- Respond saying that the matter is now closed and no further correspondence will be entered into on the specifics of that case.
- Complaints about the conduct of investigators should be dealt with in the same way as other service complaints. Please see the section **Complaints about an investigation** on **page 25**.

The final report

Who should I send the final report to?

You must send it to:

- the standards committee
- the subject member
- the standards committee of any other authority, other than a parish council, of which the subject member is a member, if requested

reports

A copy may also be made available to the complainant and others as part of the hearing process.

How should it look?

- You must state that the report represents your final finding and will be presented to the standards committee.
- If you have found the subject member in breach you should send them copies of the evidence you have relied upon when reaching this conclusion.
- You must consider whether any of the information in the report or evidence bundle is confidential information that should not go into the public domain. For example, medical details, personal contact details or signatures. All information of this nature should be edited from the final report unless it is essential to the reasoning.
- Send an accompanying letter stating:
 - that some aspects of the report are confidential
 - that you have considered the comments they made in response to the draft report and have amended the final report where appropriate
 - that it can be discussed with a legal representative

Please see **Appendix 11** of the toolkit for a **Final report cover letter** template.

producing & referencing the bundle of evidence

You should make two bundles. One of evidence used, which you will submit in full to the standards committee or the Adjudication Panel for England (if applicable). The other should be a schedule of unused evidence. You may be required to submit documents from this bundle if they are requested by the standards committee or the subject member.

Contents of the evidence bundle

The evidence bundle will typically include:

- a) Documents which establish the legal framework for the investigation such as:
 - the complaint letter
 - the authority's Code of Conduct
 - a copy of any legislation referred to in the report
 - a copy of the subject member's declaration of acceptance of office
- b) Any document upon which you have relied when reaching your decision, such as:
 - transcripts, interview records or interview statements with all relevant parties and interviewees
 - written correspondence from the subject member on substantive matters, including comments they made on the draft report
- c) Any document which would assist in the subject member's defence, such as:
 - minutes, reports and other documentary evidence upon which you have relied when reaching your conclusion as to the facts
 - any document that the subject member may seek to rely on in their defence of the conclusions reached
 - documents which contain information that is inconsistent with the facts as established by the investigation
 - documents which raise questions about the accuracy of any of the evidence, including the reliability of witnesses
 - documents containing information which could lead to a finding that the standards committee or investigator has acted in breach of the subject member's rights under the Human Rights Act 1998
 - documents which provide an explanation or partial explanation of the subject member's actions
- d) Background documents. These are documents which you did not rely upon when reaching your decision, but which may be helpful to the standards

producing & referencing the bundle of evidence

committee when considering the case. They should also include documents that the subject member thinks are relevant but which are not, in your opinion, material to the case.

- e) A list of unused evidence. This is a list of the documents that you believe are irrelevant to the investigation.
- f) You should provide sufficient detail about each item so that the standards committee or subject member can request it if they wish.
- g) You do not need to prepare a bundle of the unused evidence.

You do **not** need to disclose:

- a) Sensitive information which you have edited or deleted.
- b) Information protected by legal professional privilege and public interest immunity.
- c) Internal documents such as file notes and draft reports. However, these may be requested by the standards committee, so it is important to be sure that these are precise and clear.

Note: Please ensure that you disclose documents that may be relevant to the case or to the subject member's defence. This is because failure to disclose such documents may result in the standards committee reaching an inappropriate decision, and the decision being deemed unsafe upon appeal.

Structure of the evidence bundle

- The bundle should begin with the documents which establish the legal framework for the investigation.
- The remaining evidence should then be grouped thematically, for example policy documents or minutes.
- Arrange the documents chronologically within their group.
- The front page of the bundle should be numbered 000001, with each subsequent page numbered in ascending order.
- If a document is missing, you should provide a note to this effect to the standards committee outlining the reasons why the document is unavailable.
- Only include multiple versions of a document if it is important to do so for the evidence.

producing & referencing the bundle of evidence

Editing the evidence bundle

The information that should be deleted from the bundle will depend on the circumstances of the case. Information should be deleted on the basis that it may end up in the public domain. You should consider whether to remove the following:

- a telephone number, address, email address, or signature of any person other than on a transcript or witness statement. This is personal data as defined by the Data Protection Act 1998. While the standards committee may need witness contact details, these should still be deleted from any documents and provided as a separate list to the standards committee
- age and date of birth of a party (unless directly relevant to the case)
- any information which relates to matters which were not referred for investigation
- other personal data as defined by the Data Protection Act 1998

Items such as petitions, legal advice and the evidence of vulnerable people need to be deleted on a case-by-case basis. If in doubt seek legal advice.

confidentiality

The legal position

Section 63 of the Local Government Act 2000 as amended, limits the circumstances where information obtained by an ethical standards officer or a monitoring officer during an investigation can be disclosed. Any person who discloses information in breach of Section 63 is guilty of a criminal offence. The legal parameters are as follows.

You should not disclose information obtained in an investigation unless:

- the disclosure will assist ethical standards officers to perform their statutory functions
- the disclosure will assist the monitoring officer or standards committee to perform their statutory functions
- the person who the information relates to gives you permission to disclose it
- the information has already lawfully been made public
- the disclosure is made for the purposes of criminal proceedings in the UK
- you are required to do so by a court or other similar body
- the disclosure is to one of the public bodies listed in Section 63(1) of the Local Government Act 2000 for the purpose of their functions

Any draft report that you issue on the outcome of the investigation should be marked as confidential. This is to preserve the integrity of any further investigation that you may need to undertake.

An ethical standards officer might refer an allegation to you part-way through an investigation into that allegation. If this happens, under Section 63 of the act, they are allowed to disclose any information that they have obtained during the investigation to enable you to carry out your duties. However, there may be circumstances in which the ethical standards officer will be unable to disclose information. An example of this is where the Secretary of State has advised them that the disclosure would not be in the public interest.

Confidentiality in practice

In some circumstances, maintaining the confidentiality of an investigation can be difficult. However, it is important that you take all reasonable steps to maintain the confidentiality of your investigation, as failure to do so may compromise the integrity of your investigation.

Here are some practical steps for maintaining confidentiality:

- Mark all of your letters, transcripts and reports as confidential.
- Outline the legal restrictions on the disclosure of information in any letter that you send. However, you must clearly inform members in writing that

confidentiality

they can appoint a solicitor, or other person, to act as their representative. You must also clearly inform them that they can disclose any relevant document to this representative.

- You should state that their representative should not be someone who may be involved in the investigation.
- It is important that you make it clear to all parties that they should make any approach to witnesses in writing. This is to avoid confusion that might arise about the investigative process.
- When arranging interviews ask interviewees to identify the name of any person who is accompanying them to the interview. Also ask them to state what their relationship is to the interviewee. You should explicitly state, in writing, that they should not be accompanied by anyone who may be called as a witness in the investigation.
- If you think it is possible that witnesses may discuss their testimonies with each other, you should not send the transcripts of any interviews until all of the interviews have been concluded. This may mean that you send interview transcripts out with the draft report.
- Where you are interviewing a number of people who have close relationships with one another, it may be prudent to interview them immediately after each other. This reduces any opportunity for collaboration.

What to do if confidentiality is breached

Write to the party reminding them of the confidentiality requirements and, if they are a member, of their duties under the Code of Conduct.

If you have evidence that information was disclosed to a party prior to their interview, you can take this into account when evaluating the reliability of the witness's evidence.

If the disclosure was made by a member you can consider making a formal complaint about their conduct.

If you consider that the disclosure was substantial you may want to take legal advice on whether to refer the matter to the police.

complaints about an investigation

It is important that there is a clear documented procedure for considering complaints about the investigation. The procedure should fall into two discrete stages. First an evaluation of the nature of the complaint, and second, what action should be taken to handle the complaint.

Evaluating complaints

There are two types of complaints:

- Complaints about the conduct of the investigation (service complaints).
- Complaints about the interpretation and reasoning in the investigator's report.

Service complaints occur when a party criticises the actions of an investigator. Such criticisms may include:

- administrative errors, for example misspelling a name
- failure to communicate
- criticism of the manner in which the investigator behaved
- criticism of the length of time it took to conclude the investigation

The procedure for handling service complaints

You will already have a procedure for processing service complaints generally. You should consider whether to use this procedure when dealing with service complaints about an investigation. The procedure may include the following provisions:

- An agreement that investigators will explain to parties making a complaint that there is an independent service complaints procedure that they can use.
- That the complaint will be acknowledged by someone other than the investigator within an agreed time frame.
- That the complaint should be considered by someone independent of the investigation.
- That a written response will be provided within an agreed time frame.
- An agreed appeals process which should be clearly communicated to the complainant.

Once the complainant has gone through the agreed appeals process, it is reasonable to state that no further communication will be entered into. The complainant is then also free to take the matter up with the Local Government Ombudsman.

complaints about an investigation

The investigation can continue while a service complaint is being addressed. However, there may be circumstances where the complaint is so substantive that it would not be appropriate for the same investigating officer to continue on the case while the service complaint is ongoing. Such circumstances should be very rare.

An investigation into a service complaint should not postpone the conduct of the main investigation.

Handling mixed complaints

It is not uncommon for complainants to mix comments on interpretive matters with service complaints. In such cases, you should write to the complainant outlining which matters will be considered by your service complaints process, and which matters are differences of interpretation which will not be considered as part of the complaint.

other action

It may not always be in the interests of good governance to undertake or complete an investigation into an allegation of misconduct. In some circumstances it may be more appropriate to deal with matters by taking other action. This decision may be made on receipt of the allegations, or may only become clear after some investigation has been conducted. In such cases, you must refer the case back to the standards committee.

It is important to be aware that once you have embarked upon a programme of other action you cannot reopen the investigation, even if other action fails. The decision to take other action closes the opportunity to investigate. You need to communicate this clearly to all parties.

Standards committees have very broad powers to direct you to deal with cases. The following are some alternatives to investigation:

- Mediation or conciliation – either between parties or involving the community to a greater or lesser extent.
- Training.
- Review of lessons learnt from the case.
- Peer mentoring.
- Review of protocols, standings orders or registers of interest.

If your standards committee decides to take other action, you will need to tell the parties that no conclusion has been reached on whether the subject member failed to comply with the Code of Conduct.

Circumstances where other action may be appropriate

It is not possible to set out all the circumstances where other action may be appropriate, but an example is where the authority to which the subject member belongs appears to have a poor understanding of the Code of Conduct and authority procedures. Evidence for this may include:

- a number of members failing to comply with the same paragraph of the Code
- officers giving incorrect advice
- failure to adopt adequate procedure rules
- failure to adopt the Code
- inadequate or incomplete protocols for use of authority resources
- a breakdown in relationships within the authority, evidence of which may include:
 - a) a pattern of allegations of disrespect, bullying or harassment
 - b) antagonism between various political factions or between members and officers.
 - c) a series of 'tit for tat' allegations.
 - d) ongoing employment issues, which may include resolved or ongoing applications to employment tribunals, or grievance procedures

other action

What action is appropriate?

Once you have identified what issues you think need to be dealt with, you should then consider how best to address them. The following methods have been used by ethical standards officers when issuing a direction:

Mediation:

- This is best conducted by a trained and qualified mediator.
- You should not set objectives for mediation as it is important that the results of mediation are determined by the parties and the mediator.
- You should explain to the mediator what issues you are seeking to resolve.
- You should make a recommendation as to who should attend mediation, but allow for additional people to take part.
- In cases of alleged bullying or intimidation you need to ensure that the parties understand that the mediator will not force them into a room together unless they are ready. You will also need to reassure them that they will not be left alone with the subject member or complainant.

Training:

- This can be conducted by you, one of your team or you can involve a local association or other external provider.

- You can require the members to attend training on a specific issue. This could be on interests, or wider areas such as standing orders or the Code of Conduct.
- The training may be about issues that are not directly related to the Code, for example anger management.

Review of lessons learnt:

- The council can be asked to review what has occurred with a view to improving their processes and procedures. You, another member of your team or someone from the local associations may assist them.
- You must make sure that the council understands that the purpose of a review is to learn from any mistakes that may have been made and not to change any decisions that have been made.

You can ask a council to assess:

- The decisions they have made on a specific issue. For example, a review of all the decisions they have made about the parish hall or members' register of interests.
- The interests that they have declared at meetings.
- Their standing orders or procedures.
- Their conduct towards the clerk or another member.

other action

Peer mentoring:

- You can arrange for an experienced clerk or chair from another authority to mentor a clerk or chair who is struggling.
- You can arrange for a successful authority to mentor the authority in difficulty.
- Mentoring can take the shape of:
 - a) one-on-one meetings
 - b) work shadowing of the mentor
 - c) a review carried out by the mentor on their protégé's work
 - d) anything else agreed by the mentor and their protégé

Troubleshooting

What if the parties refuse to cooperate?

- You need to make it clear that once a decision has been made to take other action, an investigation will not be undertaken.
- Identify why they are refusing to participate. Often refusal is based on a misunderstanding. For example, people might avoid mediation as they do not want to be in the same room as the person they believed bullied them. You can explain that they do not have to be in the same room as the other party as the mediator can conduct one-on-one discussions.

- Ultimately you can publish an article in the local newspaper outlining why your proposed other action failed.

How do I find a mediator?

- Ask other monitoring officers in your area as they may be able to make recommendations. Some monitoring officers are also trained mediators.
- Contact one of the many mediation organisations advertised on the internet.

Is the other action confidential?

- It is for you to determine what, if any, information you make public. Please see the section on **Confidentiality** on **page 23** for further information.

- It is worth involving the affected council in this decision, especially if it is a small parish council, where rumours could spread easily.

- If you do decide to make a public statement, you must make sure that the statement could not be misinterpreted as a finding of guilt or innocence of the subject member.

How to start other action:

- You should write to the parties concerned outlining:
 - a) what you are proposing
 - b) why you are proposing it
 - c) why they should co-operate
 - d) what you hope to achieve

other action

- It is often worth lining up the support of key players in the council or from external organisations, for example, the local county association may be able to help in cases involving parish or town councils.

outsourcing

There has been a significant disparity in the quality of investigations that have been conducted at a local level.

What to look for in an investigator

■ Understanding of the Code of Conduct or experience of applying a similar code of practice.

The investigating officer must have a clear understanding of what must be proven to establish the breach. This is so that they can properly understand the scope of the investigation. Local investigations have run into difficulty when the investigating officer has misunderstood the scope of the investigation, and investigated matters which could not constitute a failure to comply with the Code of Conduct. They have also run into difficulty when investigating officers sought to resolve factual disputes that would not affect the consideration of whether the subject member had failed to comply with the Code.

Successful investigating officers are those who have experience of applying the Code or experience of applying a similar code of practice. Solicitors or those with a background in criminal law enforcement may not necessarily be experienced in applying a code of practice, and it is worth establishing what their experience of applying such legislation is. You do not need to be a lawyer to be an investigator, although some lawyers may be experienced in this field.

■ Experience of conducting interviews

If the alleged conduct is so significant that if proven it would warrant referral to the Adjudication Panel, then it is vital that the investigating officer has experience of conducting interviews which were taken to a tribunal. Such experience could have been gathered through conducting internal investigations in employment matters. It could also have been gained through working for other ombudsmen, complaint handling organisations, or through working in benefit or environmental enforcement.

If your principal investigator does not have investigative interviewing experience you should consider sending them on a training course. You could alternatively ask an officer who has a background in this to work with them on the case, for example someone from the benefits or environmental control departments.

■ Experience of report writing

The most successful investigation report writers have experience of writing reports for lay people or members. They understand that their reports need to be clear enough for someone with no legal background to understand how they reached their decision. They also need to be clear enough to show what factors were taken into account when reaching that decision.

outsourcing

■ Objectivity

It is difficult for an officer to consider whether a colleague was bullied or treated disrespectfully. There will be cases when an officer can investigate a complaint where a colleague is the complainant. However, this can only be done if the standards committee is sure that they have the necessary impartiality to conduct the investigation, with no perception of bias. This is one of the key benefits of reciprocal arrangements with other authorities, as they enable you to pass investigations involving your own employees to another council

Managing outsourcing

It is important to stay in control of outsourced investigations. To do so you will need to do the following:

■ Agree the scope of any delegation

In particular be clear who has responsibility for preparing the investigation report and presenting it to the standards committee.

■ Agree the scope of the investigation

In particular be clear what allegations are being investigated and what should happen if the investigator discovers evidence of further potential breaches of the Code of Conduct.

■ Agree a firm deadline

You need to agree when the case will be completed, and consider whether there will be any financial implications if the case is not completed on time.

■ Agree interim deadlines

You should agree when you will receive key pieces of work including the investigation plan, the draft report and the final report. If the investigating officer is new then you may wish to programme in regular investigation updates.

■ Agree the payment structure

You may want to consider how you structure the payment for investigations. It is not unreasonable to pay per stage of work completed, and for any additional investigative stages to be agreed as and when they occur.

ROTHERHAM BOROUGH COUNCIL

STANDARDS COMMITTEE

STANDARDS COMMITTEE MANUAL

**T.C.MUMFORD
ASSISTANT CHIEF EXECUTIVE (LEGAL AND DEMOCRATIC SERVICES)
ROTHERHAM BOROUGH COUNCIL**

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PART I
GENERAL

1. INTRODUCTION

- 1.1. Councillors must abide by the Council's *Code of Conduct for Members and Co-opted Members*.
- 1.2. Parish councillors must abide by the code of conduct adopted by their parish council.
- 1.3. Co-opted members must abide by the applicable code of conduct for the body upon which they sit.
- 1.4. Councillors who sit as members of –
- the South Yorkshire Fire Authority,
 - the South Yorkshire Police Authority;
 - the South Yorkshire Passenger Transport Authority,
- must also abide by the code of conduct adopted by those authorities.
- 1.5. The Standards Board and the Council's Standards Committee are responsible for hearing cases of alleged misconduct by members.
- 1.6. The monitoring officer, or someone appointed by him to act on his behalf, investigates allegations of misconduct on behalf of the Council's Standards Committee.
- 1.7. Ethical standards officers investigate allegations of misconduct on behalf of the Standards Board.

2. MEANING OF WORDS AND PHRASES

- 2.1. In this Manual where the context requires –
- “Assessment Panel means a sub-committee appointed by the Standards Committee to consider an allegation of misconduct against the member concerned;
- “Committee and “the Standards Committee” means the Standards Committee of Rotherham Borough Council;
- “Council” means Rotherham Borough Council;
- “independent member” means a person appointed to the Standards Committee or a sub-committee of the Committee,

who is not a member or officer of the Council or any parish council whose area of operation is wholly or partly within the borough;

“member” means –

- a member or co-opted member of the Council (or former member or former co-opted member), or
- a member or co-opted member (or former member or co-opted member) of a parish council whose area of operation is wholly or partly within the borough;

“member concerned” means a member against whom an allegation of misconduct has been made;

“monitoring officer” means the Council’s Assistant Chief Executive (Legal and Democratic Services) or his deputy;

“parish council” and “parish councils” means any of the parish councils whose area of operation is in whole or in part within the borough and for which the Council is the responsible authority by virtue of section 55 of the Local Government Act 2000 (standards committees for parish councils);

“relevant code of conduct” means as the context requires –

- the Council’s *Code of Conduct for Members and Co-opted Members*; or
- the code of conduct adopted by the parish council concerned; or
- the code of conduct of another local authority of which the member concerned is a member.

“Review Panel” means a sub-committee appointed by the Standards Committee to review the decision of an Assessment Panel in relation to an allegation of misconduct against the member concerned;

“Standards Board” means the Standards Board for England;

“2000 Act” means Part III of the Local Government Act 2000.

2.2. In this Manual where the context requires –

- words denoting the singular number only include the plural and vice versa; and
- words denoting any gender include all genders.

3. MISCONDUCT

A member breaches the relevant code of conduct and may be found guilty of misconduct if he/she –

- unlawfully discriminates against someone;
- fails to treat people with respect;
- does something to prevent those who work for the Council or the parish council concerned (as the case may be) from being unbiased;
- reveals information that was given to him/her in confidence, or stops someone getting information they are entitled to by law;
- damages the reputation of his/her office or the Council or the parish council concerned;
- uses his/her position improperly to his/her or someone else's advantage or disadvantage;
- misuses the Council's resources or the resources of the parish council concerned;
- allows the Council's resources or the resources of the parish council concerned to be misused for the activities of a registered political party;
- fails to register financial or other interests;
- fails to reveal a personal interest at a meeting;
- takes part in a meeting or makes a decision where he/she has an interest that is so significant that it is likely to affect his/her judgement;
- fails to register any gifts or hospitality worth over £25 that he/she has received in his/her role as a member.

PART II MEMBERSHIP, FUNCTIONS AND PROCEEDINGS

4. MEMBERSHIP AND FUNCTIONS OF STANDARDS COMMITTEE

Membership

4.1. The number and term of office of members of the Standards Committee is fixed by the Council but must include –

- at least two members of the Council of which only one of them may also be a member of the Cabinet (but the Leader cannot be a member of the Committee and the member of the Cabinet who is also a member of the Committee cannot chair meetings of the Committee, which must be chaired by an independent member);

- at least two parish councillors who are not also members of the Council; and
 - the requisite number of independent members to constitute at least one quarter of the overall membership of the Committee.
- 4.2. The Committee will appoint one of the independent members to chair meetings of the Committee.

Functions

- 4.3. The Committee's functions are –

General

- to promote and maintain high standards of conduct by members and co-opted members of the Council and the parish councils;
- to assist members and co-opted members and parish councillors to observe the relevant code of conduct;

Specific

- to advise the Council and the parish councils on the adoption or revision of the relevant code of conduct;
- to monitor the operation of the Council's *Code of Conduct for Members and Co-opted Members* and the codes of conduct adopted by the parish councils;
- to advise, train or arrange to train members and co-opted members of the Council and parish councils on the relevant code of conduct;
- to carry out such other functions from time to time as the Council considers appropriate.

Allegations of misconduct

- 4.4. The Committee will consider and may investigate and hold hearings into written allegations of misconduct by members and co-opted members of the Council and any of the parish councils, which have been received by the Committee or, following the Committee's referral of the allegation to the Standards Board for England, referred back to the Committee by the Board.

5. MEMBERSHIP AND FUNCTIONS OF SUB-COMMITTEES

Sub-committees: general

- 5.1. After consulting the parish councils, the Committee may appoint one or more sub-committees to discharge any of its functions under paragraph 4.3 (general and specific functions) in relation to the parish councils, whether or not to the exclusion of the Committee.
- 5.2. In appointing a sub-committee under paragraph 5.1, after consulting the parish councils the Committee will fix the number of members of the sub-committee (which must include at least one independent member and at least one parish councillor) and determine their term of office.
- 5.3. The sub-committee must ensure that at least one parish councillor is present at a meeting of a sub-committee appointed under paragraph 5.1.

Assessment panels and review panels

- 5.4. The Committee will appoint on an ad hoc basis an initial assessment sub-committee (“an Assessment Panel”), which must be chaired by an independent member, to consider a written allegation of misconduct against the member concerned.
- 5.5. The Committee will appoint on an ad hoc basis a review sub-committee (“a Review Panel”), which must be chaired by an independent member, to review the decision of an Assessment Panel that no further action should be taken in relation to a written allegation of misconduct against the member concerned.

6. STANDARDS COMMITTEE AND SUB-COMMITTEE PROCEEDINGS

Access to meetings and documents, etc.

- 6.1. The provisions in Part VA of the Local Government Act 1972 in relation to –
 - notice of and admission to meetings, access to agendas and connected reports,
 - inspection of minutes and background papers after meetings,
 - additional rights of access to reports and background papers by members of the Council,

apply to meetings of the Committee and sub-committees of the Committee other than Assessment Panels and Review Panels to which they do not apply.

- 6.2. The descriptions of exempt information set out in paragraph 6.4 apply to a meeting of an Assessment Panel or a Review Panel.
- 6.3. In addition to the 7 descriptions of exempt information in Schedule 12A of the Local Government Act 1972 that apply to meetings of the Standards Committee and sub-committees of the Committee, the additional descriptions of exempt information set out in paragraph 6.4 apply to a meeting of the Committee or a sub-committee of the Committee convened –
 - to consider a report into an allegation of misconduct by the member concerned; or
 - to conduct a hearing into an allegation of misconduct by the member concerned.
- 6.4. The descriptions of exempt information mentioned in paragraphs 6.2 and 6.3 are –
 - information which is subject to any obligation of confidentiality;
 - information which relates in any way to matters concerning national security;
 - information presented –
 - to an Assessment Panel or Review Panel, or
 - to the Standards Committee, a sub-committee of the Committee convened to consider a report or conduct a hearing in connection with an allegation of misconduct against the member concerned.
- 6.5. The parish councils must also be given written notice of meetings of the Committee and sub-committees of the Committee (except for Assessment Panels and Review Panels) and a copy of the agenda and any reports for the meeting at least 5 clear days before the meeting or, if the meeting is convened at shorter notice, at the time that the meeting is convened.
- 6.6. Where an item is added to the agenda of a meeting after the agenda and any reports have been sent to the parish councils, a copy of the item (or of the revised agenda) and of any report in relation to the item to be presented at the

meeting must be sent to the parish councils at the time the item is added to the agenda (but the item or revised agenda need not be sent before copies are available to members of the Council).

- 6.7. The parish councils must be sent a copy of the minutes of the open part of a meeting of the Committee or a sub-committee of the Committee (except for the minutes of meetings of Assessment Panels and Review Panels) and, where the minutes in relation to the closed part of the meeting do not give a reasonably fair and coherent record of the whole or part of the proceedings, a summary of the proceedings that provides such a record without disclosing exempt information.

Written summary: Assessment Panel and Review Panel

- 6.8. An Assessment Panel or Review Panel which has considered an allegation of misconduct against the member concerned must produce a summary in writing of the Panel's decision.

- 6.9. The summary mentioned in paragraph 6.5 –

- must be prepared having regard to any relevant guidance issued by the Standards Board,
- must record the main points considered, the Panel's conclusion and the reasons for that conclusion,
- may give the name of the member concerned unless the disclosure of his/her name is not in the public interest or would prejudice any investigation,
- must be made available for inspection by members of the public at the Council's offices for a period of six years beginning with the date of the meeting,
- must be given to any parish council concerned,

but need not be open to inspection or given to any parish council concerned until the member concerned has been given a written summary of the allegation of misconduct.

Voting rights, political balance and quorum for meetings

- 6.10. Members of the Standards Committee are entitled to vote at meetings of the Committee or a sub-committee to which they have been appointed notwithstanding the fact that they are not members of the Council.

- 6.11. The rules on maintaining the political balance on committees of the Council does not apply to the Committee or any sub-committee of the Committee.
- 6.12. The Committee, a sub-committee, an Assessment Panel or a Review Panel is not quorate unless at least three members of the Committee, sub-committee or relevant Panel are present throughout the meeting.
- 6.13. A Review Panel cannot make a decision on a request to review a decision of an Assessment Panel if any member of the Assessment Panel who took part in the making of that decision is present at the meeting.

PART III
ALLEGATIONS OF MISCONDUCT

7. ALLEGATIONS OF MISCONDUCT: ASSESSMENT PANELS AND REVIEW PANELS

Addresses and procedures

- 7.1. Having regard to any relevant guidance issued from time to time by the Standards Board, the Standards Committee will publish from time to time –
- details of the address or addresses to which allegations of misconduct should be sent and ensure that any changes to those details are promptly published, and
 - details of the procedures the Committee will follow in relation to any written allegation of misconduct,

in order to ensure that such details are brought and continue to be brought to the attention of the public.

Consideration of allegations of misconduct

- 7.2. Paragraphs 7.3 and 7.4 are subject to any direction given to the Committee by the Standards Board under section 57D of the 2000 Act (power to suspend standard committee's functions) or any direction from the Board to the Committee on the exercise of the Committee's functions under this paragraph 7.

Assessment Panel

- 7.3. Having regard to any relevant guidance issued from time to time by the Standards Board, on receipt of a written allegation

of misconduct against the member concerned the Assessment Panel appointed and convened to consider the allegation must either –

- refer the allegation to the monitoring officer;
- refer the allegation to the Standards Board; or
- decide that no action should be taken in respect of the allegation.

7.4. Where the member concerned –

- was a member or co-opted member of the Council or parish council concerned (as the case may be) but is no longer a member or co-opted member, and
- he/she is a member of another authority whose members are bound by the relevant code of conduct,

then, if it considers it more appropriate to do so, the Assessment Panel may refer the allegation to the monitoring officer of the other authority.

Notifying the person who alleged misconduct

7.5. Where the Assessment Panel decides to take no action in relation to an allegation of misconduct against the member concerned, it must take reasonable steps to notify the person who made the allegation of the decision and the reasons for the decision.

Request for review of decision

7.6. The person who made the allegation of misconduct against the member concerned may request a review of the decision that no action should be taken by putting the request in writing and making it within 30 days of the decision (the 30 days' period beginning with the date of the notice communicating the Assessment Panel's decision).

7.7. Within 3 months of the date of a request to review the decision of the Assessment Panel that no action should be taken (the 3 months' period beginning on the date on which the Committee received the request), the Review Panel appointed to review the decision must convene and reconsider the decision in accordance with paragraphs 7.3 and 7.4.

- 7.8. Where the Review Panel decides to take no action in relation to an allegation of misconduct against the member concerned, it must take reasonable steps to notify the person who made the allegation of the decision and the reasons for the decision.

Notifying member concerned of allegation of misconduct

- 7.9. Subject to paragraphs 7.10 and 7.11, on receipt of an allegation of misconduct against the member concerned, the Assessment Panel must take reasonable steps to give a written summary of the allegation to the member concerned.

- 7.10. Having regard to any relevant guidance issued by the Standards Board that the Assessment Panel must take account of and any advice from the monitoring officer or any ethical standards officer concerned that the Panel may take account of, if the Panel considers that notifying the member concerned would be contrary to the public interest or would prejudice the investigation of the allegation of misconduct, it may determine that the member concerned should not be informed of the allegation.

- 7.11. Notwithstanding paragraph 7.10, the Assessment Panel must take reasonable steps to give a written summary of the allegation of misconduct to the member concerned –

- following receipt of advice from the monitoring officer or ethical standards officer (as the case may be) that it would no longer be contrary to the public interest or prejudicial to the investigating officer's investigation to notify the member concerned of the allegation; and in any event
- before the Committee considers any report or recommendation from the monitoring officer or ethical standards officer (as the case may be).

- 7.12. Nothing in paragraphs 7.10 and 7.11 prohibits –

- the monitoring officer from notifying the member concerned that an allegation of misconduct has been made against him/her; or
- the Assessment Panel from giving the member concerned some details of the allegation of misconduct if it considers that disclosure of those details would not be contrary to the public interest and would not prejudice the investigation.

Notifying the member concerned: no action

- 7.13. If the Assessment Panel decides that no action should be taken in respect of the allegation against the member concerned, it must take reasonable steps to give notice in writing to him/her of the decision and the reasons for the decision.
- 7.14. If the person who made the allegation of misconduct requests a review of the decision that no action should be taken in respect of the allegation, the Review Panel appointed to review the decision must take reasonable steps to give the member concerned notice in writing of the request.
- 7.15. If the Review Panel decides that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing to the member concerned of the decision and the reasons for the decision.

Monitoring officer's referral back of allegation of misconduct

- 7.16. Where an Assessment Panel or a Review Panel (as the case may be) has referred an allegation of misconduct against the member concerned to the monitoring officer for investigation, the monitoring officer may refer that allegation back to the relevant Panel if, as a result of new evidence or information, the monitoring officer is of the opinion that –
- the allegation is materially more serious or materially less serious than may have been apparent to the Panel when it made the decision to investigate, and
 - the Panel would have made a different decision had it been aware of that new evidence or information, or
 - it is no longer appropriate in the circumstances to continue with the investigation, as the member concerned has died, is seriously ill or has resigned from the Council or parish council concerned.
- 7.17. In forming an opinion for the purposes of paragraph 7.17, the monitoring officer may take account of –
- the failure of any person to co-operate with the investigation;
 - an allegation that the member concerned has further breached the relevant code of conduct;
 - an allegation that another member has engaged in a related breach of the relevant code of conduct.

- 7.18. In considering a referral made by the monitoring officer under paragraph 7.17, the relevant Panel –
- must treat the referral as a new referral made under paragraph 7.3; and
 - may direct that the allegation of misconduct should not be referred back a further time.

PART IV
REFERRALS TO MONITORING OFFICER

8. DECISION NOT TO INVESTIGATE: REFERRAL TO MONITORING OFFICER

Steps other than investigation

- 8.1. This paragraph applies where –
- in consultation with the monitoring officer an Assessment Panel or Review Panel (as the case may be) has decided that an allegation of misconduct against the member concerned should not be investigated and referred the allegation to him/her with a direction that he/she should take certain specified steps other than carry out an investigation; or
 - an ethical standards officer has referred an allegation of misconduct against the member concerned to the monitoring officer with a direction that he/she should take certain specified steps other than carry out an investigation.
- 8.2. The steps that the relevant Panel or the ethical standards officer (as the case may be) may direct the monitoring officer to take in accordance with paragraph 8.1 are –
- arranging for the member concerned to attend a training course;
 - arranging for the member concerned to engage in a process of conciliation; or
 - arranging such other steps (not including an investigation) as appear to be appropriate to the Panel or the ethical standards officer (as the case may be).

Notifying member concerned

8.3. On receipt of a direction under this paragraph 8 the monitoring officer will take steps to comply with the direction and –

- notify the member concerned,
- the person who made the allegation of misconduct,
- any parish council concerned, and
- the standards committee of any other authority concerned,

of the direction and within three months (beginning on the day on which he/she received the direction or as soon as reasonably practicable thereafter) submit a written report to the relevant Panel or the ethical standards officer (as the case may be) giving details of the action taken or proposed to be taken in order to comply with the direction.

8.4. The relevant Panel may give a further direction to the monitoring officer if it is not satisfied with the action taken or proposed to be taken by him/her in response to its first direction.

8.5. If the relevant Panel is satisfied with the action taken or proposed to be taken by the monitoring officer, it will give written notice to that effect to –

- the member concerned;
- the person who made the allegation of misconduct;
- any parish council concerned; and
- the standards committee of any other authority concerned.

8.6. If the ethical standards officer is not satisfied with the action taken or proposed to be taken by the monitoring officer, he/she may direct the monitoring officer to arrange for a statement to be published in at least one newspaper circulating in the borough or in the area of any parish council concerned.

8.7. The ethical standards officer may require the statement mentioned in paragraph 8.6 to contain –

- details of the direction given by him/her to the monitoring officer;
- his/her reasons for being dissatisfied; and
- the monitoring officer's response to his/her reasons for being dissatisfied.

- 8.8. If the ethical standards officer is satisfied with the action taken or proposed to be taken by the monitoring officer, he/she will give written notice to that effect to –
- the member concerned;
 - the person who made the allegation of misconduct;
 - any parish council concerned; and
 - the standards committee of any other authority concerned.

PART V
THE INVESTIGATION

9. DECISION TO INVESTIGATE: REFERRAL TO MONITORING OFFICER

- 9.1. The monitoring officer will conduct an investigation, or arrange for an investigation to be conducted, into an allegation of misconduct against the member concerned referred to him/her by the Standards Committee or an ethical standards officer (as the case may be).
- 9.2. The monitoring officer or the person nominated by him/her to conduct the investigation is hereafter called “the investigating officer” in this Manual.
- 9.3. In conducting the investigation, the investigating officer will have regard to any relevant guidance or relevant direction given by the Standards Board.
- 9.4. In conducting the investigation, the investigating officer will give the member concerned the opportunity to comment on the allegation of misconduct and may –
- make such inquiries of any person as he/she thinks necessary or expedient for the purpose of conducting the investigation;
 - require any person to give such information or explanation as he/she thinks necessary or expedient for the purpose of conducting the investigation;
 - require any parish council concerned or any other authority concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation;
 - require any other authority concerned (but not a parish council concerned) to meet the reasonable cost of any advice and assistance provided in accordance with the preceding sub-paragraph;

- require any parish council concerned or any other authority concerned to afford reasonable access to such documents in the possession of that council or authority as appear to the investigating officer to be necessary for the purpose of conducting the investigation.
- 9.5. At any stage prior to the completion of an investigation into an allegation of misconduct against the member concerned referred to the monitoring officer by an ethical standards officer, he/she may write to the ethical standards officer concerned requesting the officer to take back the allegation for investigation by him/her and setting out the reasons for making the request.
- 9.6. The ethical standards officer concerned must respond within 21 days of receipt of a request under paragraph 9.5 and may –
- direct that the allegation be referred back to him/her for investigation, in which case the monitoring officer will instruct the investigating officer to cease his/her investigation; or
 - direct the monitoring officer to continue the investigation, in which case the monitoring officer may not make a further request under paragraph 9.6 in relation to that investigation.
- 9.7. On completion of the investigation, the investigating officer must –
- make a finding that –
 - the member concerned has not failed to comply with the relevant code of conduct (“a finding of no failure”); or
 - the member concerned has failed to comply with the relevant code of conduct (“a finding of failure”).
 - prepare a written report of the investigation which contains a statement as to the finding;
 - send a copy of that report to the member concerned; and
 - refer the report to the Committee and, on request, to the standards committee of any other authority concerned but not

the parish council of which the member concerned is a member.

10. DISCLOSURE OF INFORMATION OBTAINED FOR PURPOSES OF INVESTIGATION

10.1. Information obtained by an investigating officer in conducting an investigation must be treated as confidential and not disclosed unless one or more of the following conditions is satisfied.

10.2. The conditions are –

- the disclosure is made for the purposes of enabling the Standards Board for England , an ethical standards officer, the president, the deputy president or any tribunal of the Adjudication Panel to perform their functions;
- the disclosure is made for the purpose of enabling the Standards Committee, a sub-committee of the Standards Committee or an Assessment Panel or Review Panel to perform any of its functions in connection with the investigation and consideration of an alleged breach of the relevant code of conduct by the member concerned;
- the disclosure is made for the purpose of enabling a tribunal drawn from members of the Adjudication Panel to consider any appeal from a finding of the Standards Committee in relation to an alleged breach of the relevant code of conduct by the member concerned;
- the person to whom the information relates has consented to the disclosure of the information;
- the information has previously been disclosed to the public with lawful authority;
- the disclosure is for the purposes of criminal proceedings in any part of the United Kingdom and the information in question was not obtained by an investigating officer as a result of his/her –
 - making inquiries of any person,
 - requiring any person to give him/her such information or explanation as he/she thinks necessary,
 - requiring any person to attend before him/her in person for the purpose of making inquiries of that person or requiring that person to give any information or explanation,

in connection with the conducting of an investigation into an allegation of misconduct by the member concerned;

- the disclosure is made to the Audit Commission for the purposes of any functions of the Audit Commission or any auditor under the Audit Commission Act 1998;
- the disclosure is made to the monitoring officer for the purpose of enabling him/her to perform his/her functions in relation to the conduct of local government members and employees;
- the disclosure is made to the Local Government Ombudsman for the purposes of any of his/her the functions;
- the disclosure is made to the Electoral Commission for the purposes of any of its functions;
- the disclosure is made to any person specified in an order made by the Secretary of State for the purposes stated in the order.

11. CONSIDERATION OF REPORTS

- 11.1. The Standards Committee will convene to consider a report –
- from an investigating officer in relation to an allegation of misconduct against the member concerned; or
 - from an ethical standards officer in which he/she has made a finding that the allegation of misconduct against the member concerned should be referred to the monitoring officer.
- 11.2. The Committee must make one of the following findings in relation to a report from an investigating officer or ethical standards officer (as the case may be) submitted to it under paragraph 10.1 –
- that it accepts the investigating officer's finding of no failure ("a finding of acceptance");
 - that the report in relation to the allegation of misconduct against the member concerned should be considered at a hearing of the Committee; or
 - that, subject to paragraph 10.3, the report in relation to the allegation of misconduct against the member

concerned should be referred to the Adjudication Panel for determination.

11.3. The Committee may only make a finding that the report in relation to the allegation of misconduct against the member concerned should be referred to the Adjudication Panel for determination if –

- it has decided that the action it could take against the member concerned would be insufficient were a finding of failure to be made; and
- the president or deputy president of the Adjudication Panel has agreed to accept the referral.

11.4. As soon as reasonably practicable after making a finding of acceptance, the Committee will –

11.4.1. give written notice of that finding to –

- the member concerned,
- any ethical standards officer concerned,
- any parish council concerned,
- the standards committee of any other authority concerned,
- the person who made the allegation of misconduct; and

11.4.2. unless the member concerned requests otherwise, arrange for a notice to be published stating that the Committee has found that there has been no failure on his/her part to comply with the relevant code of conduct.

11.5. The notice referred to in paragraph 10.4 must be published –

- in at least one newspaper circulating in the borough or the area of any parish council or any other authority concerned; and
- if considered appropriate by the Committee, on the web page of the Council or any parish council or any other authority concerned; and
- if considered appropriate by the Committee, in any other publication.

12. PREPARATIONS FOR THE HEARING

Arranging the hearing

- 12.1. Where the Committee has decided that the report in relation to an allegation of misconduct against the member concerned should be considered at a hearing of the Committee, in consultation with the chairman of the Committee, the Council's Committee Services will write to the member concerned and any other persons involved to propose a date for the hearing.
- 12.2. A hearing convened under paragraph 11.1 –
- must not be held until at least 14 days have passed after the date on which the member concerned received a copy of the investigating officer's report or the ethical standards officer's report (as the case may be), unless the member concerned agrees to an earlier hearing date; but
 - must be held within 3 calendar months of the date on which the investigating officer completed his/her report or the date on which the monitoring officer first received the ethical standards officer's report (as the case may be).
- 12.3. if for whatever reason the hearing does not take place in the 3 calendar months' period specified in paragraph 11.2, it must be held as soon as reasonably practicable thereafter.

The letter

- 12.4. The letter sent to the member concerned under paragraph 11.1 will ask him/her to respond in writing, within 14 days of receiving the letter, stating whether he/she can attend the hearing on the proposed date and whether he/she –
- disputes any of the findings of fact in the investigating officer's report or the ethical standard officer's report (as the case may be) and stating the reasons for the dispute;

The letter will emphasise the importance of identifying any disputed facts and advise the member concerned that he/she will not be permitted to dispute other findings of fact at the hearing unless there are good reasons for doing so, such as new evidence coming to light.

- wishes to give evidence and make representations personally to the Committee either orally or in writing;

- wishes to be represented at the hearing by a solicitor or barrister or any other representative;

The letter will advise the member concerned that he/she may be represented by counsel, by a solicitor or, with the Committee's consent, someone who is not a solicitor or barrister.

- wishes to call relevant witnesses to give evidence to the Committee;

The member concerned may arrange for the attendance at the hearing of such witnesses as he/she wishes. But the Committee may place a limit on the number of witnesses that the member concerned wishes to call if it considers that the number is unreasonable. The Committee may arrange for the attendance at the hearing of such witnesses as it considers appropriate.

- wishes the whole or part of the hearing to be held in private and the reasons for doing so;
- wishes the whole or part of the investigating officer's report or the ethical standard officer's report (as the case may be) to be withheld from the public and the reasons for withholding it.

Member's response

12.5. Upon receipt of the written response of the member concerned, Committee Services will send a copy to the investigating officer or the ethical standards officer (as the case may be) and invite the officer concerned to say within 10 days whether he/she –

- wishes to be represented at the hearing;
- wishes to call relevant witnesses to give evidence to the Committee;
- wishes any part of his/her report or other relevant documents to be withheld from the public.

Pre-hearing

12.6. Following receipt of responses from the member concerned and the investigating officer or the ethical standards officer (as the case may be), the chairman of the Committee (in consultation with the monitoring officer) may hold a pre-hearing, for the purpose of –

- confirming the date, time and place of the hearing,
- summarising the allegation,
- confirming the main facts of the case that are agreed,
- confirming the main facts of the case that are not agreed,
- confirming the witnesses, if any, who will be asked to give evidence,
- noting whether the member concerned will be represented at the hearing and whether the investigating officer or the ethical standards officer (as the case may be) will be attending or represented at the hearing,

then, at least 2 weeks before the date set for the hearing, Committee Services will write to the member concerned and any other persons involved to inform them of the date of the hearing.

13. THE HEARING

- 13.1. The Committee must be quorate before it may conduct a hearing into an allegation of misconduct.
- 13.2. The Committee will only be quorate if –
- 13.2.1. at least 4 members of the Committee are present of which at least 3 of them are independent members of the Committee; and
 - 13.2.2. in the case of an allegation of misconduct by a parish councillor, the parish council member of the Committee is present.
- 13.3. In conducting a hearing to consider a report into allegations of misconduct by a member, the Committee may use such procedures as it considers appropriate in the circumstances but must –
- have regard to any relevant guidance issued from time to time by the Standards Board;
 - give the member concerned an opportunity to present evidence in support of his/her case; and
 - give the member concerned the opportunity at the hearing to make oral or written representations to the Committee

either himself/herself or through a person appointed by him/her to represent him/her.

13.4. Subject to paragraph 12.3, the Committee will ordinarily follow the procedures outlined at Appendix A when conducting a hearing into an allegation of misconduct.

13.5. At any time during or before the conclusion of the hearing, the Committee may take advice from the monitoring officer or, in his absence, the deputy monitoring officer attending on his behalf.

The substance of any legal advice given to the Committee will be shared with the member concerned and the investigating officer or the ethical standards officer (as the case may be) or their representative.

13.6. The member concerned may be represented by a barrister, a solicitor or, with the Committee's prior consent, any person whom he wishes to represent him/her.

The Committee will normally give permission for the member concerned to be represented by someone who is not a solicitor or barrister but may refuse permission if the representative is directly involved in the allegation of misconduct.

13.7. The Committee may arrange for the attendance at the hearing of any witnesses that it considers appropriate.

13.8. Subject to paragraph 12.9, the member concerned may arrange for the attendance at the hearing of any witnesses that he/she wishes.

13.9. The Committee may place a limit on the number of witnesses the member concerned may call if it considers that the number that he/she proposes to call is unreasonable.

13.10. If the member concerned has had notice of the hearing and fails to attend the hearing on the appointed day, the Committee may –

- consider the allegation of misconduct and decide the case in his/her absence, unless it is satisfied that there is sufficient reason for the absence; or
- adjourn the hearing to another date.

13.11. If the Committee decides to proceed in the absence of the member concerned, and his/her representative is present,

then the representative will be given the same rights as the member would have received if he/she had been present.

- 13.12. On not more than one occasion, the Committee may adjourn the hearing at any stage and require the investigating officer to seek further information on, or to investigate further, any point specified by the Committee.
- 13.13. Where the Committee is considering an ethical standards officer's report, the Committee may adjourn the hearing at any stage prior to its conclusion in order to make a written request to the ethical standards officer concerned that the allegation of misconduct against the member concerned be referred back to him/her for further investigation.
- 13.14. A written request made under paragraph 12.13 must set out the Committee's reasons for making the request.
- 13.15. The ethical standards officer to whom a request has been made under paragraph 12.13 must respond to the request within 21 days of receiving it and may –
 - direct that the allegation of misconduct be referred back to him/her for investigation and that the Committee must cease to consider the allegation; or
 - direct the Committee to continue to deal with the allegation of misconduct, in which case the Committee cannot make a further request that the ethical standards officer should further investigate the allegation, and must reconvene within 3 calendar months of receipt of the direction (or as soon as practicable thereafter) to continue consideration of the allegation.

14. FINDINGS AND SANCTIONS

Committee's findings

- 14.1. Following a hearing to consider an allegation of misconduct, the Standards Committee will make one of the following findings –
 - that the member concerned had not failed to comply with the relevant code of conduct;
 - that the member concerned had failed to comply with the relevant code of conduct but that no action needs to be taken in respect of the allegations that were considered by the Committee;

- that the member concerned had failed to comply with the relevant code of conduct and that a sanction should be imposed.

Sanctions

14.2. The sanction mentioned in paragraph 13.1 may be any one of, or a combination of, the following sanctions –

- the censure of the member concerned;
- a restriction on access by the member concerned to the premises of the Council or the premises of the parish council concerned or use of council or parish council resources for the period specified by the Committee, providing –
 - the restrictions do not apply for more than 6 calendar months,
 - the restrictions are reasonable and proportionate in light of the nature of the breach of the relevant code of conduct, and
 - the restrictions do not unduly restrict the ability of the member concerned to perform his/her functions as a member;
- the partial suspension of the member concerned for a period not exceeding 6 calendar months;
- the suspension of the member concerned for a period not exceeding 6 calendar months;
- a requirement that the member concerned submits a written apology in a form specified by the Committee;
- a requirement that the member concerned undertakes such training as specified by the Committee;
- a requirement that the member concerned participates in such conciliation as specified by the Committee;
- the partial suspension of the member concerned for a period not exceeding 6 calendar months or until such time as he/she submits a written apology in a form specified by the Committee;
- the partial suspension of the member concerned for a period not exceeding 6 calendar months or until such time

as he/she undertakes such training or has participated in such conciliation as the Committee may specify;

- the suspension of the member concerned for a period not exceeding 6 calendar months or until such time as he/she has submitted a written apology in a form specified by the Committee;
- the suspension of the member concerned for a period not exceeding 6 calendar months or until such time as he/she undertakes such training or has participated in such conciliation as the Committee may specify.

14.3. Subject to paragraph 13.4, a sanction imposed by the Committee shall commence immediately following its imposition by the Committee.

14.4. Save for a sanction to censure the member concerned, the Committee may direct that any other sanction imposed by the Committee shall commence on the date specified by the Committee in its direction (the specified date must be within 6 calendar months of the date on which the sanction was imposed).

15. NOTIFICATION OF FINDINGS AND SANCTIONS

Notice and publication of finding

15.1. As soon as reasonably practicable following the making of a finding under paragraph 13.1, the Standards Committee –

- will give written notice of its finding and the reasons for the finding to –
 - the member concerned,
 - the Standards Board,
 - any parish council concerned,
 - the standards committee of any other authority concerned;
 - any person who made an allegation that gave rise to the investigation; and
- subject to paragraph 14.2 –
 - arrange for a summary of the notice under paragraph 14.1 to be published in one or more newspapers circulating in the borough, including the area of operation of the parish council concerned;

- if considered appropriate by the Committee, on the web page of any authority concerned; and
- if considered appropriate by the Committee, in any other publication.

15.2. Where the Committee has found that the member concerned had not failed to comply with the relevant code of conduct, at the request of the member concerned the Committee will not publish a summary of the finding in any newspaper or on the website of the authority concerned or in any other publication.

Contents of notices

15.3. Where the Committee has found that the member concerned had not failed to comply with the relevant code of conduct, the notice issued under paragraph 14.1 must –

- state that the Committee found that the member concerned had not failed to comply with the relevant code of conduct; and
- give the Committee's reasons for reaching that finding.

15.4. Where the Committee makes a finding that the member concerned had failed to comply with the relevant code of conduct but that no action needs to be taken in respect of the allegations that were considered by the Committee, the notice issued under paragraph 14.1 must –

- specify the details of the failure;
- give the reasons for the Committee's decision; and
- state that the member concerned may appeal against the finding to the Adjudication Panel for England.

15.5. Where the Committee makes a finding that the member concerned had failed to comply with the relevant code of conduct and that a sanction should be imposed, the notice issued under paragraph 14.1 must –

- specify the details of the failure;
- give the reasons for the Committee's decision;
- specify the sanction imposed in accordance with paragraph 13.2; and
- state that the member may appeal against the finding to the Adjudication Panel for England.

16. APPEALS TO ADJUDICATION PANEL FOR ENGLAND

Notice seeking permission to appeal

- 16.1. The member concerned against whom the Standards Committee has made a finding of failure to comply with the relevant code of conduct may by notice in writing seek the permission of the president of the Adjudication Panel for England –
- to appeal the decision; and
 - to apply (if appropriate) for any sanction imposed under paragraph 13.2 to be suspended until such time as the appeal is determined.
- 16.2. Permission to appeal or to suspend a sanction may be given in relation to the whole or any specified part of the finding or sanction.
- 16.3. In deciding whether to give permission to appeal, the president of the Adjudication Panel for England (or in his absence the deputy president) must have regard to whether there is a reasonable prospect of the appeal being successful (either in whole or in part).

Time limit for receipt of notice

- 16.4. The president of the Adjudication Panel for England must receive the notice requesting permission to appeal within 21 days of the member concerned receiving notification of the Committee's finding of failure to comply with the relevant code of conduct.

Ground of appeal

- 16.5. The member concerned may appeal the Committee's decision that he/she –
- failed to comply with the relevant code of conduct but that no action needs to be taken in relation to the allegation of misconduct; or
 - failed to comply with the relevant code of conduct and that one or more of the sanctions specified in paragraph 13.2 be imposed.

Contents of notice seeking permission to appeal

- 16.6. The notice requesting permission to appeal must specify –

- the finding against which the member concerned wishes to appeal;
- in the case of a finding of failure to comply with the relevant code in which a sanction has been imposed, whether the appeal is against the finding or the sanction or both;
- the grounds of the appeal;
- whether the member concerned wishes to apply for the suspension of any sanction that has been imposed; and
- whether the member concerned consents to the appeal being conducted by way of written representations.

President's decision

16.7. Within 21 days of receipt of a notice requesting permission to appeal a finding of the Committee the president, (or in his absence the deputy president) must –

- send notice of his/her decision to give or refuse permission to appeal to –
 - the member concerned who gave notice of appeal,
 - the Standards Board,
 - any parish council concerned,
 - the standards committee of any other authority concerned,
 - any person who made an allegation that gave rise to the investigation, and
- in the case of refusal to give permission to appeal or to suspend the sanction (in either case in whole or in part), give the reasons for that decision.

APPENDIX A
CONDUCT OF HEARINGS

Paragraph
1. Setting the scene
2. Consideration of findings of fact
3. Findings on disputed facts, etc.
4. Standards Committee determinations
5. The decision

1. SETTING THE SCENE

- 1.1. Following formal introductions, the chairman of the Standards Committee will explain how the hearing will be conducted.
- 1.2. The chairman will remind the persons present that it may not be a defence to an allegation of defamation that the alleged defamatory words were uttered during the course of the hearing.
- 1.3. The chairman will advise the parties that the Committee has no power to make awards of costs.
- 1.4. The Committee will clarify and resolve any issues or disagreements about how the hearing should be conducted that were not resolved during any pre-hearing process.

2. CONSIDERATION OF FINDINGS OF FACT

Disputed facts

- 2.1. The Committee will identify any significant dispute of the finding of facts contained in the investigation officer or ethical standards officer's report (as the case may be).
- 2.2. If the facts are not disputed, the Committee will then consider whether the member concerned did in fact breach the relevant code of conduct.

Representations on disputed facts

- 2.3. If the facts are disputed, the investigating officer or the ethical standard's officer (as the case may be), or his/her representative if present, will be invited to make any representations that he/she considers necessary in support of particular findings of fact.

- 2.4. The investigating officer or the ethical standards officer (as the case may be) may, with the Committee's permission, call named witnesses to give evidence in support of particular findings of fact.
- 2.5. With the Committee's permission, the member concerned may challenge the evidence put forward by any of the investigating officer or ethical standards officer's (as the case may be) witnesses.
- 2.6. The member concerned will then be invited to make representations to support his version of the facts and, with the Committee's permission, call named witnesses to give supporting evidence.
- 2.7. With the Committee's permission, the investigating officer or the ethical standards officer (as the case may be) may challenge the evidence put forward by any of the witnesses of the member concerned.
- 2.8. The members of the Committee may question at any time witnesses called to give evidence on behalf of the member concerned or the investigating officer or ethical standards officer (as the case may be) or his/her representative.

Disputed facts of which prior notice has not been given

- 2.9. If the member concerned wishes to dispute a finding of fact of which he/she has not been given prior notice, he/she must satisfy the Committee that there was a good reason for having failed to give such notice that the particular finding of fact is a disputed fact.

The member concerned will not be permitted to dispute findings of fact at the hearing of which he has not given prior notice unless there are good reasons for failing to do so, such as new evidence coming to light.

- 2.10. If –
 - the member concerned disputes a particular finding of fact of which he/she has not given prior notice, and
 - the investigating officer or the ethical standards officer (as the case may be) or his/her representative is not present at the hearing,

the Committee will consider whether it would be in the public interest to continue in the officer's or representative's absence or adjourn the hearing to another date.

2.11. If the Committee decides to continue with the hearing, it may –

- allow the member concerned to make representations on the disputed finding of fact and the investigating officer or the ethical standards officer (as the case may be) or his representative (if present) to make representations in reply; or
- consider the representations made by the member concerned on the disputed finding of fact in the absence of the investigating officer or the ethical standards officer (as the case may be) or his/her representative, then decide to adjourn the hearing in order for named witnesses or the officer concerned or his/her representative to be given the opportunity to attend and make representations in reply.

3. FINDINGS ON DISPUTED FACTS, ETC.

3.1. On the conclusion of the representations (if any) made by or on behalf of both the member concerned and the investigating officer or the ethical standards officer (as the case may be), the Committee –

- will make findings on the disputed facts; and
- determine, on the basis of those findings, whether a *prima facie* case has been made that the member concerned has breached the relevant code of conduct (“a case to answer”).

3.2. If the Committee has determined that the member concerned has a case to answer –

- the member concerned will be invited to make representations as to why the Committee should determine that he has not breached the relevant code of conduct;
- the investigating officer or the ethical standards officer (as the case may be) or his/her representative will be invited to make oral or written representations as to why the Committee should determine that the member concerned has breached the relevant code of conduct; then
- the member concerned will be invited to make final representations in the light of the representations made by

the officer concerned (or his/her representative) under the preceding sub-paragraph.

- 3.3. On the conclusion of the representations, the Committee will retire to deliberate upon the evidence and representations, but may reconvene at any stage to ask additional questions of the member concerned or the investigating officer or the ethical standards officer (as the case may be) or his/her representative.

4. STANDARD COMMITTEE DETERMINATIONS

- 4.1. If the Committee decide that the member concerned has not breached the relevant code of conduct, the Committee will –
- make a finding of no failure; and
 - consider whether it should make any recommendations to the Council or parish council concerned with a view to promoting high standards of conduct among members.
- 4.2. If the Committee decides that the member concerned has failed to comply with the relevant code of conduct it will either –
- make a finding of failure but no action needs to be taken; or
 - make a finding of failure and that a sanction should be imposed.
- 4.3. In the case of a finding of failure but no action needs to be taken, the Committee will consider whether it should make any recommendations to the Council or parish council concerned with a view to promoting high standards of conduct among members.
- 4.4. In the case of a finding of failure and that a sanction should be imposed, the Committee will decide which of the sanctions, or combination of sanctions it is minded to impose.
- 4.5. Following the decision to impose a sanction (or combination of sanctions) the Committee will reconvene and invite the member concerned and the investigating officer or the ethical standards officer (as the case may be) or his/her representative to make oral or written representations on the proposed sanction (or combination of sanctions).

5. THE DECISION

- 5.1. The Committee's decision will be announced at the conclusion of the hearing and a written summary handed to the member concerned and the investigating officer or the ethical standards officer (as the case may be).
- 5.2. As soon as reasonably practicable following the conclusion of the meeting, and in any event not later than 2 weeks thereafter, the Committee will issue a full written decision.
- 5.3. The full written decision will contain details of –
- the allegation of misconduct by the member concerned;
 - the finding of facts, including disputed facts;
 - the Committee's findings in respect of any witnesses who gave evidence before the Committee;
 - the Committee's decision on whether the relevant code of conduct was breached; and
 - the Committee's decision on whether a sanction or other course of action should be taken.

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Welcome to Issue 39 of the *Bulletin*.

I am pleased to introduce my first *Bulletin* since succeeding David Prince as Chief Executive of the Standards Board for England. I look forward to meeting many of you and working closely with you over the coming months.

Local assessment is now in place, and the last couple of months have been busy for local authorities preparing for the introduction of the devolved framework. Some standards committees have already risen to the challenge of assessing their first Code of Conduct complaints.

In this *Bulletin*, we present the personal reflections of the Strategic Director at Newark and Sherwood District Council on preparing for local assessment. I hope that you find this an interesting read. We also focus on the new online local reporting system. We are confident you will find this system easy to use.

You are probably aware of the Standards Board's next Annual Assembly of Standards Committees, due to be held in October 2008. *Delivering the Goods: Local Standards in Action* is proving to be our most popular Annual Assembly ever, with more than 90% of places already booked. If you have already secured your place, we would advise you to return your conference session preference form as soon as possible to make sure you get your first choice of sessions – they are filling up fast!

Finally, I am pleased to introduce the new Chair of the Standards Board, Dr Robert Chilton. Dr Chilton will succeed Sir Anthony Holland in July 2008 and we present a brief biography in this *Bulletin*.

Glenys Stacey
Chief Executive

Launch of the Standards Board's online local reporting system

Our new local reporting system went live on 8 May 2008 to coincide with the introduction of local case handling. It was launched by an email sent to all monitoring officers in our contact database. The reporting system consists of a short questionnaire about the authority and the standards committee, a section to enter some basic information about each case the standards committee has received, and some guidance materials.

You can access the reporting system by visiting the Resources section of our website, www.standardsboard.gov.uk, and clicking on the 'Monitoring returns' menu item. This will take you directly to the login page.

Alternatively, you can go directly to <https://authority.standardsboard.gov.uk>.

Support

We have tried our best to make the reporting system as easy to use as possible. Once you log in, click on the 'online help' link in the left-hand menu for an online guide to using the system. There is also an A-Z of questions document, which explains in more detail what is expected from each of the questions asked in the form.

Any queries about the quarterly return process can be sent to: authorityreturns@standardsboard.gov.uk or you can speak to the Monitoring Team by calling 0161 817 5300.

Who should complete and submit the quarterly return?

The monitoring officer is accountable for submitting accurate and timely returns at the end of each quarter. We know that some monitoring officers will delegate the task of filling out and

submitting the return to someone else in their authority. However, as the accountable person, we will continue to send all correspondence regarding quarterly returns only to the monitoring officer.

It is the monitoring officer's responsibility to ensure that the person they have delegated monitoring returns to is kept up-to-date of any email notifications from us.

How the quarterly return process works

We will be analysing and reporting on case handling activity within each quarter. The quarters are defined by the financial year as follows:

- **Quarter 1** is the beginning of **April** to the end of **June**.
- **Quarter 2** is the beginning of **July** to the end of **September**.
- **Quarter 3** is the beginning of **October** to the end of **December**.
- **Quarter 4** is the beginning of **January** to the end of **March**.

Due to the delayed start of local assessment, the very first period we are collecting information for is 8 May 2008 to the end of June 2008.

As a result of the need to collect returns as quickly and efficiently as possible at the end of each quarter, there will be a period of ten working days within which submissions must be made. This period, which we will refer to as the 'submission window', will start on the day after each quarter has ended. The dates for this for the current financial year are shown on **page 3**.

We will send an email reminder to all monitoring officers when their submission is due.

Submission window dates for the current financial year:

- **Quarter 1**
01 July 2008 to 14 July 2008*
- **Quarter 2**
01 October 2008 to 14 October 2008*
- **Quarter 3**
02 January 2009 to 15 January 2009*
- **Quarter 4**
01 April 2009 to 16 April 2009*

*Midnight on these closing dates.

What happens next?

As the framework beds in and quarterly returns are collected, we will begin to build up a national picture of how successful the implementation of case handling has been. We will be able to collect data on specific areas of the framework to allow us to pinpoint good practice and identify any areas of concern as trends emerge. We may contact monitoring officers to request further details about particular cases to help us do this.

As we no longer have responsibility for investigating all cases on a national level, we will not be able to continue publishing summaries of completed investigations on our website. Instead, we will produce quarterly statistics about cases handled across the country. We also intend to compile a report highlighting notable practice in local case handling on an annual basis.

If you are a monitoring officer and you have not received the launch email with your username and password, please contact our monitoring team on **0161 817 5300** or email authorityreturns@standardsboard.gov.uk.

New guidance published

The latest guidance to support local authorities in the implementation and function of the local standards framework is now available to download from the Guidance section of our website www.standardsboard.gov.uk.

Four pieces of guidance and two toolkits have now been published:

- **Local assessment of complaints:** Details each stage of the process, as well as offering guidelines for best practice.
- **Local assessment toolkit:** Useful document templates for local assessment, which can be used or adapted by authorities as required.
- **The role and make-up of standards committees:** Advice on setting up and operating effective committees.
- **Local investigations and other action:** An overview of the issues involved in local investigations and other action.
- **How to conduct an investigation:** A comprehensive guide to conducting an investigation.
- **Investigations toolkit:** Useful document templates to help with conducting investigations locally, which can be used or adapted by authorities as required.

Guidance on standards committee determinations will be published on our website in early July 2008.

Reviews of local assessment decisions: Timeframe for review requests

If a standards committee decides not to take any action on a Code of Conduct complaint, then the complainant has a right of review over that decision. The complainant should be advised of their right to ask for a review of a decision to take no action. They should also be told that they can exercise this right by writing to the standards committee with their reasons for requesting a review.

The standards committee must receive the complainant's review request within 30 days from the date on the initial assessment decision notice.

We would like to clarify that this is 30 days in total and not 30 working days. Our *Local assessment of complaints* guidance, available from our website, has been updated to reflect this position.

Local assessment – A personal reflection

Kirsty Cole
Strategic Director (Corporate Services)
Newark and Sherwood District Council

I had thought that Newark and Sherwood District Council was reasonably well placed for meeting its new duties and responsibilities when the local assessment of complaints was introduced by the Standards Committee (England) Regulations 2008 on 8 May 2008.

We had decided in the autumn of last year to increase the size of the standards committee to 15, with four independent members, four parish representatives and seven elected members, in order to ensure that we had a sufficient pool from which to draw when setting up assessment and review sub-committees and hearing panels.

We had placed adverts for new members before Christmas last year and our standards committee chair was profiled in the November issue of our council newsletter, setting out the work undertaken by the standards committee, outlining its new role in the local assessment of complaints and encouraging people to come forward for positions on the standards committee.

Our marketing campaign was extremely successful and we were able to recruit three new independent members of an extremely high calibre to the standards committee, together with two additional parish representatives (our two existing parish representatives are continuing their term of office for a further year to provide some continuity in the changeover to the new arrangements).

The new appointments were confirmed at the February council meeting and all the new members were given induction training on the work of the standards committee – not just in the local assessment of complaints, but on the standards committee's wider role in embedding high standards of ethical conduct within the organisation and across the parish councils within our district.

We had already participated in the Standards Board's local filter pilot in July 2007, and Newark and Sherwood District Council had been instrumental in organising further county-wide training on the local assessment of complaints in early March 2008, in which our new standards committee members had participated.

However, what I had not anticipated in the first week of May 2008 was the sheer volume of paperwork which I would need to prepare in a very short timescale, and I certainly hadn't anticipated that we would receive our first complaint immediately after the Regulations came into effect and before our standards committee had even had the chance to meet to set up its assessment and review sub-committees.

Fortunately, I had built in an initial step within our complaints procedure that, unless a complainant indicated otherwise, we would endeavour to resolve any complaint informally through local resolution prior to its submission to the assessment sub-committee.

I consider that this step is permitted within the regulatory framework as there is no legal requirement to place the complaint before the assessment sub-committee until a written complaint has been sent to the standards committee (Section 57C of the Local Government and Public Involvement in Health Act 2007). Fortunately, this particular complaint had been expressly addressed to the Chief Executive.

We managed to get a copy of the complaint form and a notice about the new arrangements onto the council's website before 8 May 2008 – but only just! – and we are still working through the various forms and other documents for which the Standards Board has helpfully provided templates in its toolkit.

Our standards committee will meet on 11 June 2008 to formally establish the assessment sub-committee and review sub-committee, which we will draw from a panel of members of the standards committee rather than having a fixed membership. I believe that, as monitoring officers, we have to make pragmatic judgements of what will work in practice and where any risk or challenge might lie.

The Standards Board is to be commended in producing template documentation and guidance so promptly and efficiently. I know that because of the speed with which the Standards Board was required to turn things around, there have been some amendments to the guidance which was initially issued. As a word of caution, you need to double check the Standards Board's website to ensure that you are working to the most up-to-date guidance.

In summary, I am glad that we had increased the size of our standards committee well in advance of 8 May 2008 and that we had had the invaluable experience of participating in the local filter pilot. However, we still found ourselves in a position where we were not fully prepared when the new regulations came into effect and we are still working hard in putting all the documentation and procedures in place. It was a much bigger task than I had envisaged and would have been virtually impossible without the help and support offered by the Standards Board.



CLG appoints new Chair of the Standards Board

The Secretary of State for Communities and Local Government (CLG) has

appointed Dr Robert Chilton as the new Chair of the Standards Board for England. He will take over from Sir Anthony Holland on 1 July 2008 for a three-year term.

Dr Chilton's association with local government goes back to 1965 when he began his career in regional planning. From the mid-1980s he has held positions as Chief Executive of Gillingham Borough Council, Director of Local Government Studies at the Audit Commission, Head of Transition and then interim Chief Executive of the Greater London Authority, and interim Commissioner for Transport at Transport for London.

He is also a non-Executive Director of the Waste and Resources Action Programme, a Board Member for the Office of the Information Commissioner, Chair of the major London housing association the East Thames Group, and Deputy Chair of ICSTIS, the premium rate phone regulator.

In announcing Dr Chilton's appointment on 13 May 2008, Minister for Local Government John

Healey expressed his confidence in Dr Chilton's "strategic vision" and "deep understanding and experience of local government". He also thanked Sir Anthony Holland for his hard work over the past seven years.

Bulletin statistics

Due to the introduction of local assessment and our changing role, we will be reporting different statistical information from now on. This information will be available following the analysis of information collected through our online local reporting system. To find out more about the operation of this system, please see **page 2** of this *Bulletin*.

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Annual Review 2007-08 available online

Monitoring officer seminar

Ethical governance toolkit

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Welcome to Issue 40 of the *Bulletin*.

In this *Bulletin* we present an initial analysis of the first quarterly monitoring returns we have received from authorities on local case handling. A fantastic 98% of authorities have submitted their returns and provided us with a clear overview of the successful operation of the devolved ethical framework so far. Thank you all for helping us to ensure the quality of the data.

We are using this opportunity to seek your views on the potential adjournment of assessment sub-committee decision making. This is in order for the monitoring officer to find out whether a subject member would co-operate with a referral for other action. We outline our concerns with this approach, and its possible advantages, and invite your feedback on the most appropriate practice.

Finally, I am pleased to introduce two new Board members, **Michael Kendall** and **Elizabeth Abderrahim**, and confirm that **Professor Judy Simons** has been appointed as the Standards Board for England's new Deputy Chair.

Glenys Stacey
Chief Executive



Seventh Annual Assembly of Standards Committees

13-14 October 2008, ICC Birmingham

See page 4 for more details

Guidance on the local standards framework

The final section of our guidance on the local standards framework has now been completed and is available online in the Guidance section of our website www.standardsboard.gov.uk.

The *Standards committee determinations* guidance has been designed to help members and officers in relevant authorities who are involved in the determination of complaints that a member may have breached the Code of Conduct.

It details each stage of the determination of complaints process and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required.

Folders containing all of the local standards framework guidance will be sent to monitoring officers in early September. Please note that we have updated *The role and make-up of standards committees* guidance and *The local assessment of complaints* guidance since they were first made available on our website. We therefore recommend that you use the guidance in the folder, or the guidance which is currently on our website, as opposed to any versions that you might have printed off previously.

Analysis of first quarterly monitoring returns

Data collection

The first quarter of local case handling has now ended. Following this, we sent an email to the monitoring officers of all principal authorities requesting that they submit their first quarterly return before the deadline of 14 July 2008. The return helps us to provide the national and independent oversight necessary for there to be confidence in a locally based system of complaint handling.

The first return covers the period of 8 May to 30 June 2008 and involved monitoring officers answering a series of questions about their authority's standards committee. They were also required to answer questions about any cases that had been handled locally.

As this was the first time that monitoring officers had to submit a return – and because our online system is brand new – we expected a few teething problems with the data collection. However, we received an overwhelming response rate, with a return from **98%** of authorities.

We are also pleased to report that **90%** of the returns do not have any issues needing further clarification.

Thank you to all monitoring officers, and other authority employees who submitted on their behalf, for ensuring that we have a good, solid data set. This will help us begin to formulate a national picture of local case handling. It will also serve as a starting point for identifying standards committees that we can work with to achieve the goal of ensuring consistently high ethical standards in local government.

Feedback

We are currently gathering feedback from a sample of monitoring officers about their experiences of completing and submitting their quarterly return. Thanks to all the monitoring officers who are participating in this. As a result, we are already looking at making some improvements to the system for future quarterly returns. These include:

- an automated acknowledgement page, so that you will know instantly that your return has been submitted successfully
- a smarter log off procedure, so that monitoring officers of more than one authority can switch between multiple accounts more easily
- improvements to the way that closed cases are managed by the system (over the long term we hope to include an archive of old case details)

Analysis

We are currently analysing the **90%** of returns that are complete, and contacting the other **8%** of authorities whose returns have issues that need clarifying. We have sent a further request to the **2%** of authorities who have not yet submitted their return.

However, our initial observations of the data are as follows:

Standards committees

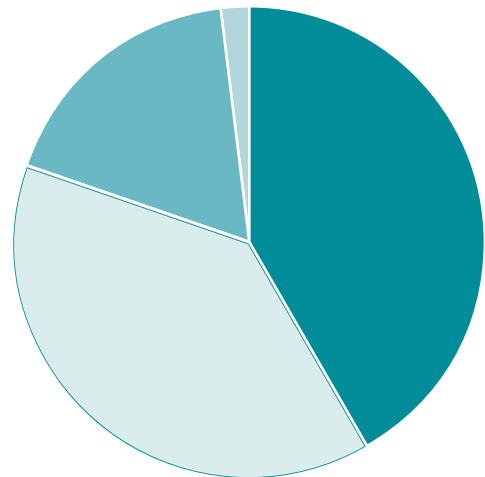
- On average, standards committees have nine members in total, which includes three independent members and, if the authority has parish or town councils, three parish representatives.

- **99%** of standards committees have an independent chair.

Cases handled locally

- **321** cases were received locally between 8 May and 30 June 2008.
- Because the reporting period was shorter than usual, **48%** of cases did not have a decision about how they should be handled by the time the quarter closed. The chart below shows the split of decisions for all cases where a decision was made.

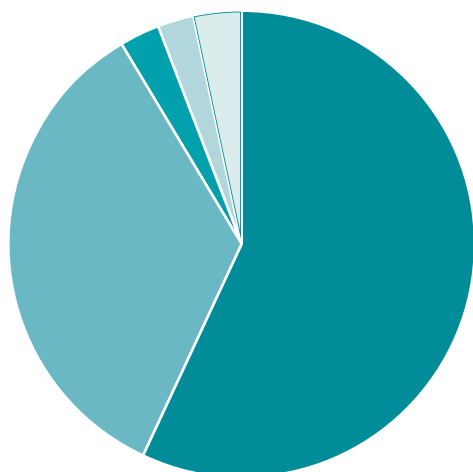
REFERRAL DECISIONS



- 3** Referred to the Standards Board for England
- 30** Referred to the monitoring officer for alternative action
- 65** Referred to the monitoring officer for investigation
- 70** Not referred for investigation

- Discounting the cases where a decision had not been reached, the breakdown shows that most cases were either referred to the monitoring officer for investigation or not referred at all.

SOURCE OF COMPLAINT



- 10 Other
- 8 Parish/Town clerk
- 9 Council officer
- 111 Member
- 183 Member of the public

- As shown in the chart above, more than half of the cases came from complaints made by members of the public. A large proportion also came from members.

The next quarterly return covers case activity in the period 1 July to 30 September 2008. This includes new cases received in the period and previous cases that have progressed in the period. The submission window for returns will be open from 1 to 14 October 2008. A reminder email will be sent to all monitoring officers nearer the time.

A more detailed breakdown of quarterly returns is now available in the Quarterly statistics section of our website www.standardsboard.gov.uk.

Forthcoming events

More than 800 delegates will be attending the fully booked **Seventh Annual Assembly, 'Delivering the goods: Local standards in action'** at the ICC, Birmingham, this October.

Breakout sessions are filling up fast and if you have secured your place at the conference, you are urged to choose your sessions and return your preference form as soon as possible to avoid disappointment.

Many of the presentations and handouts from the Assembly will also be available on the conference website, www.annualassembly.co.uk straight after the event.

We will also be exhibiting at the **Liberal Democrat party conference**, 13-18 September 2008, **Labour party conference**, 21-25 September 2008 and the **Conservative party conference**, 28 September – 1 October 2008.

The Standards Board is urging authorities to enter the Standards and Ethics award category at the **2009 LGC Awards**.

Entering the Standards and Ethics award is a great opportunity to raise the profile of your standards committee. The award will go to an authority which has a dynamic, innovative approach to improving and promoting standards of member conduct. Reaching the final shortlist will also mean that your authority's ethical standards have been judged to be among the best in the country – a powerful message to send to your local community.

Entries are welcome from authorities of any size or status. You can submit yours online at www.lgcawards.co.uk, where you can also find further information on the criteria for the Standards and Ethics category and on the LGC Awards as a whole. The closing date for entries is 3 October 2008.

Date for your diary: The Eighth Annual Assembly will be held on 12-13 October 2009 at the ICC.

Seeking views on adjourning local assessment decisions

Under Section 57A(2) of the Local Government Act 2000, as amended (the Act), when a standards committee receives a complaint it must either:

- (1) take no action on the complaint
- (2) refer the case to the Standards Board for England, or
- (3) refer the case to the monitoring officer of the authority concerned

If the third option is chosen, then under Section 66(6) of the Act, the standards committee can give directions to the monitoring officer about how to deal with the case. The case can either be dealt with by way of a direction to investigate it or to take other action. Once a case is referred for action other than investigation it cannot subsequently be investigated.

Understandably, some standards committees are reluctant to direct the monitoring officer to deal with a case by way of other action when they may not know enough about the circumstances of the case, and do not know whether the member complained about will cooperate with that other action. This is especially true when there does not appear to be any sanction against a member who fails to cooperate with other action, other than perhaps another complaint based on disrepute.

It has been suggested that one way around this difficulty is for the standards committee to adjourn consideration of a case they think might be suitable for other action, and ask the monitoring officer to find out whether the member will cooperate.

An adjournment to enable effective consultation with the monitoring officer would appear to be possible. It is something that does not appear to be prohibited by law. Also, paragraph 13(2) of the

Standards Committee (England) Regulations 2008 (the Regulations), requires the standards committee to consult with the monitoring officer before giving any direction to take other action.

However, there are concerns. Much depends on how the decision is minuted. If the monitoring officer is asked to find out more about the case and the options available to take other action, rather than specifically asked to find out about the attitude of the member to other action, some of those concerns lessen.

Here are some concerns and advantages we have identified and an alternative approach.

Concerns

- (1) Asking the monitoring officer to find out whether the member will cooperate runs the risk of putting the decision about investigation or other action in the hands of the subject member and not the assessment sub-committee.
- (2) The target of dealing with complaints within 20 working days is difficult to achieve.
- (3) What other action is to be discussed and who decides it? Will the standards committee or the monitoring officer effectively make the decision? Or, will it end up being a negotiation with the member if they say "Well, I am not having mediation but I will do training if it consists of X and is done by Y"? We believe this would undermine the authority of the standards committee.
- (4) There is a danger that the monitoring officer will end up effectively starting an investigation before being instructed to do so.
- (5) The member may take the opportunity to try and give the monitoring officer information to pass on to the standards committee to try and persuade it to take no action.

- (6) The more information the monitoring officer collects during the adjournment the more difficult it becomes for members of the standards committee to sit as part of a hearing panel later. The member will find it easier to argue that any standards committee member is biased by having received more information than was appropriate or necessary to carry out their functions under Section 57A of the Act.
- (7) There is an argument that taking into account information other than that provided by the complainant is unlawful. We say the monitoring officer can take steps to clarify the complaint or clarify basic facts. If the subject member is asked how they would react to a direction for other action, this would be finding out what the subject member thinks and feeding that into the decision-making process. Is that an irrelevant consideration?

Advantages

- (1) The members of the standards committee know what the member's attitude is said to be about the solution the standards committee is proposing to deal with the complaint.
- (2) The standards committee can send a case for investigation when the alternative might have been ineffective other action.
- (3) The case may be settled and the standards committee can decide to take no action.

Alternative

The standards committee sends the case for investigation and lets the monitoring officer know that it might not consider the case to be as serious, if the member were willing to comply with other action. Therefore, if the member so indicates then (subject to any other information the monitoring officer might have gathered which suggested otherwise) the monitoring officer

should feel free to ask that the case be returned to them.

Regulation 16(1)(a) of the Regulations might be capable of being read as supporting this approach. However, there can be a difference between the seriousness of a case and the appropriate way to resolve it.

We would like to receive views from you about what you think should constitute the most appropriate practice. Please contact kymberlie.connell@standardsboard.gov.uk with your views by **22 September 2008**.

New Deputy Chair and Board members appointed

Professor Judy Simons has been appointed as the Standards Board for England's new Deputy Chair by the Secretary of State for Communities and Local Government. The Secretary of State also appointed **Michael Kendall** and **Elizabeth Abderrahim** as our new Board members.

These appointments to the Board began on 14 July 2008 for a three-year term. Professor Judy Simons takes over from Patricia Hughes CBE, who was Deputy Chair of the Standards Board since it was established in 2001. Patricia's term ended on 30 June 2008.

Michael Kendall was Monitoring Officer at West Sussex County Council and is former Lead Officer and former President of ACSeS. Michael replaces Roger Taylor whose term ended on 30 October 2007.

Lizzie Abderrahim is a self-employed Freelance Trainer and Independent Chair of Gloucester City Council's standards committee. Lizzie replaces Professor Judy Simons who became Deputy Chair.

In announcing the new appointments on 17 July 2008, Minister for Local Government **John**

Healey said he was pleased with all the appointments. “All three bring extensive skills and experience to their new roles and will help the Board to develop its role in the maintenance of high standards of conduct in local government.” He also thanked Patricia Hughes for all she had done during her time as Deputy Chair.

Standards Board investigations

We are now receiving the first cases referred to the Standards Board by standards committees. As you know, there are a number of factors we take into account in reaching our decision whether to accept them. This includes exceptional circumstances.

The recent amendments to the Local Government Act 2000 enhanced our powers to share information related to investigations with other regulators, particularly the Local Government Ombudsman and the Audit Commission. We are working with these two organisations to update our communications. The new memoranda of understanding will be publicly available when completed.

One of the matters to come out of our discussions with the Ombudsman was that we would expect to accept complaints which involve allegations of both maladministration and a breach of the Code as an exceptional circumstance. This means that the two investigations could be organised in the most effective and timely way. So, if you are dealing with a complaint arising from incidents that have also resulted, or are likely to result, in an Ombudsman case or an audit enquiry, you will find the Standards Board sympathetic to a request to investigate.

Another amendment to the Local Government Act 2000 gives ethical standards officers the power to send final reports of investigations which do not result in a standards committee hearing to standards committees. This can

happen if the ethical standards officer “believes that it will assist that committee in the discharge of its functions”, as quoted from Section 64(3A) of the Local Government Act 2000.

The functions of a standards committee are:

- to promote and maintain high standards of conduct by members
- to advise on the adoption and revision of a code of conduct
- to monitor its operation
- to arrange training on matters related to the authority’s code of conduct

They also, of course, now have functions relating to complaints of breaches of the Code of Conduct.

We are now sending copies of reports to standards committees when most investigations are completed. We think that it is important for standards committees to understand the background to ethical problems that may have arisen in their area. Sometimes investigations suggest problems with particular policies, procedures or culture locally, which are not part of our remit to investigate, but which seem likely to cause further problems in the future. Where this is the case, we will draw the committee’s attention to those things which we think they might want to look into.

The reports are not sent to enable the committee to reconsider the complaint. Not only would it be unfair to the member concerned to do that, but the committee would not be able to do it fairly without being able to satisfy itself that it could look at and question the primary evidence.

We would be very interested to know how useful standards committees find these reports and any suggestions of ways we could help them use this learning opportunity. Please feel free to contact the Standards Board’s Investigations team on **0161 817 5300** with your thoughts.

Annual Review 2007-08 available online

The Standards Board's Annual Review 2007-08 is now available from the Publications section of our website www.standardsboard.gov.uk. In it, we look back at our performance over the past 12 months and look ahead to future challenges and opportunities.

The theme of this year's review is 'Local delivery. National support.'. It looks at how we prepared for 8 May 2008, when local authorities' standards committees became responsible for receiving complaints and deciding what to do with them. The review also looks at our new, more strategic role, and how it will enable us to offer greater support and advice on the ground.

This year, we have also provided a text only version on our website, which means that you can read and print the text from each chapter, as well as downloading the publication as a pdf. If you require a hard copy, please email publications@standardsboard.gov.uk.

Monitoring officer seminar

On 16 June, the Standards Board hosted a seminar for monitoring officers who have carried out ethical standards officers' directions. A direction is where an allegation of a breach of the Code of Conduct is sent back to a monitoring officer for alternative action. This may include the use of mediation, conciliation, conflict resolution, mentoring, training, and review of policies and protocols.

As we develop the use of directions, we will encourage the constructive use of party group discipline and leveraging in peer support from neighbouring authorities that have overcome their problems.

The event was run by Jennifer Rogers, Ethical Standards Officer, and John Williams, Senior

Policy Adviser. Fifteen monitoring officers attended, and each shared their successes and failures, including their experience of difficulties at parish level.

Key messages were that disputes are often very deep seated and originate in events that occurred long ago; and that disputes that might be inflamed by investigation are better approached by alternative action. There is a specific provision for alternative action in regulations made under the recent Local Government and Public Involvement in Health Act 2007.

We are having another seminar in January so we can share and develop our ideas further in the light of experience. Please call Kymberlie Connell on **0161 817 5300** or email kymberlie.connell@standardsboard.gov.uk if you would like to become involved in this initiative.

Ethical governance toolkit

The Standards Board, the Improvement and Development Agency and the Audit Commission have been working in partnership to update the ethical governance toolkit. The toolkit reflects the changes brought about by the Local Government and Public Involvement in Health Act 2007 and is now available to use.

Many authorities have already benefitted from using the toolkit, which is designed to help local authorities identify how well they are meeting the ethical agenda and to improve their arrangements.

For further information on the ethical governance toolkit and for contact details, please visit the Ethical Governance section of the IDeA website, which you can find at www.idea.gov.uk/knowledge.