

STANDARDS COMMITTEE

Venue: Town Hall, Moorgate
Street, Rotherham. S60
2TH

Date: Thursday, 8 September
2011

Time: 2.00 p.m.

A G E N D A

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Minutes of the Previous Meeting held on 9th June, 2011 (herewith) (Pages 1 - 3)
4. Annual Report (report herewith) (Pages 4 - 23)
5. Parish Compact/Questionnaire (report herewith) (Pages 24 - 33)
6. Localism Bill and the Future of the Standards Committee (report herewith) (Pages 34 - 46)
7. Councillor Judith Dalton (report herewith) (Pages 47 - 59)
8. Mr Neil Fulcher (report herewith) (Pages 60 - 72)

STANDARDS COMMITTEE
9th June, 2011

Present:- Mr. M. Andrew (in the Chair); Councillors Buckley, Gilding, Hughes and Middleton; Mrs. A. Bingham, Mr. I. Daines, Mr. P. Edler, Dr. G. Musson, Ms. J. Porter and Mr. N. Sykes and Councillors D. Bates, P. Blanksby and D. Rowley (Parish Councils' Representatives).

An apology for absence was received from Mr. D. Foster.

B1 MINUTES

Resolved:- That the minutes of the meeting of the Committee held on 14th April, 2011 be approved as a correct record.

With regards to Minute No. B36 Councillor Jane Austen had now stood down and Councillor Darren Hughes was welcomed onto this Committee in her place.

With reference to Minute No. B39 (Future of the Standards Committee) it was noted that various comments had been received and these would be taken into account with regards to future arrangements once details of the Localism Bill became clearer.

B2 ANNUAL GOVERNANCE STATEMENT 2010/11

Consideration was given to a report presented by Rob Houghton, Governance and Risk Manager, which detailed the draft Annual Governance Statement for 2010/11.

The Annual Governance Statement outlined the Council's view of the application of good governance standards. The overall position was positive for the Council, with progress being made on the significant issues raised in last year's Statement. There were no additional items added following this year's review.

Proper practice required the Leader of the Council and the Chief Executive to sign the statement prior to its publication with the Statement of Accounts in September, 2011.

The Annual Governance Statement was to be considered and approved by the Cabinet before it was presented for signature by the Leader and Chief Executive.

The details of the Statement were considered and it was pointed out that a word change in paragraph 3.5 to now read "The Council may decide ..." would take account of any decision by the Council to adopt a voluntary code of conduct and a standards committee.

Resolved:- (1) That the contents of the 2010/11 draft Annual Governance Statement be noted.

(2) That the draft Statement, as presented to the Audit Committee on 1st June, 2011 for review, be noted and that, subject to any changes resulting from the Audit Committee meeting, the statement be presented to Cabinet for consideration and approval.

(3) That the requirement for the Leader and the Chief Executive to sign the statement after its agreement by Cabinet and prior to the publication of accounts in September, 2011 be noted.

B3 DRAFT ANNUAL REPORT 2011

Consideration was given to the draft Standards Committee Annual Report 2011 presented by Tim Mumford, Assistant Chief Executive (Legal and Democratic Services) which showed how the Committee had performed its functions over the last year and how it supported good governance and high standards within the borough.

Attention was drawn to the sections of the draft Annual report and in respect of Section 2 (Membership) anyone wishing to update or provide information on their pen picture should do so and forward the wording direct to the Assistant Chief Executive (Legal and Democratic Services).

Section 5 set out details of the work of the Committee during 2010/11 and some suggested amendments to (c) Ethical Audit relating to Paragraphs 1 and 3 were circulated at the meeting. The Vice-Chairman, Mrs. Angela Bingham, was to be referred to in person as she had led on this piece of work.

With regards to Section 6 (Summary of Complaints) it was suggested that, following discussion, the Parish Councils whose Members had been the subject of allegations should be named in the report, but Paragraph 3 detailing who had made the allegations should not contain any further detail.

Section 8 (Issues for the Year Ahead) proposed other areas of work that the Committee could take forward and it was suggested that further involvement with the Town and Parish Councils was important in order to maintain the high standards of conduct.

Resolved:- That the comments made on the Draft Annual Report be incorporated into the content and an updated version be presented to the next meeting in July, 2011.

B4 PARISH COMPACT/QUESTIONNAIRE

Tim Mumford, Assistant Chief Executive (Legal and Democratic Services), referred to the Parish Compact and to the Questionnaire devised by the working group chaired by the Vice-Chairman, which had been circulated to all Town and Parish Councils earlier in the year.

The Compact facilitated closer working with the Standards Committee, but, due to the elections in May, some Parish Clerks requested that discussions be re-opened with Town and Parish Councils later in the year as to training requirements and further joint working with the Committee.

The Committee was mindful of the uncertainties around the Localism Bill and the difficulties being faced with getting Town and Parish Councils on board. However, it was suggested that the Chair of the Working Group draft up a letter and present this to the next meeting of the Committee with a view to this being circulated to all Town and Parish Councils informing them that reconsideration was being given to the Parish Compact.

Resolved:- That Angela Bingham be tasked with drafting a letter to the Town and Parish Councils and for this to be considered by the Committee at its next meeting.

(THE CHAIRMAN AUTHORISED CONSIDERATION OF THE FOLLOWING ITEMS IN ORDER TO PROCESS THE MATTERS REFERRED TO.)

B5 STANDARDS COMMITTEE - MEETING IN AUGUST

The Chairman asked the Committee to consider whether or not they wished to have a meeting during the August recess.

The general consensus was that a meeting should not take place and that the Chairman and Vice-Chairman of the Committee, if necessary, should meet with the Assistant Chief Executive (Legal and Democratic Services).

Resolved:- That there be no meeting of the Standards Committee during August, 2011.

B6 TIM MUMFORD, ASSISTANT CHIEF EXECUTIVE (LEGAL AND DEMOCRATIC SERVICES)

The Chairman paid tribute to Mr. Tim Mumford who was attending his last Standards Committee meeting and who would be retiring at the end of June, 2011.

The Chairman on behalf of the Standards Committee offered Tim his best wishes for the future and a long and happy retirement.

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS
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1.	Meeting:	Standards Committee
2.	Date:	8 th September 2011
3.	Title:	Annual Report
4.	Directorate:	Chief Executive's Directorate

5. Summary

The Committee's revised draft annual report is attached as Appendix A to this report. The report has been amended in light of members' comments on the earlier draft at the Committee's 9th June meeting. In particular –

- The Chair and Vice-Chairs foreword has been incorporate in the report.
- Section 2 has been amended by incorporating Dr Musson's pen picture.
- Section 5 (c) now states that the Vice-Chair of the Committee chaired the working group that considered the responses to last year's ethical standards survey.
- Section 6 has been amended so that parish council members who were the subject of allegations that they had breached their parish council's code of conduct are named in the report. For consistency, the one borough councillor against whom an allegation of breach of the Council's code of conduct was made is also named in the report.
- Section 8 remains as originally drafted, but the Committee suggested that further involvement with town and parish councils was important in order to maintain high standards of conduct.

6. Recommendations

IT IS RECOMMENDED that the Committee –

- 1. receive the amended draft report, approve the changes to the original draft and consider its adoption; and**
- 2. refer the adopted report to the full Council.**

7. Proposals and details

Please see summary.

Background

The Committee suggested certain changes to the draft annual report at its meeting on 9th June 2011.

8. Finance

N/A

9 Risks and Uncertainties

None

10 Policy and Performance Agenda Implications

None

11 Background Papers and Consultation

Draft annual report

12 Contact

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APPENDIX A



Metropolitan Borough of Rotherham

STANDARDS COMMITTEE

ANNUAL REPORT 2011

M. Andrew, Chair
A. Bingham, Vice-Chair

STANDARDS COMMITTEE: ANNUAL REPORT 2011

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FOREWORD BY THE CHAIR AND VICE-CHAIR OF THE STANDARDS COMMITTEE

Michael Andrew
Chair of Standards Committee

Angela Bingham
Vice-Chair of Standards Committee

On behalf of the Standards Committee, I am pleased to present to you this annual report of their work.

The Standards Committee assists the Council in fulfilling its legal obligation of good governance. This includes the seven general principles of public life: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. The Standards Committee makes recommendations to the Council on how best it can meet its legal obligations, it arranges for training to be provided on the Code of Conduct and assesses reports of alleged transgressions of the Code of Conduct and where necessary applies appropriate sanctions. These activities are designed to promote the highest standards of behaviour by all elected and co-opted members in order to increase public trust in local government.

Over the past year the Standards Committee has continued to deal with a reduced number of complaints made against Elected Members and Town and Parish Councillors, and has maintained the links it had already established with the Audit Committee. In addition to the Committee's own rolling programme of work, a working group of the Standards Committee met on several occasions to consider the issues arising from the Council's Ethical Awareness Survey, and the action plan drawn up in respect of these has been discharged.

The past year has been an uncertain one for the Standards Regime. The Coalition Government announced their plans to abolish the strategic regulator, Standards for England, and the terms of the Localism Bill, currently on its passage through Parliament, whilst still somewhat unclear suggest a changed role for Parish and Town Councillors. The Standards Committee recognises the importance of supporting Town and Parish Councils during this period of change and its working group has considered at length the ways in which support could be offered to them as they prepare for their revised role. The Committee has, over the past year, made regular contact with the Parish and Town Councils in order to define and identify their training needs. This contact will be maintained over the coming year, and the situation kept under continuous review pending further information on the Localism Bill. When this is forthcoming the Standards Committee will be fully informed and prepared to offer appropriate support to meet the requirements of Town and Parish Councils.

The changes introduced, by the Government, over the past year remove the mandatory requirement for Local Authorities to maintain a Standards Committee. This Local Authority demonstrated good practice by establishing its own Standards Committee before this was a legal requirement. Its decision to voluntarily maintain its Standards Committee in the future further demonstrates its continued commitment to promoting and maintaining high ethical standards in an open and transparent environment. The Standards

Committee welcomes the opportunity to continue to support these aims in its work over the coming year.

Michael Andrew – Chair
Angela Bingham – Vice-Chair

September 2011

(1) **INTRODUCTION**

The Standards Committee was established by the Council in May 1999, prior to the statutory requirements contained in the Local Government Act 2000.

The Committee has various statutory functions and additional functions conferred by the Council. One of its main responsibilities is to advise the Council and Town and Parish Councils on the Code of Conduct, monitor its operation and arrange training.

Since May 2008, the Committee has been responsible for assessing and dealing with written allegations that Members of the Borough Council or of Town and Parish Councils within the Borough are in breach of the Code of Conduct.

This report shows how the Committee has performed its functions over the last year and how it supports good governance and high standards within the Borough.

(2) **MEMBERSHIP OF THE STANDARDS COMMITTEE 2010/11**

The Committee comprises eight Independent Members, including the Chair and Vice-Chair, three Parish Council representatives and four Borough Councillors. Independent Members, therefore, have an overall majority.

Independent Members and Parish Council representatives are paid a co-optees allowance of £1,000 per annum. The Chair and Vice-Chair are paid respectively an additional £2,500 and £1,500 per annum.

Independent Members

Mr. M. Andrew (Chair)

Mr. Andrew has extensive experience of local government, including with the Borough Council for whom he worked until 16 years ago. He is a former Member of the Standards Committees at both the British Standards Institute and the National House Building Council. He was formerly a School Governor, and was a member of the Yorkshire Electricity Consultative Council. He is a Magistrate on the Rotherham bench.

Mrs. A. Bingham (Vice-Chair)

Mrs. Bingham currently works as a self-employed research/management consultant and is a former higher executive officer at the Telephone Managers Office in Sheffield. She has previously served on the Parochial Church Council at All Saints,

Rotherham, was a Trustee of Rotherham Crossroads and acted in a voluntary capacity as a Director of Rotherham Community Resource Programme and formerly represented the voluntary sector on Rotherham's Children and Young People's Board. From November 2006-2009 she served as Chair of the Steering Committee of Risky Business. She is currently an Independent Member of the Standards Committees of West Yorkshire Police Authority, South Yorkshire Police Authority, South Yorkshire Fire and Rescue authority and South Yorkshire Integrated Transport Authority.

Mr. I. Daines

Mr Daines was an Assistant Chief Constable with South Yorkshire Police and retired in December 2006. As well as membership of this committee, he is a member of the General Social Care Council (GSCC); he chairs hearings into allegations of misconduct by social workers. The Standards Committee and the GSCC absorb about 35 days a year, leaving plenty of time to enjoy retirement.

Mr. P. E. Edler

Mr. Edler has recently retired from BT where he was Clerk of Works, having worked there for thirty years. He served on the Post Office Engineering Unions Sheffield Committee from 1982 to 1992. For four of those years he was the union's welfare officer and three years as the union's magazine editor. He was a representative for the Sheffield POEU at two POEU Conferences. Mr. Edler now works as a teaching assistant in Sheffield schools.

Mr. D. Foster

Mr. Foster is currently a business consultant specialising in all aspects of learning and development. He works with a number of organisations, in the public and private sectors, to develop assessment and feedback practice against a variety of standards. Prior to this he served as a police officer for almost 31 years reaching the rank of Inspector. He has considerable committee experience including membership of the Yorkshire and Humberside Crimestoppers Committee.

Dr. G. Musson

Dr. Musson is a senior research and teaching academic in Human Resource Management at Sheffield University Management School. She was formerly employed as an officer of the Council in a variety of roles, and as Clerk to Brinsworth Parish Council for ten years. She is a former member of Wickersley Comprehensive School Governing Body and former Non-Executive Member of Rotherham Health Authority.

Ms. J. Porter

Ms. Porter was born and brought up in Rotherham and has recently retired, having worked in Rotherham hospitals for the previous thirty years. During that time she was a member of working groups on nursing procedures and the hospital's Standards Committee, in which role she helped to develop that service from the beginning. She is currently working in her local hospice shop part-time.

Mr. N. Sykes

Mr. Sykes was a research scientist and worked for some years for British Rail, he then became a founder director of a private sector company developing software products in the field of mechanical engineering. He is a magistrate, a lay member of the GMC and NMC Fitness to Practice Panels, Deputy Chair of the Consumer Council for Water Northern Committee and a member of the North Sheffield NHS Research Ethics Committee.

Borough Council Members (until 20th May 2011)

Councillor J. Austen

Councillor A. Buckley

Councillor J. Gilding

Councillor D. Hughes (until September 2010)

Councillor C.N. Middleton (From October 2010)

At the elections in May 2011, Councillor Austen did not seek re-election to the Council. At the Annual Council Meeting held on 20th May 2011 Councillor Hughes, who had previously been a member of the committee was appointed to take her place.

Parish Council Representatives

Councillor D. Bates - Thrybergh Parish Council

Councillor Bates is a member of Thrybergh Parish Council. He is also a Lay Member of the Sheffield Employment Tribunal and a retired school teacher.

Councillor D. Rowley – Ravenfield Parish Council (from February 2011)

Councillor J. Sharman – Aston cum Aughton Parish Council (until May 2011)

Officer Support

Advice to the Committee is provided by Tim Mumford, Assistant Chief Executive (Legal and Democratic Services) who is the Council's Monitoring Officer. The Committee is supported by Alan Harston, Principal Democratic Services Officer. Other officers attend the Committee as and when appropriate.

(3) FUNCTIONS OF THE COMMITTEE

The Council's Standards Committee's primary roles and functions are:-

- promoting and maintaining high standards of conduct by councillors and co-opted members;
- assisting councillors and co-opted members to observe the *Members' Code of Conduct*;
- advising the Council on the adoption or revision of the *Members' Code of Conduct*;
- monitoring the operation of the *Members' Code of Conduct*;
- advising, training or arranging to train councillors and co-opted members on matters relating to the *Members' Code of Conduct*;
- granting dispensations to councillors and co-opted members from requirements relating to interests in the *Members' Code of Conduct*;
- dealing with any written allegations that a member of the Council or co-opted member is in breach of the Council's Code of Conduct;
- dealing with any report from a First-tier Tribunal, and any report from the Assistant Chief Executive (Legal and Democratic Services) in his capacity as the monitoring officer or from an ethical standards officer of Standards for England.
- Performing similar functions in respect of all town and parish councils within the borough.

The Council's Standard's Committee's additional roles include:-

- preparing and reviewing protocols, local codes, advice and guidance;
- overview of the whistle-blowing policy (the *Confidential Reporting Code*);
- review of the application of *Standing Orders* and *Financial Regulations*;
- overview of complaints handling and local government ombudsman investigations;
- consideration of any reports or investigation which casts doubt on the honesty and integrity of the Council and recommending action to the Council or Cabinet.

The Council's Standards Committee's Terms of Reference are attached at Appendix 1.

(4) INFORMATION ABOUT THE CODE OF CONDUCT

This is a quick reminder of the main points of the Members' Code of Conduct and is not intended to be legal advice. The full Code of Conduct is available on the Council's website and a guide to it – entitled *The Code of Conduct: Guide for members* – is available from the Standards for England's website.

Do

- Follow the Code of Conduct when you are representing your authority.
- Be aware of what personal and prejudicial interests are – refer to the Standards Board guide if you are unsure.
- Keep your register of interests up to date.
- Treat others with respect
- Register gifts and hospitality, received in your role as a member, worth more than £25.
- Visit www.standardsforEngland.gov.uk for more information.

Don't

- Bring your authority or office into disrepute.
- Use the authority's resources for party political purposes.
- Compromise the impartiality of people who work for your authority.
- Discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age.
- Bully, intimidate or attempt to intimate others.
- Use your position improperly for personal gain or to advantage your friends or close associates.
- Attend meetings or be involved in decision-making where you have a prejudicial interest – except when speaking when the general public are also allowed to do so.
- Disclose confidential information, other than in exceptional circumstances – refer to the Code of Conduct and the Standards for England guide if you are unsure.
- Prevent anyone getting information they are entitled to.

Personal and Prejudicial Interests

You have a personal interest if the issue being discussed in the meeting affects the well-being or finances of you, your family or your close associates more than most other people who live in the area affected by the issue. Personal interests are also things that relate to an interest you must register.

Prejudicial interests are personal interests that affect you, your family, or your close associates in the following ways:-

- their finances, or regulatory functions such as licensing or planning which affect them

- and which a reasonable member of the public with knowledge of the facts would believe likely to harm or impair your ability to judge the public interest

If you have a personal interest you must normally declare it in the meeting.

If the personal interest arises because of your membership of another public body, you only need to declare it if you intend to speak.

If you have both a personal and prejudicial interest you must not debate or vote on a regulatory or financial matter, but you do have the same right to speak as a member of the public.

There are exemptions to both types of interests and when they must be declared. The Monitoring Officer will advise you.

(5) WORK OF COMMITTEE 2010/11

(a) Partnership Governance

The Committee continued last years work in looking at the governance of significant partnerships in which the Council is involved. Specific consideration was given to proposals for a monitoring regime to ensure that areas for improvement were implemented and that outcomes and benefits derived from the partnerships were identified.

The committee also considered a paper from Standards for England regarding partnership behaviour protocols. They noted and approved an updated Council document entitled "Partnership Governance Compliance – Good Practice 2011", which took account of and included issues from the Standards for England protocol.

(b) Maltby Town Council – Mediation

The Committee approved the final version of the report from MESH, the mediators appointed following directions from Standards for England and the Standards Committee to provide conciliation services following a series of complaints regarding the conduct of members of Maltby Town Council. They approved publication of the report and the Vice Chair attended a meeting of Maltby Town Council at which the mediators presented the report.

(c) Ethical Audit

A Working Group, which was chaired by the Vice-Chair of the Committee and which was appointed to consider responses to the ethical standards survey carried out in the previous year, met and

reported to the Committee on progress regarding the action points. The Working Group included Councillor Alex Sangster, Chair of the Audit of Committee, thereby maintaining the relationship between the two committees.

Particular consideration was given to Parish Councils response to the ethical standards survey. The Working Group and the Committee considered ways of working more closely with Town and Parish Councils, including the possible adoption of a compact tool kit that had been developed jointly by Standards for England, the National Association of Local Councils and the Society of Local Council Clerks. Whilst interests in this appeared to be limited, it was felt that it would be helpful to return to this issue later this year in view of the proposals contained in the Localism Bill which is presently before parliament. If the present statutory regime were to be abolished, voluntary compact or protocol between the Committee and Town and Parish Councils might be beneficial.

The Working Group and the Committee also agreed a form of questionnaire for submission to Town and Parish Council clerks as to training currently available, with a view to identifying further support that the committee might provide. Responses to the questionnaire were considered and it was agreed to return to this matter later in the year following the Town and Parish Council elections in May.

(d) Review of Assessment Criteria

The Committee carried out a review of the local assessment criteria which it has agreed for use by assessment panels and review panels when considering allegations that members may have broken the code.

Following on from this, the Committee looked in more detail at further guidance as to when members are acting or giving the impression that they are acting as a Councillor or Council representative, which determines whether or not the code of conduct is applicable and is not always clear. They also looked in more detail at guidance on failure to treat others with respect, which is one of the most frequent allegations of breach.

(e) Review of Complaints

The committee considered a report summarising the complaints made against members of the Borough Council and Town and Parish Councils within the Borough over the last year. The report set out the breakdown of complainants, outcome of the allegations, paragraphs of the code to which the allegations referred, timeliness of decisions and cases referred to the Monitoring Officer for action other than investigation. The report also made some comparison between local and national statistics.

(f) First Tier Tribunal

The committee considered decisions of the first tier tribunal in respect of allegations concerning a member of Bramley Parish Council and a member of Wales Parish Council. In both cases allegations had originally been made to the Standards Committee. In the former case the allegation had been referred to Standards for England for investigation and in the latter case, the matter had been referred to the tribunal following consideration of an investigation report commissioned by the Monitoring Officer.

(g) Blogging

The Committee considered guidance from Standards for England on blogging and social networking and decided that the guidance should be distributed to all Members of the Council.

(h) Confidential Reporting Code

The committee reviewed the operation of the confidential reporting code which it does on an annual basis. Consideration was given to the deliberations of the Working Group regarding the need to improve further the awareness level of the code and to discussion held at focus groups following the latest employee opinion survey. It was agreed to make some minor amendments to the code including the addition of wording to the effect that the Council had a responsibility to support anyone wishing to raise concerns under the code. Measures should then be taken to re-launch the code.

The Committee also requested a full account of one particular case which had been raised under the code. Following consideration of the report into that case the Committee felt that appropriate action to investigate the allegations and to mitigate future risks have been taken. The Committee nevertheless felt that the policy should be reviewed further to identify potential improvements.

(i) Localism Bill

Following the publication of the bill in December 2010, the Committee considered an initial report on the proposed legislation in relation to standards and a more detailed report set out in detail the significant changes that would result. It was noted that whilst it would still be a statutory requirement for a relevant authority to promote and maintain high standards of conduct by Members, the adoption of a code of conduct and the appointment of a standards committee would cease to be statutory obligations, although authorities could undertake them on a voluntary basis.

(j) Future of the Standards Committee

In view of the proposals in the Localism Bill the Committee gave consideration to future arrangements within the Council should the Bill be enacted in its present form. They noted that despite the prospective

repeal of the requirement to establish a Standards Committee, the Council and Town and Parish Councils within the Borough would be under a continuing duty to promote and maintain high standards of conduct by members. They also felt that the repeal of the model code would leave many areas of conduct potentially unregulated. Accordingly the Committee has recommended that a Standards Committee continue to be appointed by the Council and that the Council should adopt a voluntary code of conduct at the present time.

(k) Other

The Committee considered various papers relating to aspects of the ethical standards framework from Standards for England and the Association of Council Secretaries and Solicitors. There was however less advisory and comparative material from Standards for England than in the previous year, no doubt in anticipation of the proposed abolition of that body.

(6) SUMMARY OF COMPLAINTS RECEIVED DURING THE YEAR

Between 22nd April 2010 and 30th April 2011, 16 allegations that Members were in breach of the Code of Conduct have been considered by Assessment Panels of the Standards Committee. This represents a considerable reduction in the number of allegations from the previous year, when 38 were considered.

Of the 16 allegations, 2 were against members of the Borough Council (1 of which was withdrawn) and the remainder were against members either of Town or Parish Councils. The parish councils against whose members were the subject of allegations were –

- Anston Parish Council (8);
- Maltby Town Council (6)

4 allegations were made by members of the public and 11 by Town or Parish Councillors. In one case the allegation was submitted by members of the public and a Councillor.

In 13 of the cases the decision of the Assessment Panel was that no action should be taken. 1 case was referred to the Monitoring Officer for investigation and 2 cases for action other than investigation.

Reviews were requested in 5 of the cases. In 4 of these the Review Panel upheld the decision of the Assessment Panel to take no further action. In the other case, the Review Panel directed the Monitoring officer to take action other than investigation.

In the case of the allegation referred for investigation by the Monitoring Officer, the investigating officer found no breach of the code and this was accepted by the Committee.

No cases were referred to Standards for England during the year. However the Committee did refer to the first tier tribunal an allegation where a local investigation had found a breach of the code. This resulted in a member of a Parish Council being suspended for the remainder of his term of office. A case referred to Standards for England during the previous year was also considered by the first tier tribunal during the year and this also resulted in a Parish Councillor being suspended, for a period of 6 months.

Paragraphs of the code to which the complaints made during the year appeared to relate are as follows, based solely upon the allegations submitted. In many of the cases more than one paragraph of the code could potentially have been relevant.

- 3 (1) – you must treat others with respect – 10 cases
- 3 (2) (b) – you must not bully any person – 1 case
- 4 (a) – you must not disclose information given to you in confidence – 1 case
- 5 – you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the council into disrepute – 12 cases
- 6 (a) - you must not use or attempt to use your position as a Member improperly – 2 cases
- 6 (b) – you must ensure that the Council’s resources are not used improperly for political purposes – 1 case
- 6 (c) – you must have regard to any applicable local authority code of publicity – 1 case
- Paragraphs 8 – 12- failure to disclose personal / prejudicial interests – 4 cases.

This is a similar pattern to the previous year, with allegations of failure to treat to others with respect and bringing your office or the Council into disrepute being the most common.

(7) TRAINING

The Monitoring Officer presented a session for Council Managers on ethical standards and codes of conduct in November 2010.

In the week commencing 21st February 2011, the Monitoring Officer provided 3 Training sessions for Borough Councillors and Town and Parish Councillors on Training. These covered the requirements of the code of conduct, a range of examples for discussion drawn from reported cases and a look ahead to the proposals contained in the Localism Bill and their implications.

The Monitoring Officer provided induction training for newly elected members immediately following the elections in May. This covered the requirements of the code and briefly looked ahead to possible future changes.

(8) ISSUES FOR THE YEAR AHEAD

The main issue seems sure to be how the Council will deal with standards issues if the proposals in the Localism Bill are enacted largely in their present form. If the Council adopts the recommendations of the Committee that a Standards Committee should continue to be appointed by the Council and that the Council should adopt a voluntary code of conduct at the appropriate time, then further work will need to be done both as to the composition of the Committee and its terms of reference and the content of the voluntary code of conduct. Further consideration will also need to be given to the relationship between the Borough Council and the Town and Parish Councils within the Borough. Whilst statutory jurisdiction of the Standards Committee would cease, the Town and Parish Councils would themselves be under a duty to promote and maintain high standards of conduct and may adopt a voluntary code. The Borough Council may be able to assist them with this through a voluntary Standards Committee.

The Bill also provides for the making of regulations to govern the registration and declaration of Members' interests, with potential criminal sanctions for non compliance. The implications of these regulations will need to be considered and advice and guidance given to Members.

Other areas of work for the committee over the next year are likely to include:-

- A further ethical audit survey
- A review of the member / officer protocol (outstanding from the previous year)
- A review of the planning code (postponed because of uncertainty over the future of the current code of conduct and the planning proposals contained in the localism bill)
- Further consideration of Members' web pages following the recently issued revised publicity code.
- Further monitoring of areas considered during the past year including partnership governance and the confidential reporting code.

Overall, this is likely to be not only another busy year for the Standards Committee but a year which will require the management of very considerable change.

APPENDIX 1

STANDARDS COMMITTEE – TERMS OF REFERENCE

1. To promote and maintain high standards of conduct by the members and co-opted members of the Council.
2. To assist members and co-opted members of the Council to observe the Council's Code of Conduct.
3. To advise the Council on the adoption and revision of its Code of Conduct, taking into account the Model Code of Conduct, guidance from the Standards Board for England and elsewhere, and existing good practice within the Council.
4. To monitor the operation of the Code of Conduct and recommend revisions as appropriate, and to ensure that the Code is fully understood and applied throughout the Council.
5. To advise, train or arrange to train members and co-opted members of the Council on matters relating to the Code of Conduct.
6. To give dispensation to Members and Co-opted Members of the Council under the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002.
7. To carry out similar functions to those above in relation to the Parish Councils for which the Council is the responsible authority and the members of those Parish Councils.
8. To review arrangements as to the declarations of interest of members, co-opted members and officers, to monitor the operation of such arrangements and to offer advice on their application.
9. To review and recommend such other protocols, local codes and guidance as may be considered desirable to build upon the rules contained within the Code of Conduct whilst not forming part of it.
10. To establish Sub-Committees:-
 - (a) To carry out the initial assessment of written allegations that members of the Council or of a Parish Council have failed to comply with the Code of Conduct.
 - (b) To review at the request of the person making the allegation any decision to take no action.
 - (c) To receive the report of the Monitoring Officer (or person nominated by him) into any complaint referred to the Monitoring Officer and, following consideration of such report to take any action prescribed by the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 as amended.

11. To consider any report made to the Committee or the Monitoring Officer by an Ethical Standards Officer following an investigation into an allegation of a breach of the Code of Conduct and following consideration of such report to take any action prescribed by the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 as amended.
12. To consider any other recommendations, guidance or direction referred to the Committee or the Monitoring Officer by an Ethical Standards Officer or the Standards Board for England.
13. To provide any information required by the Standards Board for England regarding the exercise of the Committee's functions.
14. To consider any application for exemption from political restriction made to the Committee by the holder of any post under the Council and to give directions to the Council requiring it to include a post in the list of political restricted posts maintained by the Council.
15. To establish and monitor the operation of Complaints Procedures and Whistleblowing Procedures.
16. To review the application of the Council's Standing Orders, Financial Regulations, contract arrangements and other such provisions.
17. To review and comment upon the Council's procedures and Codes of Practice relating to public access to information, confidentiality and arrangements for data protection.
18. To review the procedures for appointment of Council representatives to outside bodies and to make recommendations to the Council or the Cabinet as necessary.
19. To consider reports arising from external inspections, audit investigations, Ombudsman investigations, legal challenges and other sources which cast doubt on the honesty or integrity of the Council, its members or officers, and to recommend action to the full Council or Cabinet as appropriate.
20. To consider and offer advice and guidance as appropriate on other matters which in the view of the Committee or the Council's Monitoring Officer could have a bearing on public perceptions of the honesty and integrity of the Council, its members, co-opted members and officers.
21. To consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred for attention by the Council or the Cabinet which further the aim of promoting and maintaining the highest standards of conduct within the authority.

In these Terms of Reference "co-opted member of the Council" means a person who is not a member of the Council, but who:-

(a) is a member of any Committee or Sub-Committee of the Council, or

(b) is a member of and represents the Council on any Joint Committee or Joint Sub-Committee of the Council

and who is entitled to vote on any question which falls to be decided at any meeting of that Committee or Sub-Committee.

Revised

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS
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1.	Meeting:	Standards Committee
2.	Date:	8 th September 2011
3.	Title:	Parish Compact/Questionnaire
4.	Directorate:	Chief Executive's Directorate

5. Summary

At its meeting on 9th June, the Committee considered the Standards for England template Parish Compact and the questionnaire devised by the working group under the chairmanship of the vice-chair. The questionnaire had been circulated to Maltby Town Council and the parish councils earlier in the year.

The objective of the Parish Compact is to facilitate closer working between the town council and parish councils and the Committee, in particular through joint working and training arrangements.

The Committee was mindful of the uncertainties around the Localism Bill and the difficulties of enthusing town and parish councillors. To stimulate interest, the Vice-Chair of the Committee undertook to draft a letter for the Committee's consideration with a view to circulating the agreed draft to the town and parish councils informing them that the Parish Compact was being reconsidered.

Attached at Appendix A to this report is the draft letter and at Appendix B the template Parish Compact.

6. Recommendations

IT IS RECOMMENDED that the Committee consider and agree the text of the draft letter and authorise the Senior Manager, Legal & Electoral Services to circulate it to the town and parish councils.

7. Proposals and details

Please see paragraph 5.

8. Finance

There are no financial implications of note.

9 Risks and Uncertainties

None

10 Policy and Performance Agenda Implications

The Parish Compact accords with the Committee's functions of promoting and maintaining high standards of conduct by town and parish councillors and advising and training members of town and parish councils.

11 Background Papers and Consultation

Parish Compact

12 Contact: Richard Waller, Senior Manager, Legal & Electoral Services

E-mail: richard.waller@rotherham.gov.uk.

Telephone: (01709) 8254456.

APPENDIX A

Letter to Parish Councils, First Draft (Standards Committee June 2011)

Dear...

Earlier this year the Standards Committee contacted Parish Councils to determine the programmes of training they currently receive, and to obtain their views on the provision of a Parish Compact. The responses received were in favour of deferring any consideration or decision on this matter until after the May elections, and this information was relayed at a Parish Network meeting by the vice chair of the Standards Committee.

At its June meeting the committee once again considered the support that could be made available to Parish Councils as they prepare to meet the requirements of the Localism Bill. The Standards Committee's primary aim was to identify training and support that would be useful and appropriate to Parish Councils whilst also being cost effective. However, the current lack of information and clarity on the Localism Bill means that, at the moment, the committee cannot be certain of satisfying these criteria.

The Standards Committee consequently proposes to keep the situation under regular review pending the receipt of further information from central government. During this interim period it is important, in order to achieve the best outcome, that Parish Councils support each other and work closely with RMBC. The Standards Committee would, therefore, welcome any suggestions and ideas from Parish Councils on types of training and support that they believe would be useful to them. These should be sent to the Monitoring Officer at... *Should any Parish Councils wish to discuss this further the Standards Committee, or its Working Group tasked with considering this matter, would be happy to arrange to meet with them.*

We look forward to hearing your views, *and to working with you.*



Compact between the [County] Association of Local Councils, the [Branch] Society of Local Council Clerks and [Principal authority], [Principal authority], and [Principal authority].

Note: this template is provided as a guide only. All sections - principles of partnership working, objectives, current concerns, possible ways to address concerns and partner undertaking – should be amended to reflect local circumstances.

1) PART A

1.1) Preamble

This compact is a partnership agreement between the [County] Association of Local Councils, the Society of Local Council Clerks (with particular reference to the [insert name] Branch) and the [principal authority], [principal authority] and [principal authority] working through their Standards Committees ('the Partners'). It sets out some key principles and commitments for the Partners to work together to improve their relationships for the benefit of the parish and town councils, and thereby, the communities of the parishes and towns they aim to serve.

1.2) The Principles of the Compact

All partners will

- be responsive to the needs of parish councillors and clerks
- recognise each other's contributions
- acknowledge constraints on each other's resources and contributions, as well as the responsibilities and accountability of partners
- encourage joint working between partners, and with parish and town councillors and clerks

1.3) The Compact requires

- understanding of the Partners' respective roles
- sharing information subject to duties of confidentiality
- recognition of the diversity (in terms of functions discharged as well as size) and contribution of parish councils

- provision of support, guidance and advice for parish councillors and clerks
- regular and effective communication
- commitment to delivering the objectives of the compact

1.4) Objectives of the Compact

The key objectives of the compact are to:-

- 1) Gain improvements in parish and town councillors' awareness, understanding and observance of the statutory Code of Conduct
- 2) Prevent relationship breakdowns which may result in dysfunctional parish or town councils, undermining their democratic mandate.
- 3) Improve community leadership and action at parish and town council level.
- 4) Establish where there is good practice to inform future work.

1.5) Current Concerns

The Partners to the compact identified some common concerns. These were:-

- Many (particularly smaller) parish and town councils only consider the implications of the Code of Conduct when an issue arises about which the parishioners/councillors become divided.
- There is often confusion about the application of the Code of Conduct for councillors and the rules governing meetings and council business.
- Parish clerks sometimes take the view that as the Code of Conduct is for members, training in it is not a priority for them.
- When Code of Conduct training is offered it is often the same parish and town councils who attend; those who do not show interest in or attend such training are perhaps the most in need.
- There is a general lack of understanding and engagement between Standards Committees and parish and town councils.
- Opportunities for engagement presented to parish and town councils by partners are limited by resources.
- On a county-wide basis there was scope for a closer relationship between the Society of Local Council Clerks, the [County] Association of Local Councils and the Standards Committees of principal authorities in the area.

1.6) Possible ways to address concerns

The Partners to the compact considered the following in addition to the existing practices and procedures:-

- Raising the profile of Standards Committees with parish and town councils, the [County] Association of Local Councils and Society of Local Council Clerks, through information sharing and joint training
- Use of standards committee members to advise/mentor parish and town councillors in respect of the application of the Code of Conduct as appropriate
- Developing an information sheet on the work of the local standards committees. This could be included in the County Association's Induction pack for new parish and town councillors
- Inviting independent chairs of standards committees to attend seminars of parish/town council councillors or chairs to inform/discuss matters of mutual interest
- The [County] Association of Local Councils' Chief Executive attending the meeting of [County] forum of independent members of standards committees
- Formalising and tailoring the input on Code of Conduct and ethical governance into existing and new training events and developing joint delivery of that input for councillors and clerks

2) PART B – Agreement

2.1) Partner Undertakings

2.1.1) The [County] Association of Local Councils undertakes to:-

- consult with all other Partners to the compact in preparing, revising and delivery of any training related to the Code of Conduct or ethical council governance to be delivered to councillors or clerks on behalf of the County Training Partnership;
- promote the importance of observance of the Code of Conduct and ethical behaviour for good governance of Parish and Town Councils;
- provide two ‘new councillor induction training’ events per year and an induction pack for new councillors;
- provide two ‘new clerk induction training’ events per year and an induction pack for new clerks;
- provide at least one event for established parish council clerks in relation to the Code of Conduct and good governance per year;
- provide at least one event for parish council chairs in relation to the Code of Conduct and good governance per year;
- mandate the [County] Association of Local Councils’ Chief Executive to attend (on invitation) the meeting of the [County] forum of independent members of standard committees and meetings of the [County] Monitoring Officers Group;
- contribute to the development and production an information sheet on the work of the local standards committees for councillors and clerks;
- to collate, keep and update a record of all councillors of parish and town councils in their membership who have attended any training event relating to the Code of Conduct.

2.1.2) The [principal authority], [principal authority] and [principal authority] undertake to:-

- maintain at least [number] parish council representatives on each standards committee to facilitate representation in relation to (i) the assessment (ii) the review of a decision not to refer a matter for investigation (iii) the determination of a matter referred for investigation;
- develop an information sheet on the work of the local standards committees;
- consult with all other Partners in preparing, revising or delivering any training related to the Code of Conduct or ethical council governance to be delivered to parish and town councillors or clerks in liaison with the County Training Partnership;
- liaise with the County Association of Local Councils and the local branch of the Society of Local Council Clerks and County Training Partnership when organising training for members of standards committees
- request the independent members and Monitoring Officers to invite the County Association of Local Council's Chief Executive to attend meetings of the County forum of independent members of standards committees and meetings of the County Monitoring Officers Group respectively;
- keep the Chief Executive of the County Association of Local Councils informed of all standards committee meeting dates in advance and advise as to the publication of all agendas for meetings open to the public;
- provide the resource of a standards committee member or Monitoring Officer to participate in the councillor and clerk training events being provided by the County Training Partnership via County Association of Local Councils;
- provide the resource of a standards committee member to participate in Parish Council events provided by the County Training Partnership via the County Association of Local Councils;
- mandate their Monitoring Officer to attend an appropriate district area meeting of the County Association of Local Councils and a meeting of the local branch of the Society of Local Council Clerks;

- approach the County Association of Local Councils when recruiting for the parish council member(s) of their standards committee;
- encourage all independent members to attend and observe a parish council meeting to better understand the operation of parish councils and the types of issues which arise;

2.1.3) The Society of Local Council Clerks undertakes to:-

- consult with all other Partners in preparing, revising and delivering any training related to the Code of Conduct or ethical council governance to be delivered to councillors or clerks in liaison with the County Training Partnership;
- provide the resource of an SLCC member to participate in the councillor and clerk training events being provided by the county training partnership via the [County] Association of Local Councils;
- assist and support the [County] Association and the principal authority in promoting an information sheet on the work of the local standards committees.
- arrange for the Monitoring Officers to attend an appropriate meeting of the local branch of the Society of Local Council Clerks;
- provide for mentoring of clerks where this need is identified.

2.1.4) Joint activities – Partners undertake to:-

- meet on a [twice yearly] basis to discuss identified benefits from and difficulties in, implementation of the compact;
- agree the format and content of a workshop / seminar involving all partners to be offered to parish councils and to deliver it;
- review the mechanics and outcomes of the compact annually

3) PART C – SIGNATURES

By signing below, the parties agree their participation in and accept their responsibilities under this compact.

Signed on behalf of [principal authority]

.....

Name Role / Title

Date

Signed on behalf of [principal authority]

.....

Name Role / Title

Date

Signed on behalf of [principal authority]

.....

Name Role / Title

Date

Signed on behalf of the local branch of Society of Local Council Clerks

.....

Name Role / Title

Date

Signed on behalf of the [County] Association of Local Councils

.....

Name Role / Title

Date

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS
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1. Meeting:	Standards Committee
2. Date:	8 th September 2011
3. Title:	Localism Bill and Future of Standards Committee
4. Directorate:	Chief Executive's Directorate

5. Summary

On 14th April the Committee considered a report on the future of the Standards Committee and made certain recommendations to the full Council, which were adopted by the full Council at its meeting on 27th July 2011. The recommendations were –

“That the Council adopt a Voluntary Code of Conduct and that a further report be submitted upon the contents of such a Code.

- (2) That a Standards Committee continue to be appointed by the Council.
- (3) That a further report be submitted upon the suggested composition of such a Committee and its Terms of Reference, once the likely final provisions of the Localism Bill and proposed regulations regarding Members' Interests become clearer”.

The Localism Bill was scheduled to receive its third reading in the Lords on the 5th September following which it will return to the Commons for consideration of any amendments made to the Bill by the Lords. The provisions of the Bill concerned with the standards regime (Chapter 5 (standards) and Schedule 4 (conduct of local government members) have so far remained unchanged. It is therefore likely that these provisions will become law in their current form.

Chapter 5 abolishes the Standards Board regime, which consists of interdependent elements: the Standards Board for England and local authority standards committees, guidance, and legislation such as the model code of conduct for local authority councillors.

In its place there will be a duty placed upon certain authorities (classed as “relevant authorities” in the Bill), including district councils (for example Rotherham Borough Council) and town and parish councils to promote and maintain high standards of conduct by members and co-opted members of the authority (clause 16 of the Bill).

For the purpose of discharging this duty, a relevant authority may adopt a voluntary code of conduct that applies to its members and co-opted members when they are acting in that capacity. Only a relevant authority may revise, replace or withdraw

without replacement a voluntary code that it has adopted in relation to its members and co-opted members. The authority must publicise its adoption of a voluntary code and any decision to revise or withdraw it. There are also provisions relating to the manner in which allegations alleging a breach of the voluntary code are dealt with and the action (if any) to be taken against the member concerned (clause 17 of the Bill).

The Secretary of State will be empowered to make regulations requiring the monitoring officer of a relevant authority to keep a register of interests of members and co-opted members of the authority and requiring the authority to make copies of the register available to the public and inform the public of the availability of the register. The regulations will prescribe the financial and other interests that members and co-opted members must register; the circumstances in which they may take part in the discussion of any business in which they have a registrable interest; and the sanctions that may be imposed by the authority for breach of the regulations, which will not extend to suspension or partial suspension or disqualification. The authority will have the ability to grant dispensations from the regulations in specified circumstances (clause 18 of the Bill).

A member who fails to comply with the regulations without reasonable excuse will commit an offence and on conviction at the magistrates' court face a maximum fine of £5000. The court will also have the discretion to disqualify the member from sitting as a member of the authority for up to five years or as a member of any other relevant authority. A prosecution will be instituted by or on behalf of the Director of Public Prosecutions. The proceedings will have to be brought within twelve months of the prosecutor considering there is sufficient evidence to prosecute with a long-stop date of three years after the commission of the offence or, in the case of a continuous breach, after the last date on which the offence was committed (clause 19 of the Bill).

The 14th April report identified a number of issues to be addressed were the Council minded to adopt a voluntary code of conduct overseen by a standards committee, namely the –

- composition of a voluntary standards committee;
- option of a combined audit and governance committee (CIPFA advice is that an audit committee should be independent and not combined with other council functions);
- option of a sub-regional shared standards committee (see below);
- terms of reference of the committee and the frequency of its meeting;
- form of a voluntary code of conduct for members and co-opted members;
- investigation of alleged breaches of a voluntary code and appropriate range of sanctions;
- support to the town and parish councils.

At the 14th April meeting, members of the committee were invited to submit their views on the future of the Standards Committee and attached at Appendix A are the responses of the vice-chair and Cllr Rowley.

The Director of Legal Services at Sheffield City Council recently circulated an e-mail to the monitoring officers of Barnsley and Doncaster Councils and the Council advocating a shared standards regime. Drafts of Sheffield's proposed Standards Protocol and draft procedure for dealing with allegations of breach of the Sheffield Code of Conduct are attached at Appendix B.

There might be the opportunity to make savings through economies of scale from a shared arrangement but this would very much depend upon the composition of the shared standards committee, the officer support it would require and where it habitually sat.

A shared arrangement would invariably result in the members and co-opted members of all four sub-regional authorities having to comply with a uniform standard of conduct but there could be a potential pitfall in that the committee might lack knowledge of particular local circumstances when drawing up policies and guidance and investigating alleged breaches of a common voluntary code.

It is suggested that each of these issues is explored over the next few months with a view to proposing to the Cabinet and the Council an appropriate standards regime and voluntary code of conduct once the Localism Bill has become law.

6. Recommendations

IT IS RECOMMENDED that members note this report and consider the proposed course of action.

7. Proposals and details

Please see paragraph 5.

8. Finance

There are no financial implications arising from this report.

9 Risks and Uncertainties

10 Policy and Performance Agenda Implications

The Council is committed to maintaining high standards of conduct by its members and co-opted members and will be under a duty to promote and maintain those standards when the Localism Bill becomes law.

11 Background Papers and Consultation

The Localism Bill

Report to the Standards Committee on 14th April 2011.

12 Contact Name:

Richard Waller, Senior Manager, Legal & Electoral Services,

Telephone: (01709) 825446

E-mail: richard.waller@rotherham.gov.uk

The Future of the Standards Committee Suggestions for Consideration

I have given careful thought and consideration to the future of the Standards Committee of RMBC in the light of the changes that are to take effect from the end of 2011. I believe that it is in the best interest of RMBC to adopt a code of conduct and retain its own Standards Committee albeit in a revised form, and offer the following suggestions to support this view.

Consistency

It is very important that any voluntary code of conduct is not adopted in isolation, and that there is consistency, across the authorities of South Yorkshire, in the way that Standards are maintained. If RMBC intends to retain a voluntary code of conduct governing the standards expected of its members, then it would seem only fair and ethical that the same code of conduct should apply to its members in whatever capacity they are serving. Elected members, who also serve as members of unitary authorities, should have the security of being bound by the same code of conduct in that capacity, as when serving within their own local authority.

There would be value in working collaboratively with other authorities to draw up a code that could be used across South Yorkshire, and given that RMBC had a code of conduct in place before this was a mandatory requirement they would be ideally placed to lead on this.

Composition of Standards Committees

There may be a case for joint standards committees in some areas of South Yorkshire e.g. unitary authorities, and this may have the support of some members, however, it is necessary to exercise caution when considering this route in respect of RMBC.

There is currently a very good working relationship between the Standards Committee and other committees, and senior officers, of the authority. Reports are regularly brought to the Committee which greatly enhance its work and ability to contribute to the work of the authority. It would be impossible for this to continue under joint arrangements, and that would be a great loss.

The breadth of understanding and experience offered by the composition of the current Standards Committee cannot be overestimated. The fact that the independent members live in Rotherham is important when considering cases, whilst the breadth of experience and understanding, particularly from the Parish Councillors and Elected Members is invaluable

However, the Standards Committee, under revised arrangements, could probably operate as effectively, and more cost effectively, with fewer members.

Using other standards committees to review complaints would not be acceptable for an authority serving a local area. It is a question of probity, and locally elected members should have the security of knowing that any complaints against them will

be considered at a local level. I would recommend the option of reducing the number on assessment and review panels to three members, and keep the whole process within the Authority.

Areas for future development

I believe that, in the case of RMBC, there would be value in retaining its own standards committee, and I would welcome the opportunity to be involved in its development.

I acknowledge that there may be potential value in working more collaboratively with partners, and with other committees within the Authority itself, and consequently the role of the Standards Committee could be developed and value could be added. In the four years that I have served on the Standards Committee of RMBC I have chaired many Assessment and Review panels and also a case that came to Hearing. In this practical application of the Code of Conduct I have become aware of the need to improve and/or clarify certain aspects of it. I believe that, if a voluntary code were to be adopted, there would be potential benefits in re-assessing the Code of Conduct. Additionally, this time of change would seem to provide RMBC with the opportunity to combine this reassessment with careful consideration of all the options open to it, in order to achieve the best outcome for the Authority.

I offer these suggestions for consideration, and if there are any aspects that you wish to discuss or to explore further please do not hesitate to contact me.

Angela Bingham, 21st May 2011.

Fox, Maureen

Appendix A

From: David Rowley [david.rowley46@tiscali.co.uk]
Sent: 17 April 2011 17:33
To: Mumford, Tim
Subject: Future of the Standards Committee

At the Standards Committee meeting on 14th April 2011 we were invited by the Chairman to write to you if we had any comments to make on the paper submitted under the above title.

Personally, I should prefer a change to the Localism Bill so that there is a statutory role for the Standards Committee and that a Code of Conduct for all members is maintained. No doubt others will be making representations to the Secretary of State on similar lines. However should the Bill in this regard be fundamentally unchanged I have the following points to make.

* Without the power of meaningful sanctions, the Standards Committee would be of limited value. A severe rebuke, even if made public, would have little impact and there would be little to deter those who choose to operate outwith the Code of Conduct.

* If Parish Councils are invited to join a voluntary scheme, there is a real danger that only the well regulated bodies would sign up. Those Parish Councils who have problems with regard to behaviour are likely to be the ones that would not sign up.

* It is probable that there may be cost implications for Parish Councils. RMBC may wish to defray the costs of running a Standards Committee by charging Parishes - in the current economic climate who could blame them - and if this were to happen I fear that many would not sign up. Parish Councils will already have to budget for extra costs (grounds maintainence, bowling green up keep etc) and this may be seen as an unnecessary burden.

I do not wish to appear unduly pessimistic but if the Localism Bill remains unchanged and RMBC adopts a voluntary Code and appoints a Standards Committee then the above three points are likely to materialise to the detriment of local government in Rotherham.

Regards

Councillor David Rowley

APPENDIX B

SHEFFIELD CITY COUNCIL'S STANDARDS PROTOCOL

Introduction

Sheffield City Council is committed to a high standard of behaviour by Elected Members. Elected Members have adopted and agreed to act in accordance with this voluntary Standards Protocol and to adopt a Sheffield Code of Conduct (Appendix 1) and Standards Procedure (Appendix 2).

Sheffield City Council has established a voluntary Standards Committee to consider complaints about the conduct of elected and co-opted members under the voluntary code.

Key Aspects of Code of Conduct for Members of Sheffield City Council

All Elected Members:-

- 1 Will not act in such a way as to bring the Council into disrepute
- 2 Will treat other members, officers and members of the public with respect
- 3 Will not act within their office in a discriminatory manner
- 4 Will not use, for their own purposes or political purposes, Council property or resources
- 5 Will not act in such a way to cause the Council to act illegally or unreasonably
- 6 Will not misuse their office
- 7 Will not disclose confidential information
- 8 Will comply with requirements to register and declare personal and prejudicial interests

Statutory Requirements (Sections ??? Localism Act 2012)

Members must register and declare, as appropriate, personal interests. Members will not be allowed to use their position improperly for personal gain. Wilful failure to comply with these requirements will constitute a criminal offence. Members must continue to comply with all aspects of the Criminal and Civil Law when carrying out their functions.

Political Support

The Leader of each political party and independent members represented in Sheffield has signed this protocol, in doing so they have committed their party to:-

- 1 Promoting compliance with the protocol and code with its members
- 2 Supporting the Standards Committee in any request that a member attend a Standards Committee
- 3 Ensuring all its members are aware of and understand the Code and Protocol and attend any required training
- 4 Support and maintain the Officer/Member protocol

Officer Support

The Chief Executive and Deputy Chief Executive (Monitoring Officer) have signed this protocol. In doing so they have committed Officers to:-

- 1 Provide advice and support on Standards
- 2 Act as arbitrator/conciliator, where deemed appropriate
- 3 Establish, support and maintain a Standards Committee
- 4 Provide training, as required
- 5 Take forward any changes in procedure or policy which arise from a Standards matter being investigated
- 6 Maintain the Officer/Member Protocol

Remedies

If the Standards Committee find a breach of the code has occurred they may make take the following recommendations and may specify to whom they wish them to be directed.

- 1 That policies/procedures are amended
- 2 That training be provided
- 3 That a briefing/information note be issued
- 4 That an apology be given
- 5 That the member is censured
- 6 That in extreme circumstances the Member's Allowance will be cut (*this would need to be agreed by members and incorporated into the Scheme of Members Allowances*)

Standards Committee

The Standards Committee shall be conducted in line with the Constitution of the Council (or is a Joint Committee of the following Councils)

The rules of political proportionality will not apply. The Members shall be as follows:-

?

The Chair will be ?

There will be the following independent non voting members

?

August 2011

GJ

Procedure for dealing with Standards Complaints

Complaints

- 1 Allegations of breaches of the code should be made, in writing, to the Monitoring Officer (MO) by any Elected Member, Officer, partner of the Council or resident of Sheffield.
- 2 The MO will decide if this allegation is a potential breach of the code. If the matter complained of does not constitute a potential breach of the code the MO will inform the complainant.
- 3 If the MO believes there may be a potential breach of the code they may take the following actions without determining if an actual breach has taken place:-
 - Take such steps as they think appropriate to prevent a future breach of the code including training, guidance, introducing or amending policies/protocols
 - Ask the whips to address the issue raised within their political parties or with an individual Member
 - Mediate between the parties involved to resolve the issues
 - Obtain further information from the complainant or other relevant individual/body.
- 4 The Monitoring Officer , after taking the above steps as appropriate, will decide if the matter should be referred to the Standards Committee
- 5 The MO will take into account when deciding if the matter should be referred:-
 - The seriousness of the allegation
 - The effectiveness of the remedies available
 - The date of the incident complained of
 - The benefits of an independent consideration of the allegation
 - If the allegation relates to a cultural or reoccurring issue relating to standards within the Council
 - If the matter should be dealt with by some other method, e.g. police investigation.

- 6 It is expected that only a minority of potential breaches will be referred to the Committee. If the complainant disagrees with the MO's decision as to whether the matter should be referred they can ask that the decision be reconsidered by the Chief Executive.

Procedure for Matters Referred to the Standards Committee

- 7 If the matter is to be considered by the Standards Committee the complainant and subject of the complaint will be informed by the M O. The Elected Member will be given full details of the allegation and have 21 days to submit a response, witness statements and any relevant information. The member will be asked to express a preference for a written or oral hearing.
- 8 The MO will supply the complainant with copies any documents produced in accordance with paragraph 3(b) or 7 above .The complainant may provide a written response and further evidence if they choose to do so. They must respond within 14 days of receipt of the information. The Monitoring Officer may advise and assist either party with the written information to be supplied.
- 9 The Chair of the Standards Committee and the Monitoring Officer will consider the complaint and responses to decide if any further information should be obtained by the M O or if an internal or independent investigation is required on all or any aspect of the complaint. They will decide if the hearing should take place with oral evidence from parties or should consider the written evidence only.
- 10 The Standards Committee will meet to consider the allegation and make clear findings as to the facts on the matter and whether, in its opinion, a breach of the Standards Code has occurred. The Standards Committee should give reasons for its decision. The Standards Committee will meet in public unless the Chair decides all or some of the meeting should be held in private subject to the Access to information requirements. The MO will attend the meeting and can provide advice to the Committee.
- 11 The Committee shall decide, if a breach of the voluntary code has taken place what sanction, what if any, should be applied.
- 12 The MO will inform the complainant and the elected member of the outcome in writing and within 7 days.
- 13 The findings and decision will be publically available on the Council's website and copies will be supplied to the MO, Chief Executive and Elected Member concerned, Leaders of the political party concerned, the whips and complainant.

Appeals

- 14 It is not intended that an Appeal procedure would be used as a matter of course, if, however, the Standards Committee Chair and MO agree that the nature of the decision may have a significant impact on the member against whom findings are made or has important implications for the Council as a whole they may allow an appeal the Standards Committee of another authority with whom a reciprocal agreement exists. If no suitable Committee is available the appeal will be dealt with by the Chief Executive
- 15 An annual report will be presented to full Council by the MO on the activities of the Standards Committee.

August 2011

GJ

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS
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1.	Meeting:	Standards Committee
2.	Date:	8 th September 2011
3.	Title:	Cllr Judith Dalton
4.	Directorate:	Chief Executive's Directorate

5. Summary

Cllr Judith Dalton, who is a member of the Council and a member of Anston Parish Council, was the subject of a recent allegation of breach of Anston Parish Council's code of conduct. The allegation was that Cllr Dalton had failed to declare having a prejudicial interest in an item of business concerning the free use of the premises of Anston Parish Council Recreation Ground when, in its capacity as sole trustee of the recreation ground charitable trust, the parish council considered the item on 8th December 2010.

The application to use the recreation ground premises free of charge was made by Cllr Dalton's husband on behalf of the members of the Anston Free Folk Festival. The assessment panel that considered the complaint decided that no action should be taken for two reasons: firstly, there was insufficient evidence that Cllr Dalton had a prejudicial interest in the item; and secondly it was not clear that her husband's financial position would have been affected by the parish council's decision.

The complainant asked for the decision to be reviewed on a number of grounds, one of which was that both Cllr Dalton and her husband's financial interests would have been affected by the decision as they run a business selling folk music compact discs and promote music festivals. The review panel noted (i) that the parish council had refused to grant free use of the premises and therefore neither she nor her husband had benefited from the application; (ii) that she appeared not to have voted on the application; and that (iii) she had correctly declared on her register of interest form her partnership interest in her and her husband's business.

However, although Cllr Dalton had declared having a personal interest in an item on the agenda for the 8th December meeting, the review panel were troubled by the fact she had not specified the item of business to which the declaration related and concluded that, although it was difficult to say with certainty whether she had a prejudicial interest in that item, she would have been acting prudently by leaving the meeting whilst the item was being considered.

Consequently, the review panel directed that Cllr Dalton should undergo further training and directed the monitoring officer to write to Cllr Dalton to arrange further training on the code, specifically with regard to personal of prejudicial interests.

Copies of the assessment and review panel decision notices and the monitoring officer's letter of 21st June are attached as Appendix A to this report.

Following receipt of the review panel's decision notice and the monitoring officer's letter, Cllr Dalton wrote to him. A copy of her letter, sent by e-mail on 11th August, is attached as Appendix B. In her letter, Cllr Dalton makes the following points –

- The complainant had specifically asked her when the item was being discussed whether she and her husband would be taking a stall at the Aston Free Folk Festival and she had replied that they would not be taking a stall.
- For this reason she did not believe that there would be a financial benefit to her or her husband and therefore did not consider it necessary to declare having a prejudicial interest in the item.

In her recent letter, however, Cllr Dalton goes further by pointing out that the application for free use of the premises by Anston Free Folk Festival was referred to the parish council for a decision and that she neither chaired, spoke nor voted at that meeting.

Cllr Dalton asks the Committee to reconsider its decision in light of this information, as she feels strongly that her good intentions have led to her reputation being called into question and that she should have the opportunity to refute the allegation.

The monitoring officer has spoken to the clerk to the parish council who confirmed that it is normal practice for the parish council when sitting as sole trustee to refer applications to use the recreation ground trust premises or facilities free of charge to the parish council for consideration of a grant in cash or in kind. Any grant that is awarded then counts as income to the charity.

The review panel's decision to direct the monitoring officer to carry out certain actions is irrevocable and can only be challenged by way of judicial review.

The assessment and review panels' decision are currently in the Standards Committee's pages of the website. Members may therefore wish to consider whether these decisions should be removed from the website in light of the new information.

6. Recommendations

IT IS RECOMMENDED that the Committee –

1. notes this report and directs the monitoring officer to advise Cllr Judith Dalton that the decision of the 26th May 2011 review panel is final; and

2. considers whether in light of the new information the decisions of the assessment and review panels of 24th February and 26th May 2011 should be removed from the Standards Committee's pages of the website.

7. Proposals and details

Please see paragraph 5.

8. Finance

No financial implications.

9 Risks and Uncertainties

None

10 Policy and Performance Agenda Implications

None

11 Background Papers and Consultation

Documents attached as appendices to this report.

12 Contact

Richard Waller, Legal Manager, Legal & Electoral Services

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E-mail: richard.waller@rotherham.gov.uk

APPENDIX A

ASSESSMENT PANEL DECISION

ROTHERHAM BOROUGH COUNCIL

STANDARDS COMMITTEE (ASSESSMENT PANEL)

CODE OF CONDUCT FOR MEMBERS – DECISION NOTICE: NO FURTHER ACTION

Parties receiving this Decision Notice should take care when acting on this information, as the matter could be the subject of a review and the Review Panel of the Standards Committee may come to a different view on the complaint. In addition, some information in this Decision Notice may be confidential for the purposes of these proceedings and must not be released without first discussing the same with the Monitoring Officer, Mr. T. C. Mumford, Assistant Chief Executive (Legal and Democratic Services), Rotherham Borough Council.

Complaint

At a meeting of the Rotherham Standards Committee Assessment Panel held on 24th February, 2011, the Panel considered allegations from Councillor Stuart Thornton of Anston Parish Council against Councillor Judy Dalton also of Anston Parish Council.

The allegations related to the conduct of Councillor Dalton at a meeting of the charity known as Anston Parish Council Recreation Ground held on 8th December, 2010.

The specific allegation was that, at the Charity meeting, Councillor Dalton failed to declare a prejudicial interest in a discussion regarding free use of the Charity's buildings relating to a request from her husband on behalf of Anston Free Folk Festival, even when it was pointed out that the request for free use had come from her husband.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Assessment Panel decided that no action should be taken on the allegations.

Reasons for decision

The reasoning for the conclusion was that whilst the Panel accepted that the Code of Conduct was applicable regarding involvement at the Charity

meeting, there was insufficient evidence to conclude that Councillor Dalton had a prejudicial interest. Such an interest could only exist if the item of business was capable of affecting the financial position of Councillor Dalton's husband and it was not clear that it would do so. The Panel accepted that Councillor Dalton had a personal interest in the matter but noted that she had declared a personal interest at the start of the meeting in a forthcoming item, albeit had not been specific about which particular item it was.

The Panel advised that the Clerk should, in the minutes, indicate the nature of any interest declared.

Right of Review

At the written request of the complainant, the Standards Committee can review and change a decision not to refer an allegation for investigation or other action. A differently constituted Panel from that involved in the original assessment decision will undertake the Review.

We must receive the complainant's written request within 30 days from the date of this Decision Notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will deal with it within a maximum of three months of receipt. We will write to all the parties mentioned above, notifying them of the outcome of the Review.

Additional Help

If you need additional support in relation to this or future contact with us, please let the Monitoring Officer know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.

Signed
(Monitoring Officer)

Date : 11th March 2011

Tim Mumford,
Assistant Chief Executive,
(Legal and Democratic Services),
Rotherham Borough Council.

Tel: 01709 823500
Email: tim.mumford@rotherham.gov.uk

REVIEW PANEL DECISION

ROTHERHAM BOROUGH COUNCIL

STANDARDS COMMITTEE (REVIEW PANEL)

CODE OF CONDUCT FOR MEMBERS – DECISION NOTICE: REFERRAL TO MONITORING OFFICER FOR ACTION OTHER THAN INVESTIGATION

Parties receiving this Decision Notice should take care when acting on this information, as some information in this Decision Notice may be confidential for the purposes of these proceedings and must not be released without first discussing the same with the Monitoring Officer, Mr. T. C. Mumford, Assistant Chief Executive (Legal and Democratic Services), Rotherham Borough Council.

Complaint

At a meeting of the Rotherham Standards Committee Review Panel held on 26th May, 2011, members considered allegations from Councillor Stuart Thornton of Anston Parish Council against Councillor Judy Dalton also of Anston Parish Council.

The allegations related to the conduct of Councillor Dalton at a meeting of the charity known as Anston Parish Council Recreation Ground held on 8th December, 2010.

The specific allegation was that, at the Charity meeting, Councillor Dalton failed to declare a prejudicial interest in a discussion regarding free use of the Charity's buildings relating to a request from her husband on behalf of Anston Free Folk Festival, even when it was pointed out that the request for free use had come from her husband.

In requesting the review, Councillor Thornton:-

- queried the allegations that were considered by the Assessment Panel and cited Councillor Dalton's own interests not just those of her husband in the Company that sold products, promoted and organised folk festivals
- indicated that Councillor Dalton failed to leave the room when the vote was taken on the decision to grant or not to grant her husband free use of the hall
- indicated that Councillor Dalton continued chairing meetings that discussed other related issues such as the financial cost of the hall hire, cost of the free use of the parish workforce, free use of the parish vehicle
- indicated that Councillor Dalton was in a position of 'management' both as a parish councillor and as a member of the Company she co-owned with her husband and clearly had a prejudicial interest

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Review Panel decided to refer the allegation to the Monitoring Officer for action other than an investigation.

The Panel directed the Monitoring Officer to write to Councillor Dalton expressing the Panel's concerns at the declarations of interest made at this meeting and advising her strongly to undertake further training specifically with regard to personal and prejudicial interests.

Reasons for Decision

The Panel accepted that the Code of Conduct was engaged in that, as the Parish Council was the sole trustee of the Charity, the business of the Charity was a function of the Council and Councillor Dalton must have been acting in her official capacity as a Councillor.

In reaching its decision the Panel was mindful of the fact that the outcome of the free use application was a refusal and that there was no benefit to Councillor Dalton, her husband or their business. The Panel accepted that Councillor Dalton appeared not to have voted on the matter. The Panel was also mindful that Councillor Dalton had rightly declared, on her register of interest form, her partnership in the business.

However, the Panel did have concerns at the vague nature of the interest declared by Councillor Dalton and also acknowledged that any interest existed irrespective of the outcome of the free use application.

Whilst promotion of the festival itself could not be deemed to be a prejudicial interest and it was difficult to say with certainty that a prejudicial interest existed, (i.e. Councillor Dalton, her husband or their business would have gained financially by the granting of free use of the hall) the Panel felt it would have been wise for Councillor Dalton, as a partner in the business, to have vacated the meeting during consideration of the free use application.

The Panel therefore concluded that the best course of action was for Councillor Dalton to rectify her apparent lack of understanding regarding declaring interests by undergoing further training. An investigation and resultant cost to the public purse would not be in the public interest.

What Happens Now

The Monitoring Officer will write to Councillor Dalton expressing the Panel's concerns at the declarations of interest made at this meeting and advising her strongly to undertake further training specifically with regard to personal and prejudicial interests.

Additional Help

If you need additional support in relation to this or future contact with us, please let the Monitoring Officer know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.

Signed

Date: 21st June 2011

Monitoring Officer,
T. C. Mumford,
Assistant Chief Executive,
(Legal and Democratic Services),
Rotherham Borough Council.

**LETTER FROM MONITORING OFFICER TO CLLR JUDITH DALTON
21ST JUNE 2011**

Dear Councillor Dalton,

I refer to previous correspondence concerning the allegation made against you by Councillor Stuart Thornton, that you were in breach of the Code of Conduct adopted by Anston Parish Council.

I have previously informed you that the complaint was considered by an Assessment Panel of the Standards Committee, who determined that no action should be taken. I also advised you that Councillor Thornton had requested a review of that decision.

The Review Panel met on 26th May 2011 and a copy notice of their decision is enclosed. You will see that the Review Panel came to a different conclusion from the Assessment Panel. Whilst they did not feel that the matter ought to be investigated, they were concerned that, on the information available to them, you should perhaps have declared a prejudicial interest in the matter in question. They, therefore, instructed me to write to you on the issue, and formally advise you to undergo further training on declaration of personal and prejudicial interests at the first opportunity.

I should emphasise that no finding has been made that you were in breach of the Code. Such a finding could only have been made following an investigation and hearing before the Standards Committee, and the Panel did not consider that this matter should be investigated. I should also make it clear that the Panel reached their decision based upon the version of events put forward by Councillor Thornton in his original allegation and subsequent request for a review. It may well be that if the matter had been investigated and you had been interviewed, the findings of fact would have differed from the account put forward by Councillor Thornton. What Assessment and Review Panels have to do is to determine the appropriate action on the

assumption that what the person making the allegation says is correct, unless parts of that can be disproved by evidence such as minutes of meetings, which can readily be obtained without embarking upon an investigation.

On this basis, the Panel had a number of concerns. Firstly, it appeared from the allegation that although you had declared some sort of interest in the item, you were not explicit as to what your interest actually was. It would have been better if you had expressly stated that the interest arose because the letter requesting free use of the hall was from your husband, even though this might have been fairly evident to people in the room. The Code does require you to say both that you have a personal interest and the nature of the interest.

The second issue was whether you should have treated the interest as being not only personal, but also prejudicial, in which case you should have withdrawn from the meeting for that item. The test for a prejudicial interest is whether a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice your judgment of the public interest. The Panel did have some concerns about how a reasonable member of the public would have regarded your chairing of a meeting, which was considering an application for free use of the premises signed by your husband. Regardless of how this might have appeared however, this could not of itself have made the interest prejudicial. This could only be the case if the interest and affect your financial position, or that of that some person with whom you had a close association, such as your husband. The Assessment Panel which first considered this matter, did not believe that the issue necessarily would affect you or your husband financially. The proposed festival would be an event for the public benefit of the parish and it was not clear that you or your husband would necessarily be out of pocket if the request for free use were not granted.

The Review Panel, however, had more regard to Councillor Thornton's arguments concerning the music business which you and your husband run and which is declared in your register of interests. The Panel felt that a reasonable member of the public might conclude that if free use of the premises for the folk festival were to be granted, then there might potentially be an opportunity for you and your husband to promote your business interests by using the festival as an outlet. Obviously, the Panel could not be certain of this, as they did not know the full detail of how your business operated and an investigation might have shown the concern to be groundless. Nevertheless, on the information available, the Panel thought that a reasonable person might have regarded the interest as so significant as likely to prejudice your judgment.

The Panel, therefore, concluded that you should undergo further training on the Code of Conduct and specifically with regard to personal and prejudicial interests. You have, of course, attended the training I provided by way of induction for all new Members of the Borough Council since the events which gave rise to the present allegation. I do not know when we will next be providing training on the Code of Conduct and, of course, major changes are

likely to occur within the next six months or so, as and when the Localism Bill is enacted. I will notify you of any other training of which I become I aware. Alternatively, I or Richard Waller, who will be succeeding me as Monitoring Officer, would be happy to meet with you to discuss the issues.

I hope this is helpful. Please do not hesitate to contact me if you wish to discuss any point further.

Yours sincerely,

Assistant Chief Executive
(Legal and Democratic Services)

APPENDIX B

Dear Mr Mumford,
Ref TCM/MF/82

Thank you for your letter of the 21st June, with an explanation of the decision of the Standards Board, that I should undertake further training on the Code of Conduct.

I wish the committee to have further information that was not presented to them by the complainant, which I believe makes a difference as to why I registered only a personal interest.

Anston Free folk festival ran for a number of years from 1990 to 2000. The event was a free festival, supported by the parish council and its workforce to put on a community event, which enabled the people of Anston to participate in acoustic music. The event also contributed to the tourism strategy, attracting people from all over Yorkshire and beyond, with more than 1000 attendees.

The request was made to the Parish council and charity on that basis. Mr Thornton specifically asked at the time of the discussion and I specifically replied that the CD business would not be taking a stall at the festival. Therefore I did not believe at that time that there was any financial benefit to myself or my husband in the request and therefore no requirement to express a prejudicial interest.

The Free folk festival does not have any income as it does not make any charges for admission, nor does it pay any of the performers or stewards or organisers. The whole event is based on goodwill.

The issue of my chairing meetings is misleading. It is the case that I chaired the charity meeting, where the request came to, but that meeting referred the request to the Parish council meeting for a decision, which I did not chair, did not speak at, and did not vote at.

I hope that the committee will take this information, which I was not able to give previously, into account, and reconsider their decision. I feel strongly that my intentions of enabling a community event have led to my reputation being called into question, and published in a public arena and that I should have opportunity to refute this allegation.

Yours sincerely,
Judy Dalton

ROTHERHAM BOROUGH COUNCIL - REPORT TO MEMBERS
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1.	Meeting:	Standards Committee
2.	Date:	8 th September 2011
3.	Title:	Mr Neil Fulcher
4.	Directorate:	Chief Executive's Directorate

5. Summary

Long-standing members of the Committee may recall the case of Cllr Neil Fulcher (as he then was) who was a member of Bramley Parish Council in 2009. Cllr Fulcher made certain disparaging comments about Mr R Waller in an e-mail to him and about Mr Waller, Mr T C Mumford and a fellow member of Bramley Parish Council, Cllr T Bradley (as he then was), in letters to the local newspaper.

Mr Waller and Cllr Bradley complained to the monitoring officer that Cllr Fulcher had breached the parish council's code of conduct. On considering the complaints the Committee referred the matter to the Standards Board for England (as it then was) who in turn referred it for investigation by an ethical standards officer.

The ESO found Cllr Fulcher not to be in breach of the code in relation to Cllr Bradley's allegation that he had withheld from the members of the parish council legal advice given by Mr Mumford, but in breach in relation to Mr Waller's allegation. In the course of his investigation the ESO also found evidence of other breaches of the code in relation to Cllr Bradley, Mr Mumford and another council officer, Mr K Battersby.

The case was heard by the First-tier Tribunal on 19th July 2010 on the basis of written submissions as Cllr Fulcher had informed the tribunal that he would not be attending the hearing. He was found to be in breach of paragraphs 3 (1) (you must treat others with respect) and 5 (you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the authority into disrepute) of the code and suspended from membership of Bramley Parish Council for a period of six months.

Cllr Fulcher then appealed to the Upper Tribunal on a number of grounds the majority of which were dismissed. However, the Upper Tribunal did find that the First-tier Tribunal had fallen into error as in its statement of reasons it linked the allegations in relation to Mr Mumford and Mr Battersby with Mr Waller's complaint rather than treating them as separate allegations upon which it was required to make specific findings and give reasons on the basis of the written evidence before it (counsel for the ESO submitted that it appeared from the First-tier Tribunal's decision

that it wrongly considered that these allegations were not formally before it and therefore did not make findings in relation to them).

As Cllr Fulcher had already served his six months' suspension at the time the Upper Tribunal heard the appeal, the tribunal and Mr Fulcher considered little would be achieved from reducing the period of suspension to five months.

Attached as Appendix A to this report is the Upper Tribunal's decision.

6. Recommendations

IT IS RECOMMENDED that members note this report.

7. Proposals and details

Please see paragraph 5.

8. Finance

Not applicable

9 Risks and Uncertainties

None.

10 Policy and Performance Agenda Implications

Not applicable

11 Background Papers and Consultation

Decision of the First-tier Tribunal.

12 Contact

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APPENDIX A

DECISION OF UPPER TRIBUNAL



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Website: www.tribunals.gov.uk
DX: DX 0012 London/Chancery Lane

Our Ref: GLGSE/2465/2010

Ms Freda Sharkey
Standards for England
Ethical Standards Officer
Fourth Floor
Griffin House
Manchester
M1 1BB

5 Aug 2011

RECEIVED

08 AUG 2011

Dear Ms Sharkey,

Re: Mr Neil Fulcher
144 Pear Tree Avenue
Bramley
Rotherham
S66 2NF

I enclose a copy of the decision of the Upper Tribunal. A copy has been sent to all the parties involved.

The enclosed notes tell you how a decision of the Upper Tribunal may be challenged by any party.

Yours sincerely,

Lata Shah
Clerk to the Upper Tribunal

Enc.

Please note that it is the policy of this Office to destroy case files one year after the date of the last judicial action. Accordingly, you should be aware that if you consider that you may require any of the documents of appeal for some purpose in the future, then you should retain the copy of them that this office or the First-tier Tribunal has issued to you.



INVESTOR IN PEOPLE



IN THE UPPER TRIBUNAL **Appeal No. GLGSE/2465/2010**
ADMINISTRATIVE APPEALS CHAMBER

Appellant: Neil Fulcher
Respondent: Ethical Standards Officer

DECISION OF THE UPPER TRIBUNAL
Upper Tribunal Judge Ward

ON APPEAL FROM:

Tribunal: The First-Tier Tribunal (General Regulatory Chamber)
Tribunal Case No: LGS/2010/0504
Tribunal Venue: Not known
Hearing Date: 19 July 2010

**IN THE UPPER TRIBUNAL
ADMINISTRATIVE APPEALS CHAMBER**

Case No GLGSE/2465/2010

Before UPPER TRIBUNAL JUDGE WARD

Decision: The appeal is allowed to the limited extent indicated below. The decision of the First-tier Tribunal sitting on 19 July 2010 under reference LGS/2010/0504 involved the making of an error of law and is set aside.

Acting under section 12(2)(b)(ii) of the Tribunals, Courts and Enforcement Act 2007 I remake the tribunal's decision (as set out in its notice of decision dated 19 July 2010) as follows:

Paragraph 5 of that notice – which in its original form referred to additional matters- shall be deleted and replaced with the following:

"Cllr Fulcher breached paragraphs 3(1) and 5 of the Code of Conduct by mounting a sustained attack on the integrity and character of a Council Officer, in a manner which was pejorative, unjustified and probably defamatory."

Except as stated above, the decision is remade in identical terms.

REASONS FOR DECISION

1. Cllr Fulcher was elected to Bramley Parish Council on 3 May 2007 for a term of four years in an uncontested election. He gave a written undertaking to observe the Code of Conduct in May 2007.
2. Two allegations were referred by the Standards Board to the Ethical Standards Officer ("ESO") for investigation. In the course of investigating these allegations, the ESO considered that there was evidence that Cllr Fulcher might have failed to comply with the Code in three other respects. The ESO was empowered by section 59(1)(b) of the Local Government Act 2000 to investigate these other matters also and by a letter dated 18 September 2009 informed Cllr Fulcher of his intention to do so.
3. We need not be concerned in the present proceedings with allegation 1, which was not upheld by the First-tier Tribunal ("FTT"). As a result of the matters referred to in paragraph 2 above, allegation 2 may for convenience be subdivided as follows:

Allegation 2a: related to Cllr Fulcher's conduct in sending an email dated 14 March 2009 to a Mr Waller, Deputy Monitoring Officer at Rotherham MBC, and subsequently sending it to the Rotherham Advertiser where it was printed on 20 March 2009

Allegation 2b: related to a letter published by Cllr Fulcher in the Rotherham Advertiser on 24 July 2009 which was critical of named officers of Rotherham MBC and of another councillor

Allegation 2c: related to a letter published by Cllr Fulcher in the Rotherham Advertiser on 7 August 2009 following up the previous letter

Allegation 2d: related to email correspondence in August 2009 between Cllr Fulcher and two officers in the Environment and Development Services Directorate of Rotherham MBC.

4. The ESO made a report covering all the above allegations, alleging breaches of paragraphs 3(1) of the Code of Conduct (treating with respect), 3(2)(b) (bullying) and 5 (bringing your office or authority into disrepute.) The matter came before the FtT on 19 July 2010. For reasons which it is not necessary to go into, the case was dealt with on the papers, neither party attending.

5. The key parts of the FtT's decision dated 19 July 2010 are as follows (underlinings in original):

"3. The Respondent did not fail to comply with paragraph 3(2)(b) [of] the Code of Conduct, but did fail to comply with paragraphs 3(1) and 5 of the Code of Conduct.

.."
5. The Respondent breached paragraphs 3(1) and 5 of the Code of Conduct by mounting continuing and sustained attacks on the integrity and character of two Council officers and another Councillor which were pejorative, unjustified and probably defamatory.

.."
6. The Tribunal decided to impose the following sanction:
6.1 To suspend the Respondent for a period of six months.

7. The date such sanction is to take effect is 1 August 2010
.."

6. The FtT then issued a statement of its reasons, in a 30 page document dated 20 July 2010. I return to this below.

7. Permission to appeal was refused by the FtT. On an application to the Upper Tribunal, I held an oral hearing of the application at Doncaster County Court on 17 December 2010. I refused permission to appeal on the great majority of Cllr Fulcher's 18 grounds, but gave limited permission, essentially because the statement of reasons appeared not to be consistent with the decision as regards the matters in allegations 2b, 2c and 2d.

8. Ground a on which I gave permission was:

"Allegation 2 (as set out in the Tribunal's Reasons for decision and notwithstanding the email* of 18 September 2009 from the Ethical Standards Officer) concerned (only) sending an email to Mr Waller and subsequently sending it to the Rotherham Advertiser. Did the tribunal err by indicating in its notice of decision that [Cllr Fulcher] breached the

Code "by mounting continuing and sustained attacks on the integrity of two Council officers and another Councillor which were pejorative, unjustified and probably defamatory" (my emphasis) when (save as regards Mr Waller) these were not -- at any rate according to the tribunal -- the subject of the allegations before it?"

* I was in error in referring to an email: it was a letter, but nothing turns on the point.

9. Linked to that was ground b:

"Did the tribunal err by issuing a notice of decision and a statement of reasons which, in the respect above, were materially non-congruent, or otherwise by giving inadequate reasons for its decision?"

10. I also gave permission on grounds c and d:

c. If it was (and was properly) part of the tribunal's decision that the appellant made attacks on a second officer and another Councillor:

(i) did the tribunal make sufficient findings of fact?

(ii) did the tribunal adopt a fair procedure in considering such allegations when the appellant had not been interviewed about one or more of them?

d. Was the sanction imposed legally flawed on the grounds that regard was had to a legally irrelevant consideration, namely the matters (as set out at [a] above) not forming part of the allegations?

11. Ms Broadfoot, counsel for the ESO, in written submissions accepts that the relevant section of the tribunal's reasons is in paragraphs 5.3.10 to 5.3.17 (paras 5.3.10 and 5.3.11 deal with particular matters which need not concern us). Para 5.3.17 contains the following passage:

"The Tribunal accepts the ESO's reasoning that the equally damaging (and probably defamatory) remarks made by the Respondent in relation to Mr Mumford, Mr Battersby and Councillor Bradley (which were not formally included in the reference) would not amount to bullying – that reasoning is essentially the same as that applied by the Tribunal to the remarks relating to Mr Waller. The remarks did, however, have the potential to bring the respondent's office into disrepute,"

12. Counsel submits:

(a) that paras 5.3.12 to 5.3.16 specifically deal only with Mr Waller

(b) that para 5.3.17 decides that the conduct did not amount to bullying of Mr Waller.

(c) that there is no finding that the remarks made in relation to Mr Mumford, Mr Battersby and Cllr Bradley amounted to disrespect and a breach of paragraph 3 of the Code or that they brought the respondent's office into disrepute and

(d) that "it... appears from the words "(which were not formally included in the reference)" that the Tribunal (wrongly) did not consider that the additional matters were before them and that is why they did not make findings of breach of the Code in respect of them.

13. Therefore, Counsel submits, correctly in my view, that:

(a) the FtT erred in failing to consider that the additional matters were before it (I return to a further aspect of this submission below)

(b) paragraph 5 of the Notice of Decision insofar as it refers to attacks on "two Council officers and another Councillor" is not supported by the Tribunal's detailed reasons and

(c) that for the reasons summarised above, the FtT did err by issuing a notice of decision and a statement of reasons which, in the respects discussed above, were materially non-congruent, or otherwise by giving inadequate reasons for its decision.

14. It follows therefore that the decision of the tribunal was in error of law on grounds a and b on which I gave permission.

15. At this point it is right to record that Ms Broadfoot also submitted that the FtT erred in failing to conclude that the additional matters before it also amounted to a breach of the Code and that there were sufficient facts found by it to enable it to do so. By further Direction, I enquired whether the ESO still sought ultimately to have the additional matters upheld as breaches of the Code also. I was told that the ESO does not do so, on the basis of what was described as "a pragmatic decision, made in the overall interests of finality and costs", while reserving the right to do so and to pursue related arguments if the matter proceeded to an oral hearing, or further. I deal with the remaining grounds on which permission to appeal was given and with the disposal of the case having regard to this concession.

16. I do not find it necessary to address ground c in this decision, in the light of the concession made that the FtT was in error of law on grounds a and b and the concession recorded in para 15 above. The ESO strongly rejects any suggestion that the procedure adopted was unfair. However, such value as there might otherwise have been in the Upper Tribunal examining the procedure in a case where other errors of law have been established is further reduced by the impending abolition of the local government standards regime by the Localism Bill currently before Parliament.

17. As to ground d, the FtT in section 6.3 of its decision directed itself to relevant case law and guidance before concluding that (I have corrected what

appear to be inadvertent references to the Appellant when the Respondent was intended):

"6.3.5 Having regard to this Guidance the Tribunal considered that there had been a breach of the Code of Conduct which caused harm to others, principally the integrity and character of Mr Waller who had been unfairly criticised in pejorative and insensitive language raising doubts in a public arena as to his ability to do his job in circumstances in which he would not have a reasonable opportunity to defend himself and which only marginally failed to cross the threshold into bullying.

The impact of such actions is serious and inherently harmful. The [Respondent's] actions fall short of the threshold on which disqualification was upheld in Hathaway v Ethical Standards Officer [2004] EWHC 120 (Admin) and Sloam v Standards Board for England [2005] EWHC 124 (Admin) in which there were offences of violence and dishonesty, respectively, and which threshold was said by Collins J in [R](Chegwyn) v Standards Board for England [2010] EWHC 471 (Admin)] to be a "high one". The [Respondent's] actions do, however, correspond to those of the Appellant in Sanders (above) in which the sanction was commuted from disqualification to suspension for six months.

6.3.6 It was evident to the Tribunal, having regard to the way in which the Respondent had conducted himself during the ESO's investigations and by his written submissions that he had failed to understand the seriousness of the actions which he had taken or of their effects and the resultant breach of the Code of Conduct. He has showed no sense of the responsibilities imposed upon him by the Code of Conduct.

6.3.7 In all these circumstances, the Tribunal considers that it would be reasonable and proportionate to suspend the Respondent for a period of six months. In deciding a period of six months, the Tribunal had regard to the impact on others of the Respondent's conduct. A suspension for six months will bring home to the Respondent the seriousness of what he has done and send the right message to all concerned that a serious view was indeed being taken of what he had done (see Chegwyn). It will give him an appropriate period of time in which to reflect on his actions and take the steps necessary to avoid a repetition of his behaviour."

18. I am unable to accept the submission from Ms Broadfoot that "it is clear from 6.3.5 that the Tribunal only considered the matters in relation to Mr Waller when considering sanction." The FtT refers in paragraph 6.3.5 to "...harm to others, principally the integrity and character of Mr Waller" ... (my emphasis). Paragraph 6.3.7 indicates that "the Tribunal had regard to the impact on others [note the plural] of the Respondent's conduct". I consider that the FtT's consideration of sanction was tainted by matters which it considered were not before it and which it had not found to amount to a breach of the Code on Cllr Fulcher's part. I conclude that the FtT was thereby also in error of law.

19. As to the disposal of this case, Cllr Fulcher has been found to be in breach of the Code in respect of the matters relating to Mr Waller and I have previously refused permission to appeal on any ground which would enable him to challenge that conclusion. Cllr Fulcher seeks a full re-hearing, with a time estimate of four days. His reasons for doing so appear to be to enable him to have a renewed platform on which to argue that he was not in breach of the Code in respect of his dealings with Mr Waller (a matter which it is not open to him to challenge in view of the basis on which permission to appeal was given) and to give a public airing to his critical views in relation to some or all of Rotherham MBC, Standards for England and the Standards Board regime. None of these are good reasons for remitting the case for a further hearing. It is not the function of the tribunal system to provide a vehicle for the airing of personal or political views. The outcome of the present proceedings is that Cllr Fulcher has not been found to be in breach of the Code in respect to his dealings with Mr Mumford, Mr Battersby or Cllr Bradley and the ESO does not now seek to press for a finding on those matters, while I have adjudged the findings in relation to his dealings with Mr Waller to be not capable of challenge in law. That outcome makes a further hearing redundant.

20. Rather, this matter can be dealt with by re-making the FtT's decision. As regards remarking paragraph 5 so as to refer only to Mr Waller, the necessary amendment is straightforward. As regards the penalty the situation is a little more complex. If six months was the appropriate penalty for Cllr Fulcher's actions in relation to Mr Waller plus actions in relation to others to the extent that the FtT (wrongly, on the basis on which it tackled the case) took them into account, then it is arguable that logically, the appropriate penalty should be less than six months. However, if that is so, it should not be much less than six months, as in my judgment the FtT was fully entitled to view Cllr Fulcher's actions in relation to Mr Waller as serious, for the reasons it gave.

21. I did canvass with the parties whether it would be appropriate to reduce the period of suspension to five months, while acknowledging that it was academic (save for the record), in that Cllr Fulcher had served his original six month suspension by 1 February 2011. Ms Broadfoot submits that the sanction was justifiable on the basis of the conduct towards Mr Waller alone, Cllr Fulcher's submission was in terms that made very clear that he felt that such a reduction would be "meaningless" and of no value in terms of public perception of the events that had occurred. On that basis, I consider that no useful purpose would be achieved by reducing the period of the suspension, now past in any event, and so do not do so.

CG Ward
Judge of the Upper Tribunal
27 July 2011



Challenging an Upper Tribunal decision.

A decision of the Upper Tribunal is final. The only ways in which it is open to challenge are set out below.

Set aside. A decision may be set aside by the Upper Tribunal judge if there has been a procedural irregularity in the proceedings and the judge considers that it is in the interests of justice to do so. For example, if a document relating to the proceedings has gone astray or a party or his representative was not present at a hearing. If you wish to apply to set aside you must do so in writing with reasons so that your application is received **within one month** from the date of the attached letter.

Appeal. There is provision for an appeal against a decision of the Upper Tribunal to the Court of Appeal **on a question of law only**. If any party wishes to appeal they must first ask for permission from the Upper Tribunal judge. If the Upper Tribunal judge refuses permission, then the party wishing to appeal can ask for permission from the Court of Appeal itself. If you wish to apply for permission to appeal against the Upper Tribunal decision you must do so in writing with reasons so that your application is received **within one month** from the date of the attached letter.

If any party applies for permission to appeal to the Court of Appeal, the Upper Tribunal judge may review the decision if (1) the judge overlooked a legislative provision or binding authority which could have had a material effect on the decision, or (2) since the decision a higher court has made another decision binding on the Upper Tribunal which, if made before the decision, could have had a material effect on it. If you think that either of those grounds apply you should say so in your application for permission to appeal.

The Upper Tribunal judge may extend either time limit if satisfied that there is a good reason for doing so.