



STANDARDS COMMITTEE

—Agenda—

29 OCTOBER 2007

ITEM

PAGE

MINUTES – 30 JULY 2007

To confirm and sign the Minutes of the meeting held on 30 July 2007 as an accurate record.

APOLOGIES FOR ABSENCE

DECLARATION OF INTERESTS

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

A Councillor should not take part in the discussion or vote on any 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.

THE 6th ANNUAL CONFERENCE OF STANDARDS COMMITTEES – BIRMINGHAM 15 & 16 OCTOBER 2007

Oral report

To receive an oral report from delegates to the Annual Conference on any developments relating to the Code of Conduct or local investigation regime, including any relevant conference handouts.

STANDARDS COMMITTEE QUESTIONNAIRE FOR MEMBERS – THE NEW CODE OF CONDUCT

To consider and agree a questionnaire on the new Code of Conduct for circulation, completion and return by all members. The results to be analysed and presented to the Committee at its January meeting to inform any further training requirements for members.

THE LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH BILL – UPDATE

A report updating members on progress of the above Bill is attached for information.

STANDARDS BOARD GUIDANCE – HEARINGS: THE ESSENTIALS

The Standards Board has issued useful guidance to authorities regarding preparation for local hearings as an aide memoire. A copy of the guidance is attached for members' information.

STANDARDS BOARD FACTSHEETS

The Standards Board has issued (1st October) further guidance to authorities on aspects of the new Code of Conduct which will help clarify some of the more complicated provisions. These factsheets cover:

- Bullying
- Disclosing confidential information
- Gifts & hospitality
- Lobby Groups & declarations of interest
- Personal & prejudicial interests

Copies of the factsheets are attached for members' information

STANDARDS COMMITTEE WORK PROGRAMME

The Committee to note & update its proposed future work programme.

ANY OTHER BUSINESS

STANDARDS COMMITTEE

—Minutes—

30 JULY 2007

Members Present:

Mr. Steven Moussavi (Chairman)
Mr. Christopher Troke
Grace Moody-Stuart
Councillor Nicholas Botterill (from 7.25pm)
Councillor Donald Johnson
Councillor Lisa Homan

Officers in attendance:

Lesley Courcouf, ACE & Monitoring Officer
Michael Cogher, Head of Legal Services & Deputy MO
Kayode Adewumi, Head of Councillors' Services
John Cheong, Principal Committee Co-ordinator

ITEM

ACTION

PREAMBLE

Mr. Moussavi took the Chair for the 2007/08 Municipal Year in lieu of Mrs. Grace Moody-Stuart, and as agreed by the Annual Council Meeting. He thanked his predecessor, Mr. Christopher Troke, for ably chairing the Committee over the past municipal year, and reminded members of the Committee's purpose and responsibilities, especially in the light of the newly devolved local powers of investigation and adjudication.

Item 1 **MINUTES OF THE MEETING OF THE STANDARDS
COMMITTEE HELD ON Y 26 MARCH 2007**

RESOLVED - That the minutes of the meeting held on 26 March 2007 be agreed and signed as an accurate record.

ACE/JPC to note

Item 2 **APOLOGIES FOR ABSENCE**

Apologies for lateness were received from Councillor Nicholas Botterill

ACE/JPC to note

Item 3 DECLARATIONS OF INTEREST

There were no declarations of interest made by members of the Committee at this meeting.

Item 4 THE NEW MODEL CODE OF CONDUCT – MAY 2007

The Head of Legal Services, Michael Cogher, introduced the item and a powerpoint presentation on the New Members' Code of Conduct from the Standards Board for England. The Code had come into force on 3 May 2007 and had been adopted by the Council at its Annual Council Meeting on 30 May 2007.

The Chairman, Mr. Moussavi, suggested that it would be helpful if the Committee receive the complementary DVD training video compiled by the Standards Board at its next meeting in October, if it was available.

**ACE/JPC to
action**

Councillor Homan enquired whether the Head of Legal Services had received a large number of requests for advice relating to the Code since its introduction. HLS confirmed that he had received a regular number of requests, mostly in relation to Planning and Licensing issues. It was anticipated that, as a result of changes in the Code, new requests would be forthcoming on issues such as disclosure of confidential information in the public interest

RESOLVED: That the powerpoint presentation on the new Members' Code of Conduct be noted.

Item 5 STANDARDS COMMITTEE ARTICLE FOR HFM

The Committee received for comment an edited version of an article written by the past Chairman, Mr. Troke, for the Borough newspaper.

Mr. Moussavi commented that the quotations attributed to both himself and Mr. Troke were repetitious and needed to be revised. He also thought the number of complaints received by the Standards Board in 2006/7 needed to be clearly distinguished from the very low number of complaints actually received by LBHF.

The Committee also felt that the proposed headline "New Code to counter Councillor corruption" was misleading, as it seemed to imply that this had been an issue before, when clearly that was not the case. It was suggested that this be replaced with something more appropriate. It was also suggested by Councillor Johnson that more of Mr. Troke's original article be retained, perhaps as a Q&A box to one side. Councillor Botterill suggested the fact that LBHF had an enviable

record compared to other neighbouring Boroughs ought to be emphasised, although other members felt this might prove counter-productive, by inviting complaints to be made.

Councillor Johnson also suggested the article needed to emphasise clearly that the Standards Committee did not deal with or consider ordinary council complaints, only those in relation to ethical matters and the Code of Conduct, as there was a real danger the public would misunderstand the function of the Committee unless the HFM article was very carefully worded.

Members agreed that ACE (Lesley Courcouf) and the Acting Head of Press Office (Louise Raisey) be delegated to amend the article appropriately for publication in a forthcoming issue of the Borough newspaper.

**ACE/ LC &
Press Office/LR
to liaise and
redraft**

RESOLVED: Accordingly.

Item 6 **STANDARDS COMMITTEE WORK PROGRAMME**

Members discussed the possibility of using web surveys and other online training tools to test members' understanding of the Code, and to gain feedback on members' training needs.

The Head of Councillors' Services, Kayode Adewumi, informed the Committee that his previous authority (Camden) utilised an online training programme called "Modern Councillors", devised by the IDeA, which the Committee might be interested in trying.

Mr. Moussavi asked whether an online training programme could be devised of about 15 questions, based on the SBfE powerpoint. This suggestion was supported by Grace Moody-Stuart, who suggested multiple-choice answers with a feedback loop could be used to ensure members fully completed the course.

It was requested that officers investigate the feasibility of this method of training with IT and bring back a draft to the October meeting for the Committee to try out before it was published more widely.

**HLS/ MC & HCS/
KA to liaise and
action with IT**

Item 7 **INFORMATION ITEM – LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH BILL**

Noted report tabled at the meeting and circulated previously to members by e-mail.

The Head of Legal Services, Michael Cogher, outlined briefly the provisions of the clauses in the proposed Bill and how this would

impact on the work of the Standards Committee in future. The effect would mostly be felt if the number of cases being referred for investigation from the Standards Board were to increase, although indicators so far showed that this was unlikely.

HLS reported that at present there was little enthusiasm among other WLA Boroughs for joint working. The situation was however fluid, and once the Standards Committee local filters were in place, could change. It was suggested the Committee keep joint working proposals under careful review, as there was a danger of being drawn in to undertake investigations in other local authorities, while they would not be called on to reciprocate, due to the low numbers of LBHF complaints.

RESOLVED:

That the Committee note the report and receive a further report, together with detailed recommendations, once the Bill receives Royal Assent.

HLS/ MC to action

Item 8 **ANY OTHER BUSINESS**

- It was agreed by the Committee that Mr. Troke be nominated as the Committee's second delegate to the Standards Committees Annual Conference to be held in Birmingham on 15 & 16 October.
- Mr. Moussavi suggested that LBHF offer to "host" the next WLA joint Standards Committees discussion meeting (Brent, as lead member, to organise and invite SBfE speaker), and to extend the invitation to our partner Boroughs RBKC, Wandsworth & Westminster as well.

ACE/JPC to make booking arrangements

HLS/MC & ACE/JPC to investigate feasibility & make suitable arrangements

Meeting began : 7:00 pm

Meeting ended : 8:18 pm

CHAIR.....

29 OCTOBER 2007

CONTRIBUTORS

**STANDARDS COMMITTEE QUESTIONNAIRE FOR
MEMBERS – THE NEW CODE OF CONDUCT**

WARDS

HLS

ALL

Synopsis

The attached questionnaire is designed to test members' knowledge of the operation of the new Code of Conduct.

The results will be fed back to the Standards Committee to inform them as to whether further member training on the operation of the Code is required.

The Committee is asked to agree the questionnaire for circulation to all Councillors, to be completed and returned within one month (i.e by 30 November) for the January meeting of the committee.

RECOMMENDATION:

That Members agree the proposed questionnaire for circulation to all Councillors.

**STANDARDS COMMITTEE QUESTIONNAIRE
THE NEW CODE OF CONDUCT FOR MEMBERS**

[All Councillors are asked to complete the attached questionnaire as a test of their knowledge on the operation of the new Members' Code of Conduct. The results will be fed back to the Standards Committee to inform them if further member training is required. Please return the questionnaire no later than **30 November 2007** to: Kayode Adewumi, Head of Councillors' Services, Room 202a, Hammersmith Town Hall, King Street W6 9JU]

Councillor Name.....

Please ring one answer from A, B, C, or D below.

1. The Code of Conduct applies to a member:-
 - A. When they conduct the business of the Council
 - B. In their private life
 - C. When they give the impression that they are acting as a representative of the Council
 - D. In their place of work or business

2. The body responsible for overseeing the Code of Conduct is:-
 - A. The Ombudsman
 - B. The Standards Board for England
 - C. The District Auditor
 - D. The Administrative Court

3. Which of the following is not prohibited by the Code of Conduct?
 - A. failing to treat others with respect
 - B. bullying any person
 - C. robustly criticising Council policies
 - D. compromising the impartiality of officers

4. Confidential information may be disclosed by a member in which of the following circumstances?
 - A. Where it is politically advantageous to do so
 - B. Where the information relates to a matter in the Councillor's own ward
 - C. Where it is reasonable to do so and in the public interest
 - D. Where there is press interest in the subject

5. Where a member has a personal interest in a matter being considered at a committee meeting the member should:-

- A. Leave the room
- B. Declare the interest but remain and neither speak nor vote
- C. Declare the interest but remain, speak and vote
- D. Do nothing

6. Where a member has a prejudicial interest in a matter being considered at a committee meeting the member should:-

- A. Not attend the meeting
- B. Leave the room
- C. Declare the interest but remain and neither speak nor vote
- D. Declare the interest and leave the room for that item

7. Under the Code of Conduct when using the Council's resources a member must:-

- A. Ensure that they are not used for inappropriate political purposes
- B. Try to keep their use to a minimum
- C. Ensure that any equipment provided is insured
- D. Notify the Monitoring Officer

8. A member must notify the monitoring officer of changes to their register of interests:

- A. Annually
- B. Within 14 days
- C. Within 28 days
- D. Promptly

9. A member must register the interests of a person from whom they have received gifts or hospitality from to the estimated value of at least:-

- A. £5
- B. £15
- C. £25
- D. £50

10. Where more than 50% of the membership of a committee are precluded from participating due to a prejudicial interest a dispensation may be granted to those members where appropriate by:-

- A. The Standards Board for England
- B. The Secretary of State
- C. The Standards Committee
- D. The Adjudication Panel

11. Which for the following is not currently a function of a local Standards Committee?

- (a) The investigation of complaints referred to it by an Ethical Standards Officer
- (b) The investigation of complaints made to it directly
- (c) The determination of reports referred to it by an Ethical Standards Officer
- (d) Applying sanctions to Councillors in cases referred to it

12. When reaching decisions on any matter the Code of Conduct requires a member to have regard to any relevant advice provided by:-

- A. The Chief Whip
- B. The Chief Executive
- C. The Leader
- D. The Monitoring Officer

13. The maximum penalty which can be imposed by the Adjudication Panel for breach of the Code is:-

- A. Disqualification for not exceeding 5 years
- B. Suspension not exceeding 1 year
- C. Partial suspension for up to 1 year
- D. Censure

14. Which of the following does not have to be registered as an interest by a member:-

- A. Their employment or business
- B. Membership of a political party
- C. Land in the borough in which the member has a beneficial interest
- D. The Council services which they use

15. Under the Code, a **prejudicial** interest is:-

- A. An interest in which a member has a direct or indirect pecuniary interest in any contract proposed contract or other matter before the meeting in question.
- B. A private or personal interest which is so clear and substantial that an ordinary member of the public, knowing the facts of the situation, would reasonably think might influence the member.
- C. An interest which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest.
- D. Arises from a matter in respect of which the member has made their public position so clear and unequivocal that a member of the public with knowledge of the relevant facts would reasonably conclude that the member had predetermined the matter in question.

29 OCTOBER 2007

CONTRIBUTORS

STANDARDS COMMITTEE REPORT – LOCAL
GOVERNMENT AND PUBLIC INVOLVEMENT IN
HEALTH BILL

WARDS

ALL

HLS

Synopsis

This report sets out options for how the Committee could organise itself to best deal with local determinations and hearings of complaints under the Members' Code of Conduct , following the anticipated change in legislation.

RECOMMENDATIONS

That the Committee:

- a) consider the options for how the Council may best implement the new arrangements for local determinations and hearings,
- b) make recommendations on which option should be worked up for final approval,
- c) agree that the Assistant Chief Executive will bring back detailed proposals, to the next meeting of the Committee.

1 REASON FOR DECISION AND OPTIONS CONSIDERED

1.1 The Local Government and Public Involvement in Health Bill will most probably receive Royal Assent and come into force in time for the start of the next municipal year. The Bill as currently drafted includes a number of important changes in the way the standards regime operates, and it is important that the council anticipates and plans for the likely introduction of those changes. It is important that this committee considers its preference for the best way forward for consideration by full council.

1.2 At present, complaints about councillors or independent or co-opted members are made directly to the Standards Board for England. The Standards Board carries out an initial “filter” procedure, deciding which complaints shall be dismissed without any investigation, which complaints should be referred back to the local standards committee for investigation and decision, and which complaints shall be investigated and determined by the Adjudication Panel for England (which is a central body organised and clerked by the Standards Board). If the provisions of the new Bill come into force, this procedure will change and all complaints will be made directly to the standards committee of the council concerned.

1.3 Time restrictions will apply for the various decision stages, there will be requirements for regular returns on the fact and outcomes of complaints, and the Standards Board will retain the right to suspend the powers of local standards committees in some circumstances – most probably (although regulations have yet to be issued on this point) where a local standards committee is clearly not carrying out its functions correctly and responsibly. Reasons for decisions taken will be required to be given at every stage of the process.

1.4 It is likely that the new provisions will take effect from the start of the next municipal year (ie. May 2008).

1.5 Key processes which the council will need to plan for and organise are:

- (a) *Which body will take the “initial filter” decision ?* This decision will determine whether a complaint is dismissed without investigation, is investigated and determined locally by or on behalf of the standards committee, or (in the case of the most serious allegations only) is referred to the Standards Board for England. This “initial filter” body will need to be in a position to meet up quickly following receipt of a complaint. Although guidance is awaited on this point, it is possible that members who take this initial decision will be conflicted and unable to take part in decision (b) below in relation to any one complaint.

- (b) *Which body will take the substantive decision on complaints referred – following the initial filter decision - for local investigation and decision?* This is a process with which the Standards Committee is already familiar, although in future it is anticipated that a greater proportion of complaints will be referred for local determination rather than by the Standards Board.
- (c) *Which body will handle any appeals against decisions by the initial filter body that no action should be taken in respect of a complaint ?* For obvious reasons, members of the initial filter panel will not be able to take part in any decision relating to an appeal on a decision they have taken.

1.6 It is almost certain that regulations will require at least one independent member of the Standards Committee to be on each decision-making body within the complaint process.

1.7 Options for organisation of the three process stages include the following

- (a) Three sub panels of the Standards Committee, each containing at least one independent member. Membership of the three panels could either be fixed from the outset of each municipal year, or fluid (subject to political balance requirements) - dependent upon the availability of individuals from time to time. It is however likely that no Standards Committee member could sit on more than one panel in relation to the same complaint. The panels could be of different sizes, dependent upon the energy which it is felt should be brought to any particular stage in the process. It would seem sensible that if the option is taken to have differently-sized panels then the largest should be the substantive decision-making body, taking decisions under 1.5 (b).
- (b) An arrangement is entered into with a neighbouring borough, whereby stages 1.5 (a) or (c) above are carried out by the standards committee (or a sub committee of it) of that neighbouring borough, with LBHF's Standards Committee (or a sub committee of it) carrying out the reciprocal roles on behalf of that neighbouring borough. Initial discussions with the West London Alliance boroughs suggest that this is unlikely to be an option.
- (c) Subject to such an arrangement being permitted by the law as eventually enacted, the possibility be explored of either a single independent member or an officer carrying out steps 1.5 (a) or (c) above. This option may however have the effect of unacceptable pressure being put upon one individual – or undue criticism being leveled at that individual.

1.8 The committee is asked to consider the options set out above. Officers will then work up detailed proposals in accordance with the preferred approach of the committee, and bring these back for decision at the next meeting. It is almost certain that the final arrangement will require changes to the constitution and that approval of full council will therefore be required. It may also be necessary to further “tweak” arrangement proposals, once the form of the final Act and related regulations is known.

2. TIMETABLE FOR IMPLEMENTATION

January 2008 : Standards Committee considers detailed proposals for structures and procedures to implement the anticipated new statutory requirements

March / April 2008 : provisions of the new Local Government and Public Involvement in Health Bill are enacted, together with related regulations

April 2008 : new statutory requirements come into force

March / April / May 2008 (depending upon when the new statutory requirements are finally known) : full council adopts the new arrangements, which then come into force immediately

3. COMMENTS OF HEAD OF LEGAL SERVICES

The format of the final decision-making arrangements will be governed by the requirements of the Local Government and Public Involvement in Health Bill as finally enacted – which will not necessarily be the same as the draft Bill currently in circulation. Many of the procedures will be the subject of detailed regulations in due course, which will of course be binding upon the council. These are not yet available even in draft, so their final form can only be guessed at this stage

LOCAL GOVERNMENT ACT 2000 BACKGROUND PAPERS

No.	Brief Description of Background Papers	Name/Ext. of holder of file/copy	Department/Location
1.	Local Govt. & Public Involvement in Health Bill working papers	Michael Cogher x 2700	Room 133a, Hammersmith Town Hall

Hearings: The essentials

Legislative framework

Primary legislation – *Local Government Act 2000 (Part III)*

Please note that two new sections (sections 54A and 82A) were introduced by the *Local Government Act 2003*. Both of these sections have significant implications for standards committee hearings.

Section 54A gives standards committees powers to appoint sub-committees to discharge their functions (including the function of conducting hearings).

Section 82A gives monitoring officers power to nominate another person to carry out their functions. For example, they could appoint another person to advise the standards committee if there is a conflict of interest preventing them from doing so.

The primary legislation provides a broad framework. The specific details for conducting standards committee hearings are to be found in secondary legislation, this being *Local Authorities (Code of Conduct) (Local Determination) Regulations 2003* (SI 2003/1483) and the *Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004* (SI 2004/2617).

Although the 2004 regulations were mainly concerned with making provision for local investigations, they also introduced significant changes to the rules for local hearings. The range of sanctions was extended and the powers to request further investigation or referral back to the ethical standards officer were introduced for the first time. References in this document to the local determination regulations are to the 2003 regulations as amended in 2004.

The *Relevant Authorities (Standards Committee) Regulations 2001* (SI 2001/2812) contain provisions that apply to all standards committee meetings, including local hearings.

The Standards Board for England's guidance on standards committee determinations was issued in July 2003. It provides guidance on how to conduct the whole process from receipt of the ethical standards officer's report onwards. It also provides a model procedure for the conduct of standards committee hearings. This guidance is available on the Standards Board for England's website at www.standardsboard.gov.uk

It is essential that you are aware of which Code applies at the time of the alleged breach. Remember that some cases may be dealt with under the 2001 code whilst others may be dealt with under the revised Code of Conduct. Always check that you have a copy of the Code for the authority in question at the hearing.

continues overleaf

NB: the guidance needs to be read alongside the 2004 regulations. As explained on the previous page, these regulations introduced some significant changes to the rules.

Common law principles

Like all public bodies, each standards committee has an obligation to ensure that its proceedings are procedurally fair. Each member has an important role to play in achieving this.

The two basic principles contained within the concept of 'procedural fairness' at common law are the right to a fair hearing and the absence of bias. You may have heard these referred to as the 'rights of natural justice'. These common law obligations run in parallel with the statutory requirements. Thus, in relation to a 'fair hearing', the member's right to present evidence and make representations at the hearing go some way to ensuring a 'fair hearing'.

Similarly the important fact that all members of the standards committee (including independent members) are themselves subject to the Code of Conduct and, in particular, the rules about personal and prejudicial interests, will help to avoid any bias.

Members should note that it is not only the Code of Conduct which may prevent them from participating in a particular hearing. There may be other grounds on which there is a conflict of interest or a real possibility of bias, both of which would mean that the member would have to withdraw from participation. Members should take advice from their monitoring officer (or appointed legal adviser) at an early stage if they have any concerns about participation.

The standards committee must do everything it reasonably can to ensure that the subject member receives a fair hearing. This means that where members are taking procedural decisions these must be taken in the light of that over-arching obligation. This could be relevant before a hearing, as well as at a hearing. Examples of procedural decisions include a request by the subject member to call various witnesses to give evidence or a request to introduce additional evidence at a late stage.

Time limits

Members should be aware of the three month time limit for holding hearings. Regulation 6(2)(b) of the local determination regulations requires standards committees to hold any hearing within three months of the date on which the ethical standards officer's report is received. For local investigations, where the investigator considers that there is a breach or the standards committee decides that there is a case to answer (although the investigator concluded no breach), the time limit is three months from the final report.

This is a challenging deadline for the monitoring officer to meet and standards committee members should also bear it in mind when making procedural decisions in order to assist in meeting the deadline. The first step for the monitoring officer will be to send a copy of the report (including any exhibits) to the subject member. A provisional date for the hearing should be set as soon as possible, in consultation with the subject member and relevant members of the standards committee.

The importance of adhering to the three month time limit was highlighted in the case of *R (on the application of Dawkins) v Standards Committee of Bolsover District Council [2004] EWHC 2998*. In that case, the judge held that unforeseeable circumstances, such as the sudden illness of the subject member, might prevent the three month deadline being met. However, the standards committee had to make ‘a genuine and determined effort’ to meet the deadline. The judge in that case observed:

“The deadline is not simply a target which the standards committee should try to get as close to as is reasonable. The test is not whether one can sympathise with hindsight, nor is it whether it is understandable, to an extent, that the deadline was not treated with the importance which the statute gives it. The test is whether there was substantial compliance with it”.

In the absence of a genuine and determined effort to meet the deadline, a standards committee determination made after the deadline had expired would be unlawful. That was the outcome in the *Dawkins* case.

The hearing – who must be present?

There must be **three members** for a standards committee or sub-committee to be quorate, at least one of whom must be an ‘independent’ member. An exception applies where an independent member is prevented from participating because of a prejudicial interest. Having said this, the Standards Board for England’s view is that it would be most unwise to rely on this exception in relation to a standards committee hearing. Regulation 6 of the standards committee regulations 2001 sets this quorum.

Where a hearing concerns a member of a parish council, section 55(6) of the *Local Government Act 2000* requires that a parish council member must be present at any meeting of the standards committee. Although section 55(7) of that Act is not drafted in identical terms, it is clearly best practice for a parish council member to be present at any meeting of a sub-committee dealing with parish council members.

Standards Board for England guidance

Regulation 6(2)(a) of the local determinations regulations requires standards committees to 'have regard' to guidance issued by the Standards Board for England. As previously mentioned, this guidance is available on the Standards Board for England's website (www.standardsboard.gov.uk). Standards committee members should be aware of this guidance. If the committee choose not to follow it, they should have good reasons for departing from it so that they can justify their decision if there is a subsequent challenge. The guidance makes the following key recommendations:

- sets out a pre-hearing process designed to identify any disputed facts
- suggests that matters should be heard by a panel of three or five members
- suggests that one of the independent members should chair the hearing

Rights of the member

The regulations require the subject member to be "given an opportunity to present evidence in support of his case" and to be "given the opportunity to make representations at the hearing". These are very important rights that help to ensure that the member is given a fair hearing. It is essential that the member be given an opportunity to put his case and to present evidence that is relevant to the matters before the standards committee. Regulations 6(2)(d) and (e) of the local determination regulations refer.

One of the aims of the pre-hearing process is to prevent the standards committee being taken by surprise by unexpected disputes of fact on the day of the hearing. Paragraph 15 of the model hearing procedures set out in the Standards Board for England's *Standards committee determinations* guidance suggests how such disputes should be dealt with if they arise on the day of the hearing. The committee can refuse to allow the member to raise the matter. This may be the appropriate course where the committee is not satisfied with the reasons given by the member for failing to raise the issue before the hearing and further considers that it would not be possible to deal with the matter without an adjournment. However, in an appropriate case, the committee can adjourn the proceedings to allow further evidence to be obtained.

Findings of the committee

The committee must come to clear conclusions as to:

- a. the disputed facts
- b. whether there has been any breach of the Code of Conduct, and if so
- c. whether any sanction should be imposed

The Standards Board for England's model procedure suggests that the committee should withdraw to consider their conclusions separately in relation to each of these three issues. It has been suggested that this is an overly cumbersome approach and that disputed facts and breach of the Code of Conduct could properly be dealt with together. We disagree. We believe it is helpful, especially where the facts are complicated, for standards committees to distinguish between determining any facts in dispute and the question of whether or not there has been a breach of the Code of Conduct. In our view, the three-stage process helps committees to do this.

Sanction

This stage is only reached if the committee find that there has been a failure to comply with the Code. The committee need to consider the full range of sanctions available, tailoring any sanction to the facts of the case before them. They must remember that there is no obligation to impose any sanction at all.

The committee should consider any aggravating and mitigating factors that apply. If the member is present they can set out mitigating factors even if they have not previously identified these. Guidance as to identifying mitigating/aggravating factors is set out on pages 10 and 11 of the *Standards committee determinations* guidance. Examples of factors that might be relevant include the member's knowledge of the Code of Conduct at the time of the incident, the consequences of the misconduct, whether the member accepts that they have breached the Code of Conduct, whether an apology has been offered and whether there is likely to be any repeat of the misconduct. Bullying of officers or trying to gain an improper advantage are identified in the guidance as particularly serious breaches.

As already noted, the range of sanctions available was extended in 2004 (note that the list on pages 9 and 10 of the *Standards committee determinations* guidance is not up to date). It is also important to remember that the standards committee can combine sanctions. So a member can be required to apologise **and** undertake training, or be suspended **and** be required to undertake conciliation.

continues overleaf

Giving reasons

Regulation 8 of the local determinations regulations requires the standard committee to give reasons for its decision. This is an important requirement and failure to give reasons could give grounds for appeal.

In *R v Brent London Borough Council, ex p Baruwa (1997) 29 HLR 915 at 929*, Lord Justice Schiemann observed:

“It is trite law that where, as here, an authority is required to give reasons for its decision it is required to give reasons which are proper, adequate, and intelligible and enable the person affected to know why they have won or lost. That said, the law gives decision makers a certain latitude in how they express themselves and will recognise that not all those taking decisions find it easy in the time available to express themselves with judicial exactitude”.

The reasons should explain why the committee reached the conclusions it did. The reasons should deal with any representations made by the parties, particularly those made by the subject member. It would be most unwise for the committee to say simply that it ‘accepted the reasoning in the ethical standards officer’s report’ without further elaboration or explanation. Reasons should cover each of the stages of the decision – facts, reasoning as to whether or not there has been a breach of the code and, if there is a breach, decision on sanction.

Other outcomes

The 2004 amendments to the local determination regulations gave standards committees two additional powers in relation to hearings. Regulation 6(9) allows the committee to adjourn the hearing and require the monitoring officer to seek further information or undertake further investigation. This is a valuable tool for standards committees who consider that, for whatever reason, they do not have sufficient information to deal with the matter fairly. However, the power needs to be used with caution since any adjournment will inevitably lead to delays in resolving the matter.

Regulations 6(10) of the local determination regulations gives standards committees the power to request a referral back to the ethical standards officer. It is expected that this power might be exercised if the standards committee considered that a matter merited more severe sanctions than those available to the committee. It is important to remember that the decision whether to accept such a request remains with the ethical standards officer. The committee cannot force the ethical standards officer to take a case back. As with the power to request further investigation, committees should treat requests for referral back with caution since they will inevitably lead to delays.

In the interests of fairness it is advised that, if the standards committee is minded to exercise one of these powers, they should give both the subject member and the ethical standards officer's representative the opportunity to make representations before reaching any final decision.

Things to avoid

It is essential that the standards committee should not allow itself to be a mere 'rubber stamp' for the ethical standards officer's report. They should not uncritically accept the findings of fact or the reasoning put forward by the ethical standards officer or investigator. The committee must consider carefully any evidence or representations put forward by the subject member. This includes representations made during the investigation, representations made prior to the hearing and representations made at the hearing. The committee's reasons should demonstrate that the member has been given a fair opportunity to put his or her case across.

However, this must be balanced against the need to prevent the standards committee's time being wasted on irrelevant matters or witnesses. Some members find it difficult to focus on the issues set out in the report and will be tempted to bring in a variety of matters that are only of tangential relevance to the hearing or sometimes of no relevant at all. A firm-but-fair approach is needed here. The committee's primary task is to decide whether or not the member breached the Code of Conduct. It is unlikely to be a good use of the committee's time to hear oral evidence that is either undisputed or not relevant to the alleged breach of the Code of Conduct.

'Character evidence' is likely to be relevant only to the third stage of the process, in relation to any appropriate sanction. Such evidence is usually undisputed and may be most conveniently dealt with on paper, through written testimonials.

It is important to remember that regulation 6(6) of the local determination regulations provides that the committee 'may place a limit on the number of witnesses a member may call if it is of the view that the number the member proposes to call is unreasonable'.

The *Standards committee determinations* guidance also includes the following crucial sentence (on page 8):

"...the standards committee may choose not to hear from certain witnesses if it believes that they will simply be repeating evidence of earlier witnesses or if a witness will not be providing evidence that will assist the standards committee to reach its decision".

The over-arching principle is that the standards committee has the right to govern its own procedures as long as it acts fairly. The standards committee (and, in particular, the chair) must strive to ensure that it does not lose control of the hearing.

At the end of a hearing

As soon as is reasonably practical after the hearing, the standards committee must give its full written decision to the relevant people. We recommend that the standards committee give its full written decision to those people within two weeks.

Conflicts of interest

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

- to provide advice to the standards committee
- to advise members who are the subject of an allegation and the person making the allegation
- to deal with cases of alleged misconduct referred to them by an ethical standards officer (this is a statutory role that can be delegated)
- to advise members about conduct issues before any alleged misconduct takes place

An investigation could potentially create a conflict of interest between these roles. For example, if you were asked to investigate an allegation against a member that you had advised on the same issue, it is likely that a conflict of interest would arise. In these situations, you should delegate the investigation to somebody else.

Advising standards committees

In previous guidance, we recommended that monitoring officers should act as main advisers to standards committees on cases referred by an ethical standards officer for local determination unless they have an interest in the matter that would prevent them from performing the role independently. It is vital that standards committees have access to appropriate advice on cases that have been referred for local investigation, as well as those referred only for determination.

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

Personal conflicts

Take care to avoid any personal conflicts of interest. If you find that you have a direct or indirect interest in a local investigation – for example, you have a direct financial interest in the subject of the allegation or a family member or friend is involved – you must not participate. Instead, you should notify the standards committee, the member concerned, the complainant and the ethical standards officer, explaining:

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

Delegation of investigations

Under section 113 of the *Local Government Act 2003*, monitoring officers can delegate investigations to their deputy or to any other person they wish to conduct a local investigation. As with monitoring officers, deputies and nominated people do not have to be legally qualified but are obliged to follow guidance issued for monitoring officers. Under section 5(1)(b) of the *Local Government and Housing Act 1989*, local authorities must provide you with sufficient resources to perform your duties. Deputies have the right to the same support as monitoring officers.

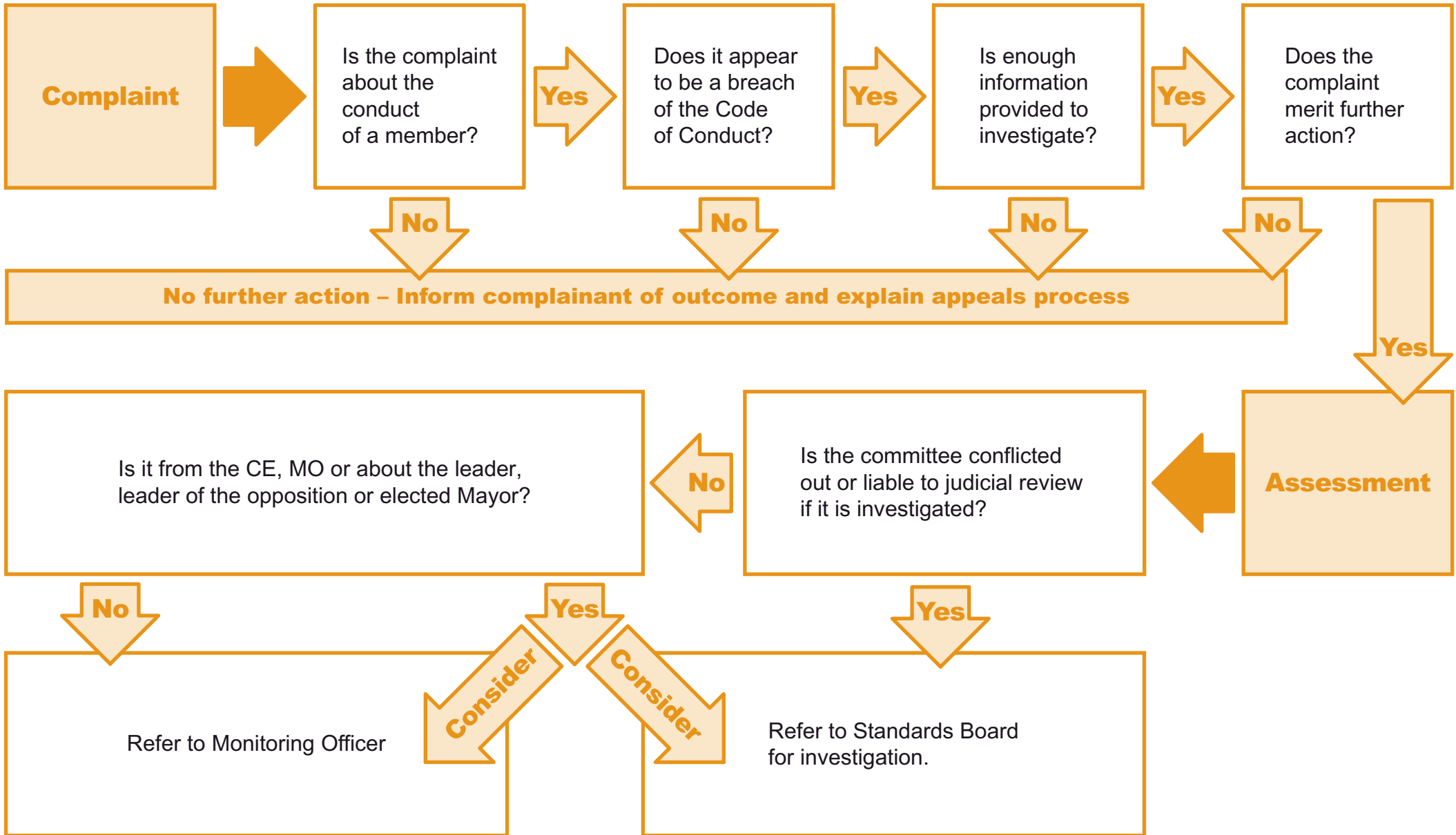
In many authorities, monitoring officers will be able to appoint a member of staff to carry out their investigation. Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities to make sure that an experienced officer is available to carry out an investigation, should the need arise. Authorities may also decide to hire suitable people from outside the organisation to carry out investigations. To ensure that there is no confusion concerning the role and authority of the person delegated to conduct the investigation, monitoring officers should use a formally instituted procedure to record that they have delegated their investigative role to another person. You must inform an ethical standards officer if you delegate an investigation, in case they need to provide the investigator with more information.

Further help

The Standards Board for England has published a DVD which includes advice on conducting a standards committee hearing. The DVD was distributed to all principal authorities at the beginning of 2006. The Standards Board for England website contains the guidance as referred to above, as well as links to the regulations mentioned above.

Local Filter Pilot Complaint Handling Chart

Sixth Annual Assembly of Standards Committees 15-16 October 2007, ICC, Birmingham



Bullying

Relevant Code paragraphs: 3(2)(b) and 3(2)(c)

Summary: This document provides key information and answers frequently asked questions about bullying under the 2007 revised Code of Conduct for members.

Date published: 1 October 2007

Key facts

- You must not bully anyone including other councillors, council officers or members of the public.
- Bullying can be described as offensive, intimidating, malicious, insulting or humiliating behaviour, towards someone weaker than you or someone you have, or believe to have, influence over.
- Bullying may happen once or be part of a pattern of behaviour.
- Bullying attempts to undermine an individual or group of individuals and it can have a damaging effect on a person's confidence, capability and health.
- You must not intimidate anyone who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a Code of Conduct investigation.
- Bullying can be contrasted with the legitimate challenges a member can make when questioning policy or scrutinising performance (as long as it is done appropriately and is not offensive or disrespectful).

Frequently asked questions

Q1 Why is bullying such a serious issue?

Bullying can have a significant effect on victims and the authority's ability to provide services by affecting the morale of staff and the authority as a whole. This is because bullying can create a working environment with an atmosphere of mistrust, insecurity and fear.

In some cases, bullied officers require long periods of leave because of ill health or stress which can damage the running of an authority. This is particularly the case in parish and town councils, where there may only be a small team of employees. Quite often, officers feel unable to return to their role or even to carry out work of a similar nature.

Q2 Is bullying only bullying when it is done face-to-face?

Bullying is any insulting or offensive behaviour towards an individual or group of individuals.

This includes using physical force or making abusive personal remarks about or to the victim not only face-to-face, but by email, letter, through the press, at council meetings or by other means.

Q3 How can it be proved that bullying has occurred?

It is possible to investigate complaints of bullying if there is clear evidence that it may have occurred, for example if the complainant has kept a detailed record of the incidents and the context in which they took place.

Clear evidence is required so objective assessments can be made more easily as to whether these may be a breach of the Code of Conduct. This is because it is more difficult to judge bullying from general remarks, such as 'the councillor is always undermining me through her comments'.

To test whether bullying is taking place, ask yourself whether a neutral third party with all the facts would regard the conduct as bullying. In some circumstances, the claims are cases of oversensitivity to criticism, or a breakdown in a relationship between officers and members without an indication of any bullying.

Q4 Is it possible to take part in a vigorous political debate without breaching the Code of Conduct?

Disrespectful, intimidating or demeaning behaviour which is not carried out from a position of power or authority may not be bullying. But it may still be a breach of the Code of Conduct, e.g. by failing to treat others with respect.

For example, if a member uses inappropriate language or is disrespectful to another member during a debate, it may not be classed as bullying because a platform is present for the other member to defend themselves.

On the other hand, a member making abusive and disrespectful comments about an officer during a debate may be seen as bullying because the officer is not able to defend themselves.

Additional information

- *The Code of Conduct: Guide for members May 2007* offers more guidance on the Code and can be downloaded from our website - www.standardsboard.gov.uk.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
- View our occasional paper on bias and predetermination, available online.
- Call our enquiries line on **0845 078 8181**.
- Email us at enquiries@standardsboard.gov.uk.

Disclosing confidential information

Relevant Code paragraphs: 4(a)

Summary: This fact sheet provides a summary of key points and frequently asked questions about disclosing confidential information under the 2007 revised Code of Conduct for members.

Date published: 1 October 2007

Key facts

- Confidential information can only be disclosed when at least **one** of the following circumstances applies:
 - 1) You have to disclose the information by law.
 - 2) An authorised person says that you can disclose it.
 - 3) You need professional advice from a third party, for example your lawyer, and that person agrees not to pass the information to anyone else.
 - 4) The disclosure is in the public interest. This is only justified in limited circumstances (see below).
- Disclosure of confidential information, or information which you believe to be confidential for any other reason, is likely to be a breach of the Code.
- Disclosure of confidential information in the public interest can only be justified when **all** of the following requirements are met:
 - a) The disclosure must be reasonable.
 - b) The disclosure must be in the public interest.
 - c) The disclosure must be made in good faith.
 - d) The disclosure must be made in compliance with any reasonable requirements of your authority.

Frequently asked questions

Q1 When is a public interest disclosure “reasonable”?

This depends on the facts of the case and is a matter of judgement. However, you will need to consider issues such as:

- Whether you believe that the information disclosed, and any allegation contained in it, is true. If you do not believe it is true, then the disclosure is unlikely to be reasonable.
- Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
- The identity of the person to whom you make the disclosure. It may be reasonable to disclose information to the police but not to the world at large through the media.
- The extent of information disclosed. The inclusion of unnecessary detail is unlikely to be reasonable.
- The seriousness of the matter. The more serious it is, the more likely it is that the disclosure will be reasonable.
- The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, then the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to reoccur.
- Whether the disclosure involves your authority failing in a duty of confidence to another person.

Q2 When is a disclosure “in the public interest”?

For a disclosure to be in the public interest it needs to involve at least one of the following matters, or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:

- A criminal offence is committed.
- Your authority or some other person fails to comply with any legal obligation to which they are subject.
- A miscarriage of justice occurs.
- The health or safety of any individual is in danger.
- The environment is likely to be damaged.
- Information showing any of the above is deliberately concealed.

Q3 When is a public interest disclosure “made in good faith”?

To make a disclosure in good faith you must not act with an ulterior motive, for example to achieve political advantage.

Q4 How do I comply with the “reasonable requirements of my authority”?

Before considering releasing confidential information you must ensure that you comply with your authority’s policies or protocols on matters such as whistle-blowing or member-officer relationships and confidential information, in addition to considering requirements (a)-(c) in the key facts above.

If your authority does not make any requirements to cover the possibility of a member considering a release of information, then the test for disclosing confidential information is a three-stage one – namely it must satisfy the requirements (a)-(c) as above.

However, the Standards Board recommends that authorities ensure they have policies on matters such as whistle-blowing in place and that they take steps to ensure that all members are familiar with the provisions.

Appropriate and robust authority protocols can assist in ensuring the protection of confidential information where appropriate, and in promoting and upholding high ethical standards more generally.

Q5 When is a public interest disclosure not capable of being justified?

When a disclosure amounts to a criminal offence or when information is protected by legal professional privilege, it is extremely unlikely its release could be justified in the public interest.

Additional information

- *The Code of Conduct: Guide for members May 2007* offers more guidance on the Code and can be downloaded from our website - www.standardsboard.gov.uk.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
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- Email us at enquiries@standardsboard.gov.uk.

Gifts and hospitality

Relevant Code paragraphs: 8 and 13

Summary: This document provides key information and answers frequently asked questions about registering gifts and hospitality under the 2007 revised Code of Conduct for members.

Date published: 1 October 2007

Key facts

- You must register any gifts or hospitality worth £25 or over that you receive in connection with your official duties as a member. You must also register the source (for example, the person, firm, body or company) of the gift or hospitality.
- You must register the gift or hospitality and its source within 28 days of receiving it.
- You automatically have a personal interest in a matter if it relates to or is likely to affect the source of the gift or hospitality that is registered.
- You must declare the existence and nature of the gift or hospitality, the source who gave it to you, how the business under consideration relates to that source, and then decide whether that interest is also a prejudicial interest.
- Once three years have passed since you registered the gift or hospitality, your obligation to disclose that interest to any relevant meeting ceases.

Frequently asked questions

Q1 Is the gift or hospitality connected to my official duties as a member?

You should ask yourself, “would I have been given this if I was not on the council”? If you are in doubt as to the motive behind a gift or hospitality, we recommend that you register it or speak to your monitoring officer (or your parish or town clerk where appropriate). What matters is to show who you have received a gift or hospitality from, and to make that known when business related to them is discussed at a council meeting at which you are present.

You do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family, or gifts which you do not accept.

However, you should always register a gift or hospitality if it could be seen as something given to you because of your position or if your authority requires you to do so. It may also be good practice to register declined gifts.

Q2 What if I do not know the value of a gift or hospitality?

The general rule is, if in doubt as to the value of a gift or hospitality, you should register it as a matter of good practice and in accordance with the principles of openness and accountability in public life.

You should also register an accumulation of small gifts you receive from the same source over a short period that add up to £25 or more.

Q3 What about official gifts or hospitality given to the civic mayor or chair of a council?

There are no special rules for those who serve as mayor or chair of an authority. Gifts that are clearly made to the authority do not need to be registered. Gifts made directly to a mayor or chair’s charity appeal also do not need to be registered.

On the other hand such gifts ought to be recorded for audit, and perhaps insurance purposes on the council’s asset inventory. Although the mayor or chair may attend many social functions they are not exempt from the requirement to register hospitality.

All hospitality over £25 must be registered under the Code.

Q4 What does “hospitality” mean?

Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

Q5 Does the revised Code require me to register the interests of people that give me gifts or hospitality?

No. The Standards Board believes the revised Code requires you to register any gifts or hospitality worth £25 or over that you received in connection with your official duties, and the source of the gift or hospitality.

Q6 Do I have to transfer my gifts and hospitality register from before 2007 onto the new, publicly available, general register of interests?

If you were a member prior to the revised Code being introduced in 2007, you are likely to have a register of gifts and hospitality which was separate to the publicly available registers of members' interests under the 2001 Code.

You do not need to copy or transfer your register of gifts and hospitality onto your general register of interests under the revised Code. This is because we believe the new Code cannot be applied retrospectively.

As a result, gifts and hospitality received prior to the revised Code coming into effect in your authority (on 1 October 2007 or on the date your authority adopts it - whichever is earlier), will also not give rise to a personal interest under the revised Code.

Additional information

- *The Code of Conduct: Guide for members May 2007* offers more guidance on the Code and can be downloaded from our website - www.standardsboard.gov.uk.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
- View our occasional paper on bias and predetermination, available online.
- Call our enquiries line on **0845 078 8181**.
- Email us at enquiries@standardsboard.gov.uk.

Lobby groups and declarations of interest under the Code of Conduct

Relevant Code paragraphs: 8 – 12

Summary: This document provides key information and answers frequently asked questions about lobby groups and declarations of interest under the 2007 revised Code of Conduct for members.

Date published: 1 October 2007

Key facts

The revised Code of Conduct

- The Code of Conduct was revised in 2007. It is now less restrictive than the 2001 Code for members who participate in campaigns or are members of lobby groups. Some members, who found they were prevented by the 2001 Code from voting on a matter important to them or their lobby group, will not have a prejudicial interest under the revised Code of Conduct.

Register of interests

- Membership of lobby or campaign groups should be included on your register of interests, as these are bodies “whose principal purposes include the influence of public opinion or policy” under paragraph 8(1)(ii)(cc).
- Even if your lobby group does not keep a formal membership list, the Code of Conduct still applies to you. If you are acting as a member of the group – perhaps attending meetings or participating in group activities – you should still register your membership of the group and declare interests, where appropriate.

Personal interests

- The Code of Conduct requires you to declare a personal interest in any matter relating to an interest you must include in your register of interests.
- You are required to declare a personal interest if you are a member of a group that lobbies or campaigns about an issue that comes up for discussion or decision at your authority.
- You should declare the existence and nature of your interest at the meeting so that members of the public are informed about interests that may relate to your decisions. You can continue to participate unless the interest is also prejudicial (see the section on prejudicial interests below).
- You may not have a personal interest in a related discussion or decision of your authority if you merely campaigned on an issue as an individual and not as member of a relevant lobby group - for example, if you tackled an issue as part of your election campaign.

However, you should still consider the general test for personal and prejudicial interests and whether there is any other reason why you should not participate in the decision, including the possibility of bias.

You may want to discuss your circumstances with your monitoring officer. For information on bias and predetermination, see our occasional paper, which is available from our website - www.standardsboard.gov.uk

Prejudicial interests

Under the Code of Conduct, you only have to withdraw from a meeting where your personal interest is also prejudicial.

Exceptions

You cannot have a prejudicial interest in a matter if:

- a) The matter falls within one of the exempt categories of decisions under paragraph 10(2)(c), for example, any ceremonial honour given to members. A full list of exempt categories can be found in the Standards Board's Code of Conduct guidance, which is available on our website - www.standardsboard.gov.uk
- b) The matter does not affect your financial interests or does not relate to a licensing or regulatory matter brought by you or a person or body in which you have a personal interest.

For example, you will not have a prejudicial interest in a developer's planning proposal which you and your lobby group have campaigned against, if you, any person, or any body you have a personal interest in is not financially affected by the proposal.

The planning proposal might indirectly affect your lobby or campaign group since it relates to things it campaigns for or has expressed public opinions about. However, in this context, it will not be relevant for the purposes of the Code.

Nevertheless, you may have a prejudicial interest where the matter is an application for a grant for funding for a body on your register of interests, or a planning or licensing application made by you, a person or a body on your register of interests.

If your personal interest in a matter falls outside the exempt categories mentioned in a) above, and does affect your financial or regulatory interests, you will then have to consider the following **general test for prejudicial interests**:

Would a member of the public, who knows the relevant facts, reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest?

If the answer is 'yes' then you would have a prejudicial interest.

Frequently asked questions

Q1 How has the Code of Conduct changed for members of lobby or campaign groups?

Under the original Code of Conduct 2001, members of lobby groups were required to consider whether the indirect impact of a decision on their group would give rise to a prejudicial interest under the general test (see above). As a result, members declared personal and prejudicial interests in matters which they or their group had campaigned on or had expressed public opinions about.

Under the revised Code, members will not be prevented under the Code of Conduct from voting on a matter if their only interest is that they hold views on the matter, for example based on their experiences or political outlook.

Q2 Do I have a personal and prejudicial interest if I am a member of a group that campaigned against a planning application submitted by a developer?

No. You will only have a personal interest which you should declare the existence and nature of at the meeting considering the application. This is so that members of the public are informed about interests that may relate to your decisions.

However, you should still consider the general test for personal and prejudicial interests and whether there is any other reason why you should not participate in the decision, including bias. You may want to discuss your circumstances with your monitoring officer.

Q3 What should I do if my membership of a pro-development campaign does not give rise to a prejudicial interest, but I have other interests that may be relevant?

You still need to consider whether you have any personal interests that may also be prejudicial interests. For example, a prejudicial interest is likely to exist where a particular development financially affects your sister, as her property is two doors away from the development site. Please see our specific factsheet entitled *Personal and Prejudicial Interests*.

Additional information

- *The Code of Conduct: Guide for members May 2007* offers more guidance on the Code and can be downloaded from our website - www.standardsboard.gov.uk.
- A full range of factsheets and frequently asked questions is available from the Code of Conduct section of our website.
- View our occasional paper on bias and predetermination, available online.
- Call our enquiries line on **0845 078 8181**.
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Personal and prejudicial interests

Relevant Code paragraphs: 8 – 13

Summary: This document provides key information and answers to frequently asked questions about the ethical framework for local government and the role of the Standards Board for England.

Date published: 1 October 2007

Key facts

Personal interests

There are two types of personal interest.

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- 1) An interest that you must register.
- 2) An interest that is not on your register but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of:
 - inhabitants of the ward or electoral divisions affected by the decision (in the case of authorities with wards or electoral divisions)
 - inhabitants of the assembly constituency affected by the decision (in the case of the Greater London Authority)
 - inhabitants of the authority's area (in all other cases)

Note:

- 1) You must declare that you have a personal interest and the nature of that interest, as soon as it becomes apparent to you in all meetings before the matter is discussed.
- 2) There are two exemptions to the rule on declaring a personal interest, which is a key change under the revised Code.

Exemptions apply where an interest arises solely from membership of, position of control or management on:

- Any other body to which you were appointed or nominated by the authority.
- Any other body exercising functions of a public nature for example, if you have been appointed as a school governor.

In these exceptional circumstances you only need to declare your interest if and when you speak on a matter, provided that you do not have a prejudicial interest (see below).

Prejudicial interests

Your personal interest will also be a prejudicial interest if it meets all of the following conditions:

- a) The matter does not fall within one of the exempt categories of decisions under paragraph 10(2)(c), for example, setting the council tax.
- b) The matter affects your interests financially or a licensing or regulatory matter, for example an application for a grant funding to a body on your register of interests, or a planning or licensing application made by you or a body on your register of interests.
- c) A member of the public, who knows the relevant facts, would reasonably think your personal interest so significant that it is likely to prejudice your judgement of the public interest.

Note: in order for your interest to be prejudicial, it must be a financial or regulatory matter.

What to do if you have a prejudicial interest

If you have a prejudicial interest in a matter being discussed at a meeting:

- You must declare that you have a prejudicial interest and the nature of that interest as soon as the interest becomes apparent.
- You should leave the room unless members of the public are allowed to make representations, give evidence or answer questions about the matter. If this is the case, you can also attend the meeting for that purpose.
- You must leave the room immediately once you have finished speaking, or when the meeting decides that you have finished (if that is earlier).

Frequently asked questions

Q1 Is paragraph 12(2) mandatory for my authority?

Paragraph 12(2) is mandatory for most authorities. However, paragraph 12(2) is not mandatory for the following authorities:

- parish and town councils
- English and Welsh police authorities
- the Greater London Authority
- national park authorities
- fire and rescue authorities

If your authority wishes paragraph 12 (2) to apply, it will need to pass a resolution adopting the Model Code of Conduct including paragraph 12(2).

If your authority is a parish or town council and you wish to adopt paragraph 12(2), you can do so by adopting the Standards Board's *Model Code of Conduct for parish and town councils 2007*, which is available on our website on our website -

www.standardsboard.gov.uk

If paragraph 12(2) is included in your authority's Code, the Standards Board recommends that standing orders or procedural rules should be put in place for clarity. These should clearly set out the circumstances in which members of the public can attend the authority's meetings to make representations, give evidence or answer questions.

If your authority does not provide members of the public with any right to speak, paragraph 12(2) will have no effect at your authority. This means that members with a prejudicial interest would have to continue to leave the meeting room after declaring the nature and extent of their interest.

Q2 What rights are available to members with a prejudicial interest?

Paragraph 12(2) gives members with a prejudicial interest in a matter the same rights as members of the public to speak at a meeting on the matter. Members must then leave before the main discussion and voting takes place.

Additional information

- *The Code of Conduct: Guide for members May 2007* offers more guidance on the Code and can be downloaded from our website - www.standardsboard.gov.uk.
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29 OCTOBER 2007

CONTRIBUTORS	STANDARDS COMMITTEE WORK PROGRAMME	WARDS
ACE (JPC)		ALL
HLS	<u>Synopsis</u>	

The attached appendix sets out the Committee's future work programme and scheduled reporting dates. Members are asked to note and update the work programme as necessary.

RECOMMENDATION:

That the Standards Committee note and agree its proposed future work programme .

APPENDIX A

STANDARDS COMMITTEE PROPOSED FORWARD WORK PROGRAMME

TITLE	PROPOSED DATE
Feedback from 6 th Annual Conference & matters arising (Govt / Standards Board initiatives for the future)	29 October 2007 Committee meeting
Feedback from Members Code of Conduct survey and questionnaire	21 January 2008 Committee meeting
Review and report on options to adopt for the local filter process	21 January 2008 Committee meeting
Review & update as necessary the Council's Local Protocols for the Annual Council meeting	2 April 2008 Committee meeting

**LOCAL GOVERNMENT ACT 2000
BACKGROUND PAPERS**

No.	Brief Description of Background Papers	Name/Ext. of holder of file/copy	Department/Location
1.	Standards Committee working papers	John Cheong x 2062	Room 202, Hammersmith Town Hall