

STANDARDS COMMITTEE

—Agenda—

29 OCTOBER 2003

ITEM **Click titles (marked in blue) to go straight to item** **PAGE**

APOLOGIES FOR ABSENCE

[MINUTES – 30 JULY 2003](#)

To confirm and sign the Minutes of the meeting held on 30 July 2003 as an accurate record.

DECLARATION OF INTERESTS

If a Councillor has any prejudicial or personal interests in a particular report, they should declare an interest.

A Councillor should not take part in the discussion or vote on a matter in which they have a prejudicial interest. They should withdraw from the meeting while the matter is under discussion unless the disability to discuss the matter has been removed by the Standards Committee.

[SCHEME OF ALLOWANCES](#)

To receive a report on the approved Scheme of Allowances agreed by the Council on 24 September 2003. Under this Scheme, an allowance is payable to independent members of the Standards Committee for the carrying out of their duties, in addition to travel and childcare costs.

[Approved Members' Allowances Scheme](#)

[LOCAL GOVERNMENT ACT 2003 – S.113](#)

To receive a report on the implications of section 113 of the Local Government Act 2003.

[s.113 Extract from Local Government Act 2003](#)

TRAINING FOR STANDARDS COMMITTEE MEMBERS

(Video +
workbook)

Members are asked to watch a training video supplied by the Standards Board for England detailing scenarios drawn from the Code of Conduct. The video contains 5 scenarios, but we will only be observing Nos. 1 – 3 & 5, omitting scenario 4, as there are no parish/town Councils in our area. At the end of each scenario, the video will be paused so that members can write /

discuss points raised before hearing the view of the Standards Board on the issues raised. The scenarios cover:

- Declarations of interest & duty to inform
- Appropriate allegations
- Personal & prejudicial interests
- Investigations

[STC Training Workbook](#)

ANY OTHER BUSINESS

jpc/ 21/10/03

STANDARDS COMMITTEE

—Minutes—

30 JULY 2003

Present:

Mr. Christopher Troke (Chair)
Mr. Steven Moussavi
Councillor Colin Aherne
Councillor Chris Allen
Councillor Nicholas Botterill

| ITEM | ACTION |
|--|---------------|
| Item 1 <u>ELECTION OF CHAIR</u> | All to note |
| <p>Mr. Moussavi, as outgoing Chair, opened the meeting.</p> <p>In accordance with the agreement to rotate the Chair among the independent members on a yearly basis, the Committee agreed that Mr. Christopher Troke be elected as Chair for the 2003/4 Municipal Year.</p> <p>Mr Troke (in the Chair) proposed a Vote of Thanks to Mr. Moussavi for his work as Chair of the Committee during its difficult formative period in 2002/3, which was unanimously agreed.</p> <p><u>RESOLVED:</u> Accordingly.</p> | |
| Item 2 <u>APOLOGIES FOR ABSENCE</u> | |
| <p>Apologies for absence were received from Ms Rafela Fitzhugh</p> | |
| Item 3 <u>MINUTES OF THE MEETING HELD ON 31 MARCH 2003</u> | |
| <p><u>RESOLVED:</u> That the minutes of the meeting held on 31 March</p> | |

2003 be confirmed and signed as an accurate record.

Item 4 DECLARATIONS OF INTEREST

None

Item 5 2nd NATIONAL ASSEMBLY OF STANDARDS COMMITTEES CONFERENCE - BIRMINGHAM, 9-10 JUNE 2003

Councillor Allen tabled a report giving feedback from the 2nd Standards Committees Conference held in Birmingham on 9 & 10 June and took questions from the Committee on the proceedings.

(Text of Cllr Allen's report attached as **APPENDIX A** to these minutes.)

RESOLVED: That the report be noted

Item 6 LOCAL INVESTIGATION AND DETERMINATION OF MISCONDUCT ALLEGATIONS - RESPONSE TO ODPM CONSULTATION EXERCISE (9 JUNE 2003)

The Monitoring Officer (Henry Peterson) introduced the report, which set out the responses received to the ODPM's earlier Consultation with local authorities and others as to how local investigation and determination of misconduct allegations were to be carried out at local level. It was noted that there had been a good response (over 1,000 replies) to the Government's consultation exercise.

It was noted that the Government had taken on board some of concerns raised by local authorities and had legislated to permit a range of sanctions for a Councillor found guilty of having breached the Code of Conduct, up to a maximum penalty of a 3-months' suspension. However, Members still had concerns regarding the definition and imposition of such sanctions - for example, the Regulations now in force (see item 7 below) mentioned that a "partial suspension" could be imposed, but the definition of what this might involve or how it would actually operate in practice remained unclear.

Cllr Aherne queried in particular the effectiveness of a sanction imposed toward the end of a councillor's term of office or prior to an election. In addition, he queried whether a sanction could apply if the Committee felt one should be imposed immediately, but the member concerned had lodged an appeal against it to the Adjudication Panel. In such an instance, would the sanction be deferred to allow for this appeal process to take place? The

Guidance from the SBfE appeared silent on the matter.

Cllr Aherne also felt strongly that it would be contrary to natural justice and a member's rights under the Human Rights Act if the identity of an accuser was to be kept secret from the accused in such cases, particularly as this could prejudice the member's ability to gather evidence.

The Committee agreed that further advice should be sought on the above concerns from the Standards Board.

DPA/HP to note and action.

Item 7 THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) REGULATIONS 2003 & ODPM CONSULTATION ON THE PROVISION OF INDEMNITIES TO MEMBERS/OFFICERS IN CODE OF CONDUCT CASES

The Committee noted the new Regulations in force from 30 June, but felt that further clarification was needed about the nature of Standards Committee hearings.

There was concern that the Committee was charged only with determining the sanction to be imposed on referred complaints, and would not be able to re-open an ESO's investigation. It also appeared that the accused member was to be allowed to address the committee in his/her defence, call witnesses and be represented by a solicitor, barrister or other person, but the person making the accusation would not be present and could not be cross-examined by the member accused on the evidence they had given to the ESO. The Committee felt that to deny the accused the right to cross-examine their accuser in person before the Committee would be unjust, and asked whether further clarification on this point could be obtained.

MC/ Legal Services & DPA/HP to seek SBfE advice

Regarding the Consultation Paper on the provision of indemnities for members' in Code of Conduct investigations, the Monitoring Officer advised members that initial Finance Dept. research indicated that Insurance Companies such as Zurich Municipal were already putting in place a general insurance cover for members' at a cost of some £29 per member. While the cost itself was cheap, the level and degree of cover was unspecified, and was conditional on the Insurance Company handling all legal matters themselves.

The Committee noted the Government's view (set out at para.39(c) of the Consultation paper) that indemnities should not be provided for Councillors against whom a misconduct allegation was upheld. Members expressed grave concern that, if this view prevailed, it could lead to an accused Councillor being deterred from defending themselves, or employing proper legal representation,

in case s/he lost and thus became liable for the whole legal costs. Also, if Insurance Companies were handling the matter, the question arose of whether they might refuse to proceed with an action unless they felt their chances of winning were 100% , otherwise they would pull the plug.

It was the view of the Committee that Councillors needed the reassurance of knowing that indemnity cover would be provided in all instances, not just in those cases where they were found not guilty of alleged breaches of the Code, as suggested by the Government.

Cllr Allen also queried whether the indemnity cover being offered to Councillors applied equally to Co-opted Members as well, as there was no mention of them in the Consultation paper.

Finally, on the fourth question posed by the Government, the Committee felt that a cap on expenses/ limit per case would probably be a suitable method of deterring Councillors from over-reliance on legal representation in these matters.

It was agreed that the above views would be communicated to the Government as the authority's response to the Consultation paper. DPA/HP to note and action.

RESOLVED:

1. That the new Regulations governing the local determination of misconduct allegations be noted.
2. That the Monitoring Officer prepare a draft response to the ODPM Consultation, for circulation for comment to all Members and the Chair, based on the Committee's expressed views.

DPA/HP to note and action.

Item 8 **STANDARDS COMMITTEE DETERMINATIONS - GUIDANCE FOR MONITORING OFFICERS & STANDARDS COMMITTEES**

The Monitoring Officer advised the Committee that so far, only the part of the Section 66 framework dealing with local *determination* of cases investigated by an ESO and referred to local authorities for adjudication had been published. The SBfE's Guidance was a suggested procedural system for dealing with such matters. The Guidance was not compulsory, but any local procedures needed to be consistent with it.

Further legislation and Regulations governing the local *investigation* of breaches of the Code of Conduct awaited the

changes set out in the Local Government Bill, currently before Parliament. It was likely that when the local determination / investigation framework was complete, the Standards Board would only deal with major cases in future, referring all others back to Monitoring Officers/Standards Committees at local level for investigation and determination.

The Government's proposed legislative changes would enable local Standards Committees to establish one or more investigatory Sub-Committees and to delegate powers; and would also empower Monitoring Officers to delegate matters to other officers where a conflict of interests arose, none of which was presently possible under the current legislation set out in the Local Government Act 2000. The possibility was also raised of local Monitoring Officers being able to deal with each other's cases inter-Borough where this proved necessary or desirable.

RESOLVED:

1. That the SBfE Guidance on handling local determination of referred misconduct allegations be noted.
2. That the Monitoring Officer begin preliminary discussions with his counterpart West London Alliance members on the role and sharing of investigations by Monitoring officers in anticipation of the proposed legislative changes awaited.

DPA/HP to note
and action

Item 9 **REVISED GUIDANCE FOR MEMBERS ON REGISTERING & DECLARING INTERESTS, GIFTS AND HOSPITALITY**

Noted the revised Guidance issued by the SBfE and that this item contained further clarification for members on the distinction between personal and prejudicial interests, and when and how they should be declared.

Noted that the revised booklet would be circulated to all members with a covering letter drawing the above to members' attention.

PAD/JC to note
and action

ANY OTHER BUSINESS

At Cllr Aherne's request, the Committee agreed that this item (AOB) should in future form part of the Standards Committee agenda.

PAD/JC to note
and action

Chair.....

RL (19.7.02)

STANDARDS COMMITTEE

29 OCTOBER 2003

CONTRIBUTORS

(PAD)

SCHEME OF ALLOWANCES

This report sets out for information the new Scheme of Allowances agreed by the Council On 24 September 2003.

The Scheme is made in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003, as amended.

The allowances apply to the financial year 2003/04 (backdated to May 2003), and will be automatically increased by the same percentage rate of increase as the national Local Government Pay Award each year until 2007/08, when a further review will be undertaken.

The Scheme also includes provision for a small allowance to be payable to independent members of the Standards Committee at a rate of £400 per annum, payable by equal monthly instalments. This allowance will be up-rated at the same time and at the same percentage rate increase as the main Scheme.

RECOMMENDATION:

- 1. That the Committee note the Scheme of Allowances and its provisions.**

WARDS

All

Local Government Act 2000

List of Background Papers

| No. | Description of Background Papers | Name/Ext of Holder | Department/Location |
|-----|--|-------------------------|--|
| 1 | The Local Authorities (Members' Allowances) Regulations 2003 | John Cheong Ext 2062 | PAD Room 203 Hammersmith Town Hall |
| 2 | The Local Authorities (Members' Allowances) (Amendment) Regulations 2003 | - ditto - | |

Members' Allowances Scheme

(September 2003, backdated to May 2003)

This scheme is made in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 ("the Regulations") for the year 2003 – 2004 and subsequent years. The scheme has been prepared having regard to the content of the reports of the Independent Panel on the Remuneration of Councillors in London chaired by Professor Malcolm Grant (which reported in August 2001 and July 2003).

1 Basic Allowance

The following basic allowance shall be paid to each member of the authority:

- £7,995 per annum to be paid in 12 monthly instalments on the 15th of each month.

Where a Councillor's term of office begins or ends otherwise than at the beginning or the end of the municipal year the entitlement shall be to payment of such part of the basic allowance as bears to the whole the same proportion as the number of days during which the term of office as member subsists bears to the number of days in that municipal year.

2 Special Responsibility Allowances

The following special responsibility allowances shall be paid to Councillors holding the specified offices.

| | |
|--|---------|
| The Leader | £31,983 |
| Deputy Leader | £26,652 |
| Other cabinet members (Deputies (5)) | £21,321 |
| Chief Whip | £21,321 |
| Deputy Chief Whip | £5,332 |
| Chairs of scrutiny panels (5) | £5,332 |
| Leader of the Opposition | £15,990 |
| Deputy Leader of the Opposition | £5,332 |
| Opposition Whip | £5,332 |
| Chairs of quasi judicial/regulatory bodies (3) | £5,332 |
| Mayor | £10,662 |
| Deputy Mayor | £5,332 |

Where a Councillor does not hold throughout the municipal year any such office the entitlement shall be to payment of such part of the special responsibility allowance as bears to the whole the same proportion as the number of days during which the term of office subsists bears to the number of days in that municipal year.

3 Other Allowances

3.1 Dependent carer allowance

Dependant carer allowance is payable in respect of expenses incurred for the care of a member's children or dependants in attending meetings of the authority, its executive, committees and sub-committees and in discharging the duties set out in paragraph 7 of the Regulations.

- £3.65 per half hour before 10 p.m.; £4.65 per half hour after 10 p.m. (not payable in respect of a member of the councillor's household)

3.2 Subsistence and Travel

Allowances only payable (at same rates as employees) for duties undertaken away from the Town Halls when discharging duties under paragraph 8 of the Regulations.

2003-04 rates are as set out below:

- **public transport**
actual costs reimbursed.
- **Car mileage**

| Cc | first 8500 miles (pence per mile) | above 8500 miles (pence per mile) |
|------------|-----------------------------------|-----------------------------------|
| Below 1000 | 36.4 | 10.6 |
| 1000-1199 | 40.2 | 11.3 |
| above 1200 | 49.9 | 12.8 |

- **Cycle allowance**
£34.76 per month – where this is claimed no other travel claims are permissible.
- **Subsistence**
Allowances payable at same rates and conditions as employees. Payment is only made for expenses incurred outside the borough, subject to a maximum of £5.00 per claim.

4 Annual Increase

The allowances in this scheme apply to the financial year 2003-2004 and shall be increased by the same percentage rate of increase as in the national local government pay award in each subsequent year until 2007-08. Up-rating shall be applied to these allowances at the same time as the employees' pay award.

5 Election to forego allowances

A Councillor may by notice in writing to the Director of Policy and Administration elect to forego any part of his or her entitlement to an allowance under this scheme.

6 Time limit for claims

The majority of allowances are payable monthly, but where allowances are the subject of claims, these claims should be made in the agreed form with the appropriate declaration within six months of the duty to which they relate.

7 Withholding of allowances

In the event of Councillors being suspended the Standards Committee shall have the power to withhold the allowances payable to that Councillor either in whole or in part for the duration of that suspension.

8 Pensions

All Councillors under the age of 70 years shall be entitled to join the London Borough of Hammersmith and Fulham Pension Scheme and have their basic allowance and special responsibility allowance treated as pensionable. Councillors can only join the scheme if they are under 70 and can only pay contributions, and accrue benefits, until their 70th birthday. If they carry on in office beyond age 70 they will not pay any contributions or accrue any further membership. Instead, the benefits that were accrued at age 70 will be paid at an actuarially increased rate when they either reach 75 or cease holding office, whichever comes first.

9 Membership of more than one authority

A member may not receive allowances from more than one authority (within the meaning of the regulations) in respect of the same duties.

ALLOWANCES FOR CO-OPTED MEMBERS AND INDEPENDENT MEMBERS OF STANDARDS COMMITTEE

The rate of allowance for co-opted members shall be £1000 pa payable in equal monthly instalments. The rate of allowance for independent members of the Standards Committee shall be £400 pa payable in equal monthly instalments.

These allowances shall be backdated to May 2003 and shall be up-rated at the rate of the national local government pay award and at the same time as the employees' pay award is implemented.

Co-opted members shall be entitled to the same travel allowances as Councillors, but shall not be entitled to subsistence payments.

STANDARDS COMMITTEE

29 OCTOBER 2003

CONTRIBUTORS

S.113 - LOCAL GOVERNMENT ACT 2003

WARDS

(PAD)

The Local Government Act 2003 (“the Act”) received Royal Assent and became law on 18 September 2003. This report sets out for members’ information details of the provisions of Section 113 of the Act (***attached as Appendix A***) which concerns the new powers of Standards Committees and Monitoring Officers’ to delegate functions. These powers will come into force at the end of two months starting with the day on which the Act was passed (i.e. coming into force 18 November 2003).

All

S.113 (1) of the Act amends the provisions of s.54 of the Local Government Act 2000 to insert a new clause (s.54A) which empowers Standards Committees to establish one or more Sub-Committees for the purpose of discharging any of the parent Committee’s functions.

This will permit the Standards Committee to establish one or more Sub-Committees for the purpose, for example, of adjudicating on cases of misconduct referred for determination by an Ethical Standards Officer (ESO) or for investigating and hearing cases of local misconduct allegations referred from the Standards Board. Any Sub-Committees must be appointed from among the members on the parent Committee, while the number and term of office of those members appointed are also to be determined by the parent Committee.

With regard to the functions of the Monitoring Officer, S.113(2) of the Act inserts a new clause (Section 82A) which empowers the Monitoring Officer, in cases where he himself considers he ought not to perform particular functions, to delegate those functions to another person to undertake personally (s.82A (2) refers). Such a person may or may not be an officer of the authority.

In cases where the deputy so nominated by the Monitoring Officer considers in a particular case that he/she ought also not perform particular functions, Sub-section 82A(3) permits further sub-delegation to another person nominated by the deputy for the

purpose. Again, such a person may or may not be an officer of the authority.

In either case, s.82A(4) & (5) makes provision for adequate staff, accommodation and other resources to be provided by the authority sufficient to allow such delegated functions to be carried out, whether by an officer of the authority or another person, and for the payment of fees and reimbursement of expenses reasonably incurred where the nominated person is not an officer of the authority.

RECOMMENDATION:

That the Committee note the new powers of delegation given to Standards Committees and Monitoring Officers, as set out in s.113 of the Local Government Act 2003 .

jpc/14/10/03

Local Government Act 2000

List of Background Papers

| No. | Description of Background Papers | Name/Ext of Holder | Department/Location |
|-----|---------------------------------------|-------------------------|--|
| 1 | The Local Government Act 2003 (c. 26) | John Cheong Ext 2062 | PAD Room 203 Hammersmith Town Hall |

1.1.3 Standards committees and monitoring officers: delegation

- (1) In Chapter 1 of Part 3 of the Local Government Act 2000 (conduct of local government members), after section 54 there is inserted –

“54A Sub-committees of standards committees

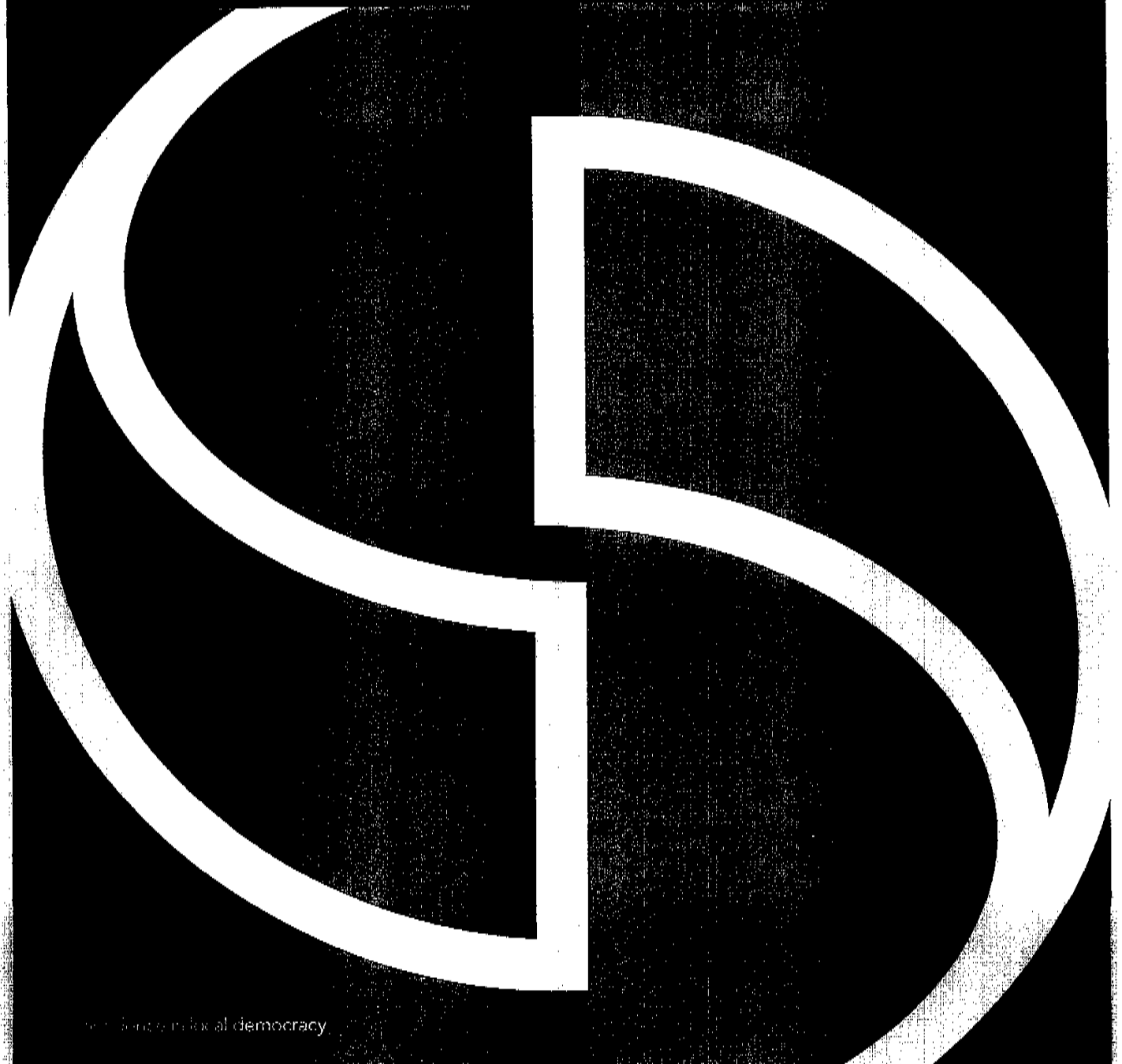
- (1) A standards committee of a relevant authority may appoint one or more sub-committees for the purpose of discharging any of the committee's functions, whether or not to the exclusion of the committee.
 - (2) Subsection (1) does not apply to functions under section 55 or 56.
 - (3) A sub-committee under subsection (1) shall be appointed from among the members of the standards committee by which it is appointed.
 - (4) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in England or of a police authority in Wales –
 - (a) regulations under section 53(6)(a) and (c) to (g) may make provision in relation to such sub-committees, and
 - (b) sections 53(7), (8) and (10) and 54(4) and (6) apply in relation to such sub-committees as they apply in relation to standards committees.
 - (5) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in Wales other than a police authority –
 - (a) regulations under section 53(11) may make provision in relation to such sub-committees, and
 - (b) section 54(5) and (7) apply in relation to such sub-committees as they apply in relation to standards committees.
 - (6) Subject to any provision made by regulations under section 53(6)(a) or (11)(a) (as applied by this section) –
 - (a) the number of members of a sub-committee under subsection (1), and
 - (b) the term of office of those members,
 are to be fixed by the standards committee by which the sub-committee is appointed.”
- (2) In Chapter 5 of that Part (conduct in local government: supplementary), after section 82 there is inserted –

*“Delegation by monitoring officers***82A Monitoring officers: delegation of functions under Part 3**

- (1) This section applies to functions of a monitoring officer of a relevant authority in relation to matters referred to him under section 60(2), 64(2), 70(4) or 71(2).
- (2) Where the monitoring officer considers that in a particular case he himself ought not to perform particular functions to which this section applies, those particular functions shall in that case be performed personally by a person nominated for the purpose by the monitoring officer.
- (3) Where a deputy nominated by the monitoring officer under section 5(7) of the Local Government and Housing Act 1989 (nomination of member of monitoring officer's staff to act as deputy when monitoring officer absent or ill) considers that in a particular case he himself ought not to perform particular functions –
 - (a) to which this section applies, and
 - (b) which, by reason of the absence or illness of the monitoring officer, would but for this subsection fall to be performed by the deputy,
 those particular functions shall, while the monitoring officer continues to be unable to act by reason of absence or illness, be performed in that case personally by a person nominated for the purpose by the deputy.

- (2) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is an officer of the relevant authority, the authority shall provide the officer with such staff, accommodation and other resources as are, in the officer's opinion, sufficient to allow those functions to be performed.
- (5) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is not an officer of the relevant authority, the authority shall—
- (a) pay the person a reasonable fee for performing the functions,
 - (b) reimburse expenses properly incurred by the person in performing the functions, but only to the extent that the amount of the expenses is reasonable, and
 - (c) provide the person with such staff, accommodation and other resources as are reasonably necessary for the person's performance of the functions."
- (3) In section 5 of the Local Government and Housing Act 1989 (c. 42) (designation etc. of monitoring officers), after subsection (7) there is inserted—
- "(7A) Subsection (7) above shall have effect subject to section 82A of the Local Government Act 2000 (monitoring officers: delegation of functions under Part 3 of that Act)."

The Code in Practice



the Standards Board for England

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-

SCENARIO 1 Declaration of interests and the duty to inform.

Questions to consider

Once you have watched the scenario, work through the questions below.

The issue:

Councillors must identify, register and declare their interests. If a member has a personal interest in something being discussed, they must declare it. If the interest is prejudicial, the member must declare and withdraw from the meeting. If another member believes they have failed to do so, that person has a duty to inform The Standards Board for England.

What you will see:

Councillor Adams and Councillor Brown are having a conversation before a meeting about whether Councillor Brown has an interest in an issue that is on the agenda. Councillor Collins overhears their conversation. Councillor Brown does not declare an interest at the meeting. Councillor Davis declares an interest and leaves the meeting.

1 Councillor Brown's Interest:

- a Does Councillor Brown have an interest?
- b If so, is it personal or is it prejudicial?
- c If Councillor Brown has an interest, what should he have done?

2 The duty to inform:

- a Do Councillors Adams and Collins have a duty to tell the other members present that Councillor Brown has not declared an interest?

3 Councillor Davis' interest:

- a What type of interest did Councillor Davis have?
- b Was she right to leave the room?

The Code in Practice**SCENARIO 1 Declaration of interests and the duty to inform****The view of The Standards Board for England****Councillor Brown's interest:**

He has a personal interest. Mike is more than just a casual acquaintance – he is a friend. And, because of where Mike lives, he will be more affected than most by any decision the council makes.

Councillor Adams: *"Doesn't your friend Mike live next to the proposed development site?"*

Councillor Brown: *"Yeah ...so what?"*

His interest is also likely to be prejudicial. In this proposal, the development will have a significant impact on Mike's quality of life or the value or amenity of Mike's property. A reasonable member of the public with knowledge of the relevant facts would be likely to conclude that Councillor Brown's judgement of the public interest would be prejudicial.

Councillor Adams: *"Isn't he a friend of yours?"*

Councillor Brown: *"We play football together..."*

He should have declared his personal interest and, because it was also prejudicial, he should have left the room and taken no part in the decision.

The duty to inform:

Under the provisions of the Code of Conduct, Councillors Adams and Collins do not have to reveal Councillor Brown's failure to declare his interest to the meeting. They do, however, have a duty to inform The Standards Board for England of Councillor Brown's failure to declare that interest.

Councillor Davis' interest:

She has a personal interest because her ownership of a piece of land next to the development site means that any decision will affect her more than most people in the area.

A decision either to allow or refuse planning permission for any housing development can significantly affect adjoining property owners. It may increase or diminish the value of their property, as well as affecting their enjoyment of that property.

Councillor Davis, like any reasonable member of the public with knowledge of the relevant facts, was therefore quite right to conclude that her interest was prejudicial as well as personal. Leaving the meeting was the correct course of action.

Summary:

- You have a personal interest in any of the items which you have registered with your Monitoring Officer, or if an issue affects yourself, a relative or friend more than other people in your authority's area.
- Your personal interest becomes prejudicial if a reasonable member of the public, with knowledge of the relevant facts, would conclude that your judgement of the public interest is likely to be affected.
- You must declare a personal interest and, if your interest is also prejudicial, leave the room and take no part in any decision and not seek to influence the decision improperly.

SCENARIO 2 Appropriate allegations

Questions to consider

Once you have watched the scenario, work through the questions below.

The issue:

Councillors who reasonably believe that another member has breached the Code of Conduct have a duty to make a written allegation to that effect to The Standards Board for England. This scenario addresses what kinds of allegation are likely to be referred for investigation.

What you will see:

During the discussion at a council meeting, Councillors Adams and Brown engage in an increasingly heated exchange of insults and threats. They both say that they intend to report the other to The Standards Board for England.

1 Appropriate allegations:

- a How appropriate is it for either of these councillors to send an allegation to the Board?
- b Which allegations, if any, do you think the Board would refer to an Ethical Standards Officer for investigation? Why?

2 Breaches of the Code:

- a In what way, if at all, does either of the councillors' remarks breach the Code?

3 Disrepute:

- a Are either of these councillors guilty of bringing their authority into disrepute? If so, why?

The Code in Practice**SCENARIO 2 Appropriate allegations****The view of The Standards Board for England****Appropriate allegations:**

If Councillor Brown reported Councillor Adams' remarks to the Board they would be unlikely to be referred for investigation. Name-calling, political point scoring, and even verbal aggression are not usually serious enough to warrant investigation. If Councillor Brown feels that he has been slandered, his remedy is to bring an action for defamation.

Councillor Adams: *"Don't be so bloody pompous!"*

Councillor Brown: *"Councillor Adams is a childish idiot who's not used to hearing the truth. I will not be subjected to his tirade of verbal abuse just because there are elections coming up and he feels the need for some publicity."*

Breaches of the Code:

Either of Councillor Adams' allegations, if substantiated by an investigation, would constitute a breach of the Code.

Councillor Adams must inform The Standards Board for England that Councillor Brown has threatened him with violence and lied about the drainage contract, although he must have reasonable grounds for saying so.

Councillor Adams: *"...everyone knows that Councillor Brown has failed to deal with the problems with the playing field drainage contract and then tried to cover the thing up."*

Councillor Brown: *"Shut up, Adams! Otherwise, I'm going to come round that side of the table and shut you up personally!"*

Disrepute:

If an investigation revealed that Councillor Brown had acted improperly on either count of threatening behaviour or lying about the drainage contract, it would probably conclude that his behaviour brought his office into disrepute.

Please note that the above comments assume that there is some basis for Councillor Adams to allege that Councillor Brown has covered up problems with the drainage contract. If Councillor Adams was maliciously seeking to smear Councillor Brown's reputation with untrue allegations, his behaviour would be likely to bring his authority into disrepute. It would also constitute a failure to treat Councillor Brown with respect.

Summary

- Any councillor who has genuine and reasonable grounds for believing that another member has breached the Code of Conduct has a duty to send their allegation, in writing, to The Standards Board for England.
- In general, the Board will not refer for investigation anything said in the heat of robust political debate, even where this may involve slander. Each case will be considered on its merits but it will not usually be the Board's role to provide individuals with an alternative to defamation proceedings.

SCENARIO 3 Personal and prejudicial interests

Questions to consider

Once you have watched the scenario, work through the questions below.

The issue:

The Code defines two types of interests – those that are personal, and those personal interests that are also prejudicial. This scenario deals with the kind of situation in which it might be difficult to distinguish between a personal and prejudicial interest.

What you will see:

The council are debating a planning application. As Councillor Collins begins to speak, Councillor Brown objects on the grounds that, as a member of both a national and a local environmental protection group, Councillor Collins has an interest that prevents her from speaking or even being present at the meeting.

1. Councillor Collins' interests:

- a. What effect does Councillor Collins' membership of these groups have on her right to participate in the discussion?

2. Breaches of the Code:

- a. What breaches of the Code, if any, are there in this scenario?

3. Declaration of interests:

- a. Which type of interest – personal or prejudicial – does Councillor Collins have in these circumstances?

The Code in Practice**SCENARIO 3 Personal and prejudicial interests****The view of The Standards Board for England****Councillor Collins' interests:**

If Councillor Collins merely has a personal interest in the matter under discussion then, so long as she declares that interest before the debate gets under way or as soon as the significance of her interest becomes apparent, she may take part.

If her interest is also prejudicial, she must declare this, leave the room and play no part in any discussions or decisions on the issue.

Breaches of the Code:

In this scenario, Councillor Collins has breached the Code by failing to declare the existence and nature of her interest in the issue being discussed.

The fact that Councillor Collins has listed her membership of both the environmental groups on her register of interests does not eliminate her obligation to declare these memberships at the meeting.

Declaration of interests:

Councillor Collins has a personal interest because of her membership of both the environmental groups. She was correct to register these.

On the facts presented in this scenario, it is unlikely that her interest in this issue is prejudicial. The Code is not intended to prevent members of particular pressure groups from putting forward their views.

Councillor Collins: *"I don't see why I shouldn't make my views public... that's why I was elected in the first place. I was elected because of them."*

Her personal interest would have been prejudicial if the local conservation group had been totally opposed to the development under any circumstances and she had been instrumental, perhaps as Chair of the group, in formulating that policy.

Please note that, although not strictly a question which arises under the Code of Conduct, members who discuss planning issues in the media need to be careful not to give the impression that they have closed their minds to the relevant arguments for and against a specific application. This is particularly important for members of planning committees with responsibility for determining planning applications.

Summary

- Interests in particular issues, whether registered or not, must be declared before discussions begin or when they become apparent.
- An interest is prejudicial if a reasonable member of the public, in possession of the relevant facts, would conclude it was serious enough to prejudice the member's judgement of the public interest.
- Being a member of an organisation, which has expressed a view on a particular issue, will give rise to a personal interest. However, such an interest will not necessarily be prejudicial.
- The Code of Conduct is not intended to prevent members expressing views on matters of local concern, although members should be careful not to close their minds to relevant arguments.

SCENARIO 5 The Investigation

Questions to consider

Once you have watched the scenario, work through the questions below.

The issue:

Many council members are uncertain of how The Standards Board for England handles allegations about possible breaches of the Code by councillors. This scenario, and the explanation from Standards Board representatives, illustrates and explains the types of allegation which may or may not result in an investigation.

What you will see:

This is a follow-up to the argument in scenario 2. Councillors Adams and Brown both receive letters from The Standards Board for England, in response to the allegations they have made about one another.

After you have heard the contents of each letter, a Standards Board representative will explain the basis for the different decisions that the letters contain.

How to use this scenario:

This scenario is intended to prompt general discussion on:

- the allegation process;
- the investigation process;
- the possible outcomes of an investigation.

The allegation process:

Allegations can be submitted in the form of a letter, but the Board would prefer members to use The Standards Board for England complaints form. A copy of this form can be obtained either from the Board, its website or local monitoring officers.

Allegations go to The Standards Board for England referrals unit, where they are considered, and a recommendation, together with all the evidence, is sent to the Board for a decision.

If the Board decides that an investigation is necessary, they submit the matter to an Ethical Standards Officer.

The investigation process:

Once an investigation is complete, the Ethical Standards Officer writes a draft report that is sent to the member against whom the allegation has been made, the complainant and the monitoring officer of the relevant authority, for comment.

In the case of town and parish councils, the Ethical Standards Officer will also send a copy of the draft report to the clerk.

The Ethical Standards Officer then produces a final report and will make one of four findings:

- there is no evidence of a breach of the Code of Conduct;
- no action needs to be taken;
- the issue should be referred for local adjudication. The case will be passed back to the local standards committee for a hearing for them to consider whether there has been any failure to comply with the Code and whether any sanction (which may include suspension from office) should be imposed;
- the matter should be referred to The Adjudication Panel for England.

