



**ITEMS TO BE DEALT WITH  
IN THE PRESENCE OF THE PRESS AND PUBLIC**

**Part I**

<b>Item No.</b>	<b>Page No.</b>
<b>1. MINUTES</b>	
<b>2. DECLARATIONS OF INTERESTS</b>	
<p>Members are reminded of their responsibility to declare any personal or personal and prejudicial interest which they have in any item of business on the agenda no later than when that item is reached and, with personal and prejudicial interests (subject to certain exceptions in the Code of Conduct for Members), to leave the meeting prior to discussion and voting on the item.</p>	
<b>3. STANDARDS FOR ENGLAND ROUND UP</b>	<b>1 - 14</b>
<b>4. RECENT CASE SUMMARIES FROM STANDARDS FOR ENGLAND</b>	<b>15 - 23</b>
<b>5. ON LINE GUIDE</b>	<b>24 - 30</b>
<b>6. DRAFT ACTION LIST</b>	<b>31</b>

***In accordance with the Health and Safety at Work Act the Council is required to notify those attending meetings of the fire evacuation procedures. A copy has previously been circulated to Members and instructions are located in all rooms within the Civic block.***

**REPORT TO:** Standards Committee

**DATE:** 24<sup>th</sup> February 2010

**REPORTING OFFICER:** Strategic Director, Corporate and Policy

**SUBJECT:** Standards for England Round Up

**WARDS:** N/A

### **1.0 PURPOSE OF THE REPORT**

1.1 To bring Members of the Committee up to date with the latest news from Standards for England.

**2.0 RECOMMENDATION:** That the report be noted.

### **3.0 SUPPORTING INFORMATION**

- 3.1 Since the last meeting of this Committee, Standards for England has released Bulletin 46 which is attached at Appendix 1 and can be accessed by the following link  
[www.standardsforengland.gov.uk/media/Bulletin%2046.pdf](http://www.standardsforengland.gov.uk/media/Bulletin%2046.pdf)
- 3.2 Members will be interested to note that the Bulletin does not make any reference to the proposed revised Code of Conduct for Members, which had been anticipated in late Autumn 2009.
- 3.3 Members' attention is drawn to a section in the Bulletin dealing with pre-determination and bias which offers some guidance on tricky areas. It is also interesting to note that the Adjudication Panel for England has recently looked at the relationship between the Code of Conduct and pre-determination and given an indication that where such issues arise, there is a potential breach of paragraph 5 of the Code, which is likely to depend on individual circumstances. It is felt by Standards for England that by and large pre-determination will not amount to a personal or prejudicial interest.
- 3.4 Reference is made to sessions at the Annual Assembly in October 2009 on local assessment. A number of thorny issues brought out by Members and monitoring officers are recorded, and the document concludes by pointing out that Standards for England are currently undertaking a review of the Local Standards Framework and information gathered from the sessions will feed into the process.
- 3.5 The Bulletin also draws Members' attention to the third edition of the Government's Toolkit for Parish and Town Council's which is now available to download.

3.6 The final section of the Bulletin provides an update on the transfer of the Adjudication Panel for England into the unified tribunal structure.

#### **4.0 POLICY IMPLICATIONS**

4.1 None.

#### **5.0 OTHER IMPLICATIONS**

5.1 None.

#### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

##### **6.1 Children and Young People in Halton**

None.

##### **6.2 Employment, Learning and Skills in Halton**

None.

##### **6.3 A Healthy Halton**

None.

##### **6.4 A Safer Halton**

None.

##### **6.5 Halton's Urban Renewal**

None.

#### **7.0 RISK ANALYSIS**

7.1 No key issues have been identified which require control measures.

#### **8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 The report of itself does not contain specific Equality and Diversity issues.

#### **9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

9.1 None.



## Standards and Ethics Award

The closing date for entries to the 2010 Local Government Chronicle (LGC) awards was Friday 20 November. Around 20 authorities entered the Standards and Ethics Award, which is supported by Standards for England. Our judges, Dr Robert Chilton, Dr Michael Macaulay and Nick Raynsford MP have reviewed the entries and shortlisted six authorities who will be announced on 17 December. The judges will then meet in London to choose a winner which will be announced on 24 March 2010.

More information on the shortlisted authorities will be available on our website in January.

## Bias, Predetermination and the Code

At this year's Annual Assembly we ran a session called 'Understanding Predetermination and Bias'. It looked at the relationship between bias, predetermination and the Code of Conduct (the Code). The session proved to be hugely successful in providing information that all standards committees and monitoring officers should be aware of, particularly as it drew on recent and relevant case law in this area. This article attempts to draw out some of the key messages from the session that make understanding predetermination and the Code easier.

Predetermination is a more accurate term than 'bias' used to describe a state of mind which is capable of breaching both the law and the Code. This is not to be confused with predisposition where a councillor holds a view in favour of or against an issue, for example an application for planning permission, but they have an open mind to the merits of the argument before they make the final decision at the council meeting. This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly.

There are two types of predetermination; actual and apparent:

- **Actual predetermination** is when a person has closed their mind to all considerations other than an already held view.
- **Apparent predetermination** is where the fair minded and well-informed observer, looking objectively at all the circumstances, considers that there is a real risk that one or more of the decision makers has refused even to consider a relevant argument or would refuse to consider a new argument.

Recent case law has provided some clarity on how to establish whether predetermination might have occurred by using a two stage test:

- **Stage one** - all the circumstances which have a bearing on the suggestion that the decision was undermined by actual or apparent predetermination must be established.
- **Stage two** - the questions to be asked are:
  - a) was there actual predetermination or
  - b) were the circumstances such as would lead a fair minded and informed observer to conclude that there was 'real risk' that one of the decision makers had predetermined the outcome?

It is important to note that apparent predetermination is to be assessed having regard to all the circumstances which are apparent upon investigation. This extends beyond the circumstances available to the 'hypothetical observer.'

This could include information on any other relevant facts affecting the decision, for example, council procedures. It does not include evidence from the member concerned as to their state of mind or evidence from the complainant as to why they believed the subject member's mind was closed.

The test is objectively looking at what view the facts give rise to. The courts have decided that the fair minded and informed observer has: access to all the facts, is neither complacent nor unduly sensitive or suspicious when looking at the facts, is able to decide between the relevant and irrelevant and on the weight to be given to the facts and is aware of the practicalities of local government.

The courts have accepted that these practicalities mean that the **fair minded and informed observer** accepts that:

- a) Manifesto commitments and policy statements which are consistent with a preparedness to consider and weigh relevant factors when reaching the final decision, are examples of legitimate predisposition not predetermination.
- b) The fact that the member concerned has received relevant training and has agreed to be bound by a Code of Conduct is a consideration to which some weight can properly be attached when determining an issue of apparent predetermination.
- c) Previously expressed views on matters which arise for decision in the ordinary run of events are routine and councillors can be trusted, whatever their previously expressed views, to approach decision making with an open mind.

d) To suspect predetermination because all members of a single political group have voted for it is an unwarranted interference with the democratic process.

e) Councillors are likely to have and are entitled to have, a disposition in favour of particular decisions. An open mind is not an empty mind but it is ajar.

What has become evident is that **the threshold**, in the context of administrative decisions, on the test of apparent predetermination is an extremely difficult test to satisfy. Unless there is positive evidence that there was indeed a closed mind, prior observations or apparent favouring of a particular decision is unlikely to be sufficient to establish predetermination.

The Adjudication Panel for England (APE) in case reference 0352 has also looked at the relationship between the Code and predetermination and gave an indication that where such issues arise there is a potential paragraph 5 Code breach. The outcome is likely to depend on the individual circumstances of a case and any other Code issues and breaches. This is because a councillor who renders the decision of a council unlawful due to predetermination could reasonably be regarded as bringing that authority or his office into disrepute.

An important issue for members is that by and large predetermination will not amount to a personal or prejudicial interest. Therefore there is no specific requirement to declare an interest and leave the room under paragraph 8 to 10 of the Code. Members may however find themselves the subject of a complaint under paragraph 5 on disrepute. This paragraph of the Code has no provision for declaring interests or leaving meetings.

For more information on the relationship between predetermination and the Code, what the practicalities of local government have been held to be and case details please see [Day One](#) on the events page of our Annual Assembly website.

For further information on determination please see our [Online Guide on Predetermination and Bias](#).

## **Local Assessment: sharing lessons learnt**

One of the breakout sessions at our Annual Assembly in October was entitled *Local Assessment, sharing lessons learnt*. This session took the form of a discussion forum giving delegates the opportunity to share their experiences of the local assessment process since its introduction in May 2008.

Sessions were held in tandem for monitoring officers and standards committee members respectively. This gave each group the opportunity to share with their peers the challenges that had arisen in their authority and the solutions they had developed to meet these challenges. In addition, delegates

suggested a number of changes to the local standards framework. We value these suggestions but, clearly, many need further evaluation before a decision could be taken whether to make any changes.

A full breakdown of feedback from the sessions can be found on our dedicated [Assembly website](#), but we thought you might be interested in hearing what some of the main issues discussed were.

## **Top five issues discussed**

### 1. Vexatious or Persistent Complainants

This topic was raised in all four sessions that took place. Potential solutions suggested by delegates included:

- asking for further Standards for England guidance on the definition of what a vexatious complaint is
- change legislation to allow monitoring officers to filter out such complaints and allow committees to refuse complaints from vexatious complainants
- having robust assessment criteria to filter out such complaints at assessment
- to write warning letters to complainants deemed vexatious by the council procedures
- to deliver targeted training
- to publish the average cost of assessing and investigating a complaint.

We are aware that persistent vexatious complainants are causing problems for a number of authorities. This is one area where we intend to provide further guidance for standards committees early in 2010, although we recognise that guidance alone is unlikely to solve this issue.

### 2. The role of the monitoring officer

Delegates questioned what role, if any, a monitoring officer should have in filtering out complaints before formal assessment by the standards committee. A variety of suggestions were made including that:

- Standards for England should produce further guidance on what steps monitoring officers can take before assessment
- monitoring officers should be given the power to filter complaints before assessment in consultation with the standards committee chair
- monitoring officers should make the initial assessment decision with any review undertaken by the assessment sub-committee

- monitoring officers should make the initial assessment decision for parish complaints
- there should be discretion to halt the formal process if a local solution is reached.

### 3. Informing the subject member that a complaint has been made

Currently monitoring officers can take the administrative step of informing a member that a complaint has been made about them. However, the current regulations do not allow them to disclose any details of the complaint. Many delegates felt that this puts monitoring officers in a difficult position, especially in circumstances where the complainant has spoken to the press.

Delegates suggested a number of solutions and changes that they would like to see including:

- asking members in advance whether they would like to be told if a complaint is made about them, and make them aware they cannot be told any details until after the assessment
- giving monitoring officers the discretion to reveal some details of a complaint to the subject member depending on the circumstances, in consultation with the standards committee chair
- requesting guidance from Standards for England on what the subject member should be told prior to assessment
- requesting guidance from Standards for England on what the subject member should be told prior to an investigation.

### 4. Resources

A number of delegates highlighted problems with finding resources to deal with processing complaints. There were some suggestions that monitoring officers could use the Local Government and Housing Act 1989 to ensure they had adequate resources to perform their functions.

Another suggestion was that parishes should either be asked to contribute or alternatively they should be charged for processing complaints about parish members. Currently parish councils cannot be charged for any costs incurred during the assessment or investigation of a complaint about a parish member.

### 5. Quality of complaint information

Delegates stated that poorly written complaints and lack of information from the complainant could make it difficult to make an assessment decision.

Delegates suggested that:

- a model complaint form from Standards for England would be helpful (we have already published a complaints form – [click here to download](#)).
- complainants should be encouraged to use, or that it should be mandatory to complete, an official form
- monitoring officers should request further information from the complainant if there is insufficient information to make an assessment decision
- the complainant should be asked what they would like the outcome of the process to be.

We are currently undertaking a review of the local standards framework and information gathered from the sessions will feed into this review process. However, some of the changes to the standards framework suggested would be difficult to implement as they would require primary legislation to be amended.

A number of requests were made during the sessions for further guidance from Standards for England. We will consider these requests and use the feedback to inform future guidance updates.

### **Annual return 2010**

In April 2009 we collected annual information returns from the 438 local authorities that we work with, covering the period 8 May 2008 to 30 March 2009.

It is important for us to collect information from monitoring officers and standards committees on how they are helping to maintain high standards of ethical conduct in their authorities. This assists us in ensuring the effectiveness of local standards arrangements.

Last year's return was an opportunity for monitoring officers and standards committees to tell us in detail about the particular achievements, successes and difficulties they had in supporting and promoting the ethical framework. We used the returns to build up a bank of notable practice examples to share across the standards community. Many of these can be found on a dedicated [notable practice](#) section of our website and in our [annual review of 2008-9](#).

We will be continuing to collect examples of notable practice in the annual return 2009-10. The information we gather will allow us to cultivate a national overview of the local operation of the standards framework. We will use this to identify strengths and weaknesses of the framework, prompting where we should be producing guidance or seeking policy changes in response to emerging national trends.

The questions in the annual return are currently being developed. Some will stay the same as last year so that we can report on progress, but many of them will change.

## **Our reasons**

We are aiming to have a shorter questionnaire which will use tick boxes where possible to capture practices that are common across many authorities. This should mean that less time is required completing responses; unless there are exceptional circumstances or innovative activities to tell us about. We only expect authorities to provide lengthy responses where they think that a narrative will help others in the standards community who may find themselves in a similar position.

We appreciate that the timing of the annual return is not ideal. April marks the start of the new financial year and is inevitably a busy time for all concerned. However, we want to be able to relay the messages from the year as soon as possible. Therefore, like last year, we will be asking for annual returns to be completed during April and May.

To help authorities complete this task during a busy time, we will be publishing the questions earlier. We hope to communicate the questions to monitoring officers in January 2010. This is so authorities have more time to plan and consult with their standards committee and other key figures, such as the council leader and chief executive, when preparing their responses.

## **Governance Toolkit for Parish and Town Councils**

The second edition of the Governance Toolkit for Parish and Town Councils was well-regarded, winning a *Municipal Journal* Legal Achievement of the Year Award in 2007. The third edition of this valuable resource was finalised in April and is now available to download.

This edition has been revised, updated and produced in partnership between the National Association of Local Councils, the Society of Local Council Clerks, Standards for England and the Association of Council Secretaries and Solicitors. It is also endorsed by the Local Government Association. Milton Keynes Council, a fully parished part urban and part rural authority, is recognised as having been at the forefront of parish council initiatives for many years, and undertook the editing and production of this edition of the toolkit.

This new edition toolkit is a comprehensive, practical reference guide. The topics covered include governing documents, public engagement and managing information, creation of new town and parish councils and elections.

The toolkit will be most useful for

- town/parish clerks and councillors
- those interested in becoming a parish councillor

- principal councils wanting to establish parish councils in their areas
- monitoring officers.

If you would like to download a copy, you can find it in the [Resource Library](#) on our website under 'toolkits'.

## **Assessment Made Clear DVD**

Copies of our new DVD – '*Assessment Made Clear*' have now been distributed to local authorities. We are keen to hear your feedback and so with each DVD there is a freepost feedback postcard, which should be quick and easy to complete and return to us. If you prefer to provide feedback online there is now an [online form](#) on our website.

So far we have been pleased with the response you've given to its approach in dealing with different assessment scenarios. However, some monitoring officers have expressed disappointment that it is not possible to freely copy the DVD as was the case with our previous DVD.

We have not envisaged a need for authorities to consider widespread distribution of this particular DVD. Our view is that this DVD is targeted at standards committee members serving on assessment sub committees and is best watched in a training situation, where group discussion supports the learning points set out in the DVD.

While it may be considered informative for a wider community of local councillors and appropriate officers, for such audiences we believe the context of the DVD, and discussion around it, are best moderated within a group training setting.

We do appreciate there may be cases where exceptions are to be made - so we have taken the decision to make further copies of the DVD available from us for £12.50.

## **Using the DVD**

Alongside the usual features, the DVD includes 'pause and discuss' slides to allow you to pause after each case study and, as a group or as individuals, discuss or think through what you would do in that situation.

Subtitles are provided as an extra and scene selection allows you to revisit easily the sections that are of most interest to you. A pdf of the learning points is also available when viewing the DVD on your PC.

You can [view a trailer](#) of the DVD on Standards for England's website.

To order further copies please contact [publications@standardsforengland.gov.uk](mailto:publications@standardsforengland.gov.uk) or call our reception number – 0161 817 5300.

## **Police authorities and joint standards committees**

In the *Joint standards committee guidance* we state that a police authority is unable to enter into joint arrangements with another police authority because Section 107(2) of the Local Government Act 1972 prevents them from having any of their functions carried out by other police authorities.

After receiving a large number of queries about this from police authorities we consulted again with Communities and Local Government. As a result of this liaison we now believe that our original interpretation of the legislation was incorrect. It is now understood that the 1972 Act does not prevent police authorities from forming joint standards committees with each other in line with the [Standards Committee \(Further Provision\) \(England\) Regulations 2009](#).

We would like to take this opportunity to apologise for the confusion. Our guidance will be modified shortly to reflect our updated position.

## **Review of the standards framework**

We have all been operating the new standards framework for 18 months. As such, now is a good time for Standards for England, as the strategic regulator responsible for making sure it works effectively, to carry out a review of its effectiveness and proportionality. Where necessary we want to make recommendations to Communities and Local Government (CLG) for improvement.

We already have much of the information we need gathered from our research among various stakeholder groups (to which many of you have contributed - thank you), and from our own experience of monitoring and working with the standards framework. Soon we will be consulting with various bodies representing key local government and standards interests on what they think and about any recommendations we want to make. Our intention is to send these recommendations to CLG in March of next year.

We will keep you informed on the progress of the review through future bulletins and on our website. If, in the meantime, you have any queries then please contact Dr Gary Hickey on 0161 8175416 or [gary.hickey@standardsforengland.gov.uk](mailto:gary.hickey@standardsforengland.gov.uk)

## **Share your experiences of local standards**

You can discuss anything you find topical in this Bulletin with fellow monitoring officers or standards committee members by using our new online forum. The Standards Forum, launched in October, provides a place for you to network, ask questions, share good practice, make recommendations and discuss any topics relating to the local standards framework.

All monitoring officers were automatically registered for the Forum and asked to send us the details of any members of their standards committees who wanted to join along with one other nominated officer. We have had a positive response and registered an additional 300 users, with more requests for membership being received daily. We intend to open membership up further by granting a further two officer registrations for each authority once we have registered this first wave of users. This is likely to happen early in the new year.

There are currently over 30 different subjects being discussed on the Forum. Popular topics include recommendations for external investigators and trainers; debates about protocols including the notification of subject members and the publication of decision summaries; and advice on the recruitment of parish members.

To find out more please access the [forum](#).

If you have any questions please contact [forum@standardsforengland.gov.uk](mailto:forum@standardsforengland.gov.uk)

### **Reminder: the importance of completing information returns**

Within part 10 (Ethical Standards) of the Local Government and Public Involvement in Health Act 2007 it states that local authorities must send a periodic information return to us when we request one.

The periods we have specified, in the interest of not placing an unnecessary burden on local authorities, are the financial year quarters. In addition, we request a further return on an annual basis, meaning that there are five information returns required per year.

The information returns are extremely important. We need them to keep us up-to-date with how the local framework is functioning. They allow us to identify individual authorities that are not complying with the local standards framework or who are facing difficulties in implementing it.

So far authorities have been responsive in providing us with information on their experience, and the average percentage of returns completed for each quarter of the year is 99%. Over the 6 quarters for which we have requested returns, there have been just **13** instances where authorities have not provided a response. This is not bad when you consider there are over 400 authorities that we send requests to.

However, it often takes a significant effort to collect all of the returns. Roughly 75% of authorities complete their return by our deadline which is 10 working days after the close of each quarter. But the remaining authorities, who number more than 100, require multiple e-mail reminders and telephone calls before they complete their return. This is unacceptable, as it means it takes us longer than we would like to pull together all of the data and report on our findings.

Ultimately, we expect the authority's monitoring officer to complete our information returns. However, they can delegate this task to a colleague if they wish. For consistency we will always send our email correspondence directly to the monitoring officer, but if they know that they are not going to be available when a return is due they should delegate the task to somebody who is.

For more information on Standards for England's information returns please contact our monitoring team on 0161 817 5300.

## **Update on the transfer of the Adjudication Panel for England into the unified Tribunal structure**

On 1 September, the General Regulatory Chamber (GRC) was launched as part of the First-tier Tribunal. The work of the Adjudication Panel for England will be transferred into the GRC in January 2010.

### **Legislative process**

A 'Transfer of Tribunal Functions Order', transferring the functions of the Adjudication Panel into the GRC, has now been laid in Parliament. The order requires Parliamentary approval. Debates on the order will take place before the end of the year. The order contains amendments to the Local Government Act 2000, to the Standards Committee Regulations and to the Case Tribunal Regulations. Once Parliamentary approval has been obtained an amended version of each of those provisions will be available on the [Tribunals Service website](#).

The Order abolishes the Adjudication Panel for England, whose functions will then be undertaken by the First-tier Tribunal and will be known as the First-tier Tribunal (Local Government Standards, England). The President and members of the Adjudication Panel will be transferring as either judges or members of the First-tier Tribunal assigned to work in the General Regulatory Chamber of that Tribunal. The President will also be a deputy judge in the Upper Tribunal.

### **Impact on users**

References and appeals made to the President of the Adjudication Panel are determined by Case Tribunals and Appeals Tribunals. The people who sit on those Tribunals will be the same people who determine these kinds of matters in the name of the First-tier Tribunal (Local Government Standards, England). The associated administrative work will also be undertaken by the same people as currently do this. Such work will continue to be based at the Tribunals Services offices in Leeds.

Since it was established, the Adjudication Panel has operated without any formal rules. That situation will change as a result of the transfer of work into the First-tier Tribunal. The procedure rules give more explicit powers of

direction to the First-tier Tribunal than were available to the Adjudication Panel, including power to summon witnesses.

All proceedings taking place after the transfer order comes into effect will be conducted in accordance with the rules of the First-tier Tribunal unless, in the case of proceedings which have already started, it would be unfair to apply particular provisions of those rules.

You can view regular updates on the [GRC page](#) of the Tribunals Service website.

**REPORT TO:** Standards Committee

**DATE:** 24<sup>th</sup> February 2010

**REPORTING OFFICER:** Strategic Director, Corporate and Policy

**SUBJECT:** Recent Case Summaries from Standards for England

**WARDS:** N/A

### **1.0 PURPOSE OF THE REPORT**

1.1 To make Members aware of recent decisions in cases where breaches of the Code of Conduct have been alleged in other authorities.

**2.0 RECOMMENDATION:** That the report be noted.

### **3.0 SUPPORTING INFORMATION**

3.1 Members' attention is drawn to four case summaries which have recently been published on Standards for England's website.

3.2 Three of those cases refer to Blackpool Council, and the fourth to West Felton Parish Council.

3.3 The summaries are provided for the information of Members, and are intended to inform discussion at the meeting.

### **4.0 POLICY IMPLICATIONS**

4.1 None.

### **5.0 OTHER IMPLICATIONS**

5.1 None.

### **6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

6.1 Children and Young People in Halton

None.

6.2 **Employment, Learning and Skills in Halton**

None.

**6.3 A Healthy Halton**

None.

**6.4 A Safer Halton**

None.

**6.5 Halton's Urban Renewal**

None.

**7.0 RISK ANALYSIS**

7.1 No key issues have been identified which require control measures.

**8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 The report of itself does not contain specific Equality and Diversity issues.

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

9.1 None.

## Case Summary - Blackpool Council

---

**Case no.** SBE-07899-MRSE4  
**Member(s):** Councillor A Lee  
**Date received:** 04 Nov 2009  
**Date completed:** 07 Jan 2010

### Allegation:

---

### Standards Board outcome:

---

The ethical standards officer found that the member did not breach the Code of Conduct

### Case Summary

---

The complainants alleged that Councillor Lee failed to declare a personal or a prejudicial interest at a development control committee meeting on 8 June 2009 during consideration of a planning application by Kensington Developments Limited. The application was to build housing in the Marton Moss area of Blackpool.

The complainant alleged that Councillor Lee brought his office or authority into disrepute when he signed a letter stating that he did not know about two donations which had been made to Blackpool South Conservative Association by Kensington Developments. The complainant alleged that Kensington Developments had made the donations to the general election fighting fund for Councillor Ron Bell, who is the Conservative Party's prospective parliamentary candidate for Blackpool South. The complainant alleged that Councillor Lee knew about the two donations when he signed the letter, because his wife was the treasurer for Blackpool South Conservative Association and because Councillor Lee had received one of the cheques which he had passed to his wife.

On 22 July 2008, Kensington Developments submitted an outline planning application for the large scale development of parts of the Marton Moss area of Blackpool. On 14 May 2009 they appealed to the planning inspectorate against the council's non-determination of that application. On 3 June 2009, Kensington Developments submitted a further planning application to the council.

On 8 June 2009, the Council's development control committee considered the first planning application because of the appeal. The committee was asked to say whether the application would have been rejected or approved if it had come before the committee for determination. Councillor Lee was at the meeting and did not declare a personal or prejudicial interest in the application.

Councillor Lee is a member of Blackpool South Conservative Association. The Association maintains a "fighting fund" account. Donations for the prospective parliamentary candidate were put in the fighting fund and were for the exclusive use of the parliamentary candidate's election expenses. No payments are made from the fighting fund to ward members or other candidates.

The ethical standards officer considered that the donations do not amount to an interest that Councillor Lee was required to register. The development control meeting was not considering business which related to or was likely to affect the Association. The business under consideration was an application by Kensington Developments. Kensington Developments would be affected by any decision made by the committee but not the Conservative Association.

Councillor Lee would have had a personal interest if the decision could have affected his well-being or financial position or that of a member of his family or someone else with whom Councillor Lee has a close association, more than that of the majority of the Council's ratepayers, taxpayers and inhabitants. The ethical standards officer found no evidence of this.

In the absence of a personal interest, it is not possible for Councillor Lee to have had a prejudicial interest.

The ethical standards officer therefore considered that Councillor Lee did not fail to comply with paragraph 12 of the Code of Conduct in respect of his conduct at the development control meeting.

The Conservative Group members of Blackpool Council met on 17 September 2009 and 21 September 2009. On 17 September, Councillor Peter Callow, the Conservative Group Leader, asked the councillors present if they knew about two political donations to Blackpool South Conservative Association. At the end of the meeting on 21 September, a document was passed around the group members to sign. It stated:

"We the undersigned wish it to be known that we did not know that the two donations given to Blackpool South Conservative Association were from Kensington Developments Ltd"

No council officers were present at either meeting and no present or future council business was discussed. The title 'Councillor' is not used in the document. Named individuals signed the document. Councillor Lee has printed his name and signed.

Group members who were not at the 21 September group meeting were given the opportunity to sign the document after the full council meeting on 23 September. The document was not discussed in the full council meeting on 23 September 2009.

The effect of paragraph 5 of the Code of Conduct is that a member must not bring his office or authority into disrepute while acting in his official capacity. At present the Code does not apply to members conduct in their private capacity.

The meetings on 17 and 21 September 2009 were political meetings. There is no evidence which suggested that the document was signed as part of council business. Neither was the document considered as council business at the full council meeting on 23 September.

Those who signed the document were not acting, claiming to act or giving the impression that they were acting as representatives of their authority when they signed the document. Councillor Lee identified himself with his party and political ward. In common with the other members he wished to "clear his name" with the electorate in relation to the donations. He was not describing his involvement in any actions the political group had taken as councillors. The local conservative association is not the political group to which Councillor Lee belongs at the council.

The ethical standards officer considered that in signing the document Councillor Lee was not acting as a councillor and, therefore, was not covered by the Code. Therefore, whether or not he knew of the donations is not an issue about which she needs to form a view.

## Relevant paragraphs of the Code of Conduct

---

The allegations in this case relate to paragraphs 5, 9, and 12 of the Code of Conduct.

Paragraph 5 states that "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

Paragraph 9 states that "...where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest...".

Paragraph 12 states that "...where you have a prejudicial interest in any business of your authority you must...withdraw from the room or chamber where a meeting considering the business is being held....".

## Case Summary - Blackpool Council

---

**Case no.** SBE-07588-R18QK  
**Member(s):** Councillor J Houldsworth  
**Date received:** 09 Oct 2009  
**Date completed:** 07 Jan 2010

### Allegation:

---

The member brought his office or authority into disrepute, and failed to declare a personal and a prejudicial interest.

### Standards Board outcome:

---

The ethical standards officer found that the member did not breach the Code of Conduct.

### Case Summary

---

The complainants alleged that Councillor Houldsworth failed to declare a personal or a prejudicial interest at a development control committee meeting on 8 June 2009 during consideration of a planning application by Kensington Developments Limited. The application was to build housing in the Marton Moss area of Blackpool. The complainants alleged that by the date of the meeting on 8 June 2009, Councillor Houldsworth knew that Kensington Developments had made a political donation of £5,000 to the Blackpool South Conservative Association, of which he is a member.

On 22 July 2008, Kensington Developments submitted an outline planning application for the large scale development of parts of the Marton Moss area of Blackpool. On 14 May 2009 they appealed to the planning inspectorate against the council's non-determination of that application. On 3 June 2009, Kensington Developments submitted a further planning application to the council.

On 8 June 2009, the Council's development control committee considered the first planning application because of the appeal. The committee was asked to say whether the application would have been rejected or approved if it had come before the committee for determination. Councillor Houldsworth was at the meeting and did not declare a personal or prejudicial interest in the application.

Councillor Houldsworth is a member of Blackpool South Conservative Association. The Association maintains a "fighting fund" account. Donations for the prospective parliamentary candidate were put in the fighting fund and were for the exclusive use of the parliamentary candidate's election expenses. No payments are made from the fighting fund to ward members or other candidates.

On 19 May 2008, Kensington Developments donated £5,000 made payable to Blackpool South Conservative Association. They sent the cheque to Councillor Ron Bell, prospective Conservative Party parliamentary candidate for the Blackpool South constituency. He presented it at a meeting of the Association on 20 May 2008 as a donation for his campaign. The donation was paid into the fighting fund account. Councillor Houldsworth remembered Councillor Bell presenting the £5,000 donation at the 20 May 2008 meeting. He said that he did not know who the donor was.

The Conservative Group members met on 17 September 2009 and 21 September 2009. No council officers were present at either meeting, and no present or future council business was discussed. On 17 September,

Councillor Peter Callow, the Conservative Group Leader, asked the councillors present if they knew about two political donations to Blackpool South Conservative Association. At the end of the meeting on 21 September, a document was passed around the group members to sign. It stated:

"We the undersigned wish it to be known that we did not know that the two donations given to Blackpool South Conservative Association were from Kensington Developments Ltd".

Councillor Houldsworth did not sign the document. He said that he was not aware that Kensington Developments was the donor until 11 August 2009 at a political group meeting. He said that he did not know the source of the donation when he participated in the development control committee meeting on 8 June 2009.

The ethical standards officer found that the donations were paid into the Association's fighting fund account for the use of the prospective parliamentary candidate. There is no evidence that these donations were available to any ward candidates, ward members or other members of the Association. The ethical standards officer therefore considered that it was not necessary to resolve any conflicts in the evidence about whether Councillor Houldsworth was aware of source of the political donation when he participated in the development control committee meeting on 8 June 2009.

The ethical standards officer considered that the donations do not amount to an interest that Councillor Houldsworth was required to register. The development control meeting was not considering business which related to or was likely to affect the Association. The business under consideration was an application by Kensington Developments. Kensington Developments would be affected by any decision made by the committee but not the Conservative Association.

Councillor Houldsworth would have had a personal interest if the decision could have affected his well-being or financial position or that of a member of his family or someone else with whom Councillor Houldsworth has a close association, more than that of the majority of the Council's ratepayers, taxpayers and inhabitants. The ethical standards officer found no evidence of this.

In the absence of a personal interest, it is not possible for Councillor Houldsworth to have had a prejudicial interest.

The ethical standards officer therefore considered that Councillor Houldsworth did not fail to comply with paragraph 12 of the Code of Conduct in respect of his conduct at the development control meeting.

## Relevant paragraphs of the Code of Conduct

---

The allegations in this case relate to paragraphs 5, 9, and 12 of the Code of Conduct.

Paragraph 5 states that "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

Paragraph 9 states that "...where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest...".

Paragraph 12 states that "...where you have a prejudicial interest in any business of your authority you must...withdraw from the room or chamber where a meeting considering the business is being held....".

 Print this page

**Allegation:**

---

The member brought his office or authority into disrepute.

**Standards Board outcome:**

---

The ethical standards officer found that the member did not breach the Code of Conduct.

**Case Summary**

---

The complainant alleged that Councillor Fowler brought his office or authority into disrepute when he signed a letter stating that he did not know about two donations which had been made to Blackpool South Conservative Association by Kensington Developments Limited when he did. The complainant alleged that Kensington Developments had made the donations to the general election fighting fund for Councillor Ron Bell, who is the Conservative Party's prospective parliamentary candidate for Blackpool South. The complainant alleged that Councillor Fowler knew about the two donations when he signed the letter, because he was the proposed election agent for Councillor Ron Bell, and therefore responsible for donations to Councillor Bell's campaign.

The Conservative Group members of Blackpool Council met on 17 September 2009 and 21 September 2009. On 17 September, Councillor Peter Callow, the Conservative Group Leader, asked the councillors present if they knew about two political donations to Blackpool South Conservative Association. At the end of the meeting on 21 September, a document was passed around the group members to sign. It stated:

"We the undersigned wish it to be known that we did not know that the two donations given to Blackpool South Conservative Association were from Kensington Developments Ltd"

No council officers were present at either meeting and no present or future council business was discussed. The title 'Councillor' is not used in the document. Named individuals signed the document. Councillor Fowler has printed his name and signed.

Group members who were not at the 21 September group meeting were given the opportunity to sign the document after the full council meeting on 23 September. The document was not discussed in the full council meeting on 23 September 2009.

Councillor Fowler took the document, without any covering letter, to the Blackpool Evening Gazette newspaper, on instructions from Councillor Callow. The signed document was not passed to the council.

In effect, paragraph 5 of the Code of Conduct states that a member must not bring his office or authority into disrepute while acting in his official capacity. At present the Code does not apply to members conduct in their private capacity.

The meetings on 17 and 21 September 2009 were political meetings. There is no evidence that anything was

put forward by way of additional statement, or covering letter, which suggested that the document signed was about council business. Neither was the document considered as council business at the full council meeting on 23 September.

Those who signed the document were not acting, claiming to act or giving the impression that they were acting as representatives of their authority when they signed the document. Councillor Fowler identified himself with his party and political ward. In common with the other members he wished to "clear his name" with the electorate in relation to the donations. He was not describing his involvement in any actions the political group had taken as councillors. The local conservative association is not the political group to which Councillor Fowler belongs at the council.

The ethical standards officer found no evidence that Councillor Fowler was acting as a councillor or performing the functions of his authority when he signed the document. Neither is there any link between Councillor Fowler's conduct and the resources of the council.

The ethical standards officer considered that in signing the document Councillor Lee was not acting as a councillor and, therefore, was not covered by the Code. Therefore, whether or not he knew of the donation; not an issue about which she needs to form a view.

---

## Relevant paragraphs of the Code of Conduct

The allegations in this case relate to paragraph 5 of the Code of Conduct.

Paragraph 5 states that "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

## Case Summary - West Felton Parish Council

---

**Case no.** SBE-05848-UDMR0  
**Member(s):** Councillor Peter Brown  
**Date received:** 08 May 2009  
**Date completed:** 19 Nov 2009

### Allegation:

---

The member failed to treat others with respect, bullied other people, and brought his office or authority into disrepute.

### Standards Board outcome:

---

The ethical standards officer referred the matter to Shropshire Council's standards committee

### Case Summary

---

The complainants alleged that Councillor Peter Brown bullied the West Felton parish clerk through overbearing supervision, making threats or comments about job security, and undermined the clerk's position by overloading him with queries and by constant criticism of his work. The complainants also alleged that Councillor Brown brought his office and the authority into disrepute by referring six councillors to the police and that he made untrue statements in a letter addressed to all councillors, the clerk and members of the public. They also alleged that Councillor Brown showed a lack of respect to others including in a note to a fellow member of the parish council. In addition, they alleged that Councillor Brown subjected the locum clerk to bullying and intimidation by sending him numerous letters, showing a lack of respect and common courtesy, continually challenged the locum clerk's advice to the council by emails, and in council meetings, insinuated that the clerk lied to the council on two occasions, and that he added words to an official council notice without authorisation. The ethical standards officer did not consider that Councillor Brown failed to treat the locum clerk with respect or that he had bullied him contrary to paragraphs 3(1) and 3(2)(b) of the Code of Conduct. In relation to the other matters, the ethical standards officer referred them to the standards committee of Shropshire Council for determination. For more information on this case, please contact the monitoring officer of Shropshire Council at [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

### Relevant paragraphs of the Code of Conduct

---

Paragraphs 3(1), 3(2)(b) and 5 of the Code of Conduct.

 Print this page

**REPORT TO:** Standards Committee

**DATE:** 24<sup>th</sup> February 2010

**REPORTING OFFICER:** Strategic Director, Corporate and Policy

**SUBJECT:** On Line Guides to the Code of Conduct

**WARDS:** N/A

## **1.0 PURPOSE OF THE REPORT**

1.1 To advise Members of the recent issue of on-line guides, dealing with Independent Members, Freemasons and the Code of Conduct and notifications to Parish and Town Councils concerning complaints about their Members.

**2.0 RECOMMENDATION:** That the report be noted.

## **3.0 SUPPORTING INFORMATION**

3.1 Members are reminded of the existence of helpful on-line guides which can be found at [www.standardsforendland.gov.uk](http://www.standardsforendland.gov.uk) dealing with a number of aspects of the Code of Conduct.

3.2 Since the last meeting, three guides have been published and the summaries are contained in the appendix to this report.

3.3 The first deals with independent Members and reminds Councils of the method of recruitment. Members are reminded that Independent Members cannot be automatically re-appointed at the conclusion of their term of office and there must be a recruitment process brought into effect in each case when the terms of office expire.

3.4 The second guide deals with Freemasons and their relationship to the Code of Conduct.

3.5 The third of the guides deals with notification to Parish and Town Councils concerning complaints about their Members and provides details as to which information should be provided to Parishes, the purpose of notifications and what action should be taken by Parishes once notification is received. Obviously, the monitoring officer is happy to provide relevant advice in appropriate circumstances.

## **4.0 POLICY IMPLICATIONS**

4.1 None.

**5.0 OTHER IMPLICATIONS**

5.1 None.

**6.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

**6.1 Children and Young People in Halton**

None.

**6.2 Employment, Learning and Skills in Halton**

None.

**6.3 A Healthy Halton**

None.

**6.4 A Safer Halton**

None.

**6.5 Halton's Urban Renewal**

None.

**7.0 RISK ANALYSIS**

7.1 No key issues have been identified which require control measures.

**8.0 EQUALITY AND DIVERSITY ISSUES**

8.1 The report of itself does not contain specific Equality and Diversity issues.

**9.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

9.1 None.

## Independent members

---

### Who is an independent member?

---

Independent members are members of standards committees with no link to the authority they are overseeing. They are important in helping increase public confidence in the local standards framework. They provide a clear signal that the standards committee is acting fairly and impartially. Independent members also bring a wider perspective from their outside experiences. A person can only be an independent member if they:

- have not been a member or employee of the authority for the previous five years, or
- are not a member or officer of that or any other relevant authority, or
- are not a relative or close friend of a member or employee of your authority.

### Attributes and skills of an independent member

---

Coming from outside the authority gives the independent member a different perspective and gives balance to the standards committee. Some of the attributes and skills expected of an independent member are:

- a keen interest in standards in public life
- a wish to serve the local community and uphold local democracy
- high standards of personal integrity
- the ability to be objective, independent and impartial
- sound decision-making skills
- questioning skills
- leadership qualities
- the ability to chair meetings.

### The process of selecting an independent member

---

The position of independent member will be published in at least one local newspaper and in other similar publications or websites.

Each authority will have slightly different procedures for the recruitment of independent members but all will have an application and interview process. The appointment of an independent member has to be approved by a majority of the members of the council.

Each authority decides how to select independent members and how long an independent member should sit on the committee. This period of time should be long enough for them to gain an understanding of the committee, the authority and its workings, but not so long that independence is lost.

## Independent members on multiple standards committees

---

An independent member can be a member of several standards committees, for example on county and district committees. Independent members may also be temporarily appointed to another standards committee to consider a particular assessment, review or hearing or for a particular period of time. For example, an independent member can be appointed to a neighbouring standards committee for a short period in situations where a permanent member is unwell or if there is a conflict of interest.

## Reappointment of independent members

---

Standards for England recommend independent members should serve no longer than two four year terms, but this is at the discretion of each authority.

Independent members cannot be automatically reappointed, and must go through a recruitment process.

## Find out more

---

- ▮ Please read our Code of Conduct: Guidance for members 2007
- ▮ Call our enquiries line on 0845 078 8181
- ▮ Email us at [enquiries@standardsforengland.gov.uk](mailto:enquiries@standardsforengland.gov.uk)

**Published on 4th January 2010.**

## Freemasons and the Code of Conduct

---

### What is a Freemason?

---

Freemasonry is one of the world's oldest secular, fraternal and charitable societies. The United Grand Lodge of England administers Lodges of Freemasons in England and Wales. When freemasons pay their annual subscription fee to their respective Lodges, part of the fee goes automatically to the Freemasons' Grand Charity. The United Grand Lodge distributes charitable grants to individuals and groups through the Grand Charity.

### Why do I need to declare my membership?

---

Personal and prejudicial interests are covered by paragraphs 8-13 of the Code of Conduct.

You have a personal interest in any business of your authority where either it relates to or is likely to affect any body directed to charitable purposes.

Overall, freemasons are not singled out by the Code. The Code applies to membership of any body that is directed to charitable purposes.

Under paragraph 8(1)(a) (ii) (bb) of the Code, freemasons who are members of the Grand Charity must register membership of the Grand Charity in their register of members' interests and, where appropriate, declare their membership of the Grand Charity as a personal or prejudicial interest before or during council meetings. If an individual lodge is one which has charitable status or could be described as a body directed towards charitable purposes, then membership of that lodge would also need to be registered.

Councillors who are freemasons will also need to declare membership of their lodge as a personal interest in a matter to be discussed if that matter would affect the member to a greater extent than the majority of other people in the area affected by the decision. The member will also need to consider whether that interest is prejudicial. For example, if the councillor's own lodge was making a planning application it would be necessary to declare a personal and prejudicial interest when that matter is considered.

The recent government decision that freemasons will no longer need to declare their membership when applying for positions on the judiciary does not affect the need to register membership as an interest under the Code.

### Find out more

---

- Please read our Code of Conduct: Guidance for members 2007
- Call our enquiries line on 0845 078 8181
- Email us at [enquiries@standardsforengland.gov.uk](mailto:enquiries@standardsforengland.gov.uk)

**Published on 4th January 2010.**

## Notifications to parish and town councils concerning complaints about their members and the Standards Committee (England) Regulations 2008 (the 2008 Regulations)

---

The 2008 Regulations make it clear that parish and town councils must be given notification that a complaint concerning one of their members has been assessed. After that, unless the initial assessment sub-committee decides to take no action on the complaint, the parish or town council must then be informed of certain significant subsequent steps taken in dealing with that complaint.

### What information should be received?

---

Where a sub-committee of a standards committee meets to assess an allegation or to review a decision it must send in writing to the parish or town council concerned the main points considered, its conclusions, the reasons for its decision and may name the member unless to do so is not in the public interest or would prejudice an investigation. The decisions are whether to investigate the allegation, or whether to take some other action in relation to the alleged behaviour.

A parish or town council should also receive notification after a standards committee meets to consider the report into an investigation and whether to accept a finding about whether a councillor has breached the code of conduct or not. They should also receive notification of the outcome of a hearing and reasons for it, if one is held.

### When should notifications be sent?

---

The duty to give notifications has no specific time frame. The general rule is that notification should be given as soon as is reasonably practicable. However, Standards for England recommend that notification be sent out within five working days of the decision being made for most decisions and within two weeks of any hearing being concluded.

### The purpose of notifications

---

As a parish or town council you will be given these notifications to inform you of a case against one of your members and to keep you informed of significant events as the case progresses. This is important so that you have time to prepare or preserve evidence relevant to the complaint. You will also be able to make appropriate arrangements between the member and an employee where the complaint has been made by the employee. The rationale of the notification is to facilitate the standards committee's action, not to start new action within the parish or town council.

### What to do when you get a notification

---

Each council needs to consider what it can lawfully do with the notifications it receives. Parish or town councils should consider putting in place protocols that deal with:

- ▮ access to information
- ▮ sharing of information
- ▮ how various legal obligations are met including those under the general law of confidentiality, the Freedom of Information Act and the Data Protection Act.

## Notification procedures

---

Standards for England recommend that each parish or town council adopt procedures about how to deal with notifications. The clerk should then notify the monitoring officer of these procedures once they have been implemented so that the monitoring officer knows who to send the notifications to. The rules should clearly set out the limits on what information each member, employee and the public are able to receive about each complaint.

They should:

- ▮ Ensure that if the council is to be informed of a notification it is normally done by sending out an information item for members, rather than including the notification on the agenda of a council meeting.
- ▮ Choose a nominated employee (usually the clerk) and select a council committee to deal with and be informed of such notifications when they are received.
- ▮ The nominated employee and the committee should, if required to discuss the notification at a council meeting:
  - draft the summonses and agendas so the identity and subject matter of the complaint are not disclosed
  - ensure that any background papers are not made public
  - ensure that the public and press are excluded from meetings where appropriate
  - ensure that the minutes of meetings are written so as to preserve confidentiality
  - make appropriate arrangements, where the complainant is an employee, between the employee and the subject member.
- ▮ Take into account who will deal with providing further evidence or information needed by the standards committee about a complaint, be it the nominated employee or a member of the selected council committee.

By having appropriate arrangements in place your parish or town council will ensure that the rights of all concerned in a complaint will be considered. They will also ensure that complaints are dealt with lawfully, effectively and fairly, and will identify only those who need to know or are entitled to know certain information at the various stages of a complaint.

## Find out more

---

- ▮ Please read our Code of Conduct: Guidance for members 2007
- ▮ Call our enquiries line on 0845 078 8181
- ▮ Email us at [enquiries@standardsforengland.gov.uk](mailto:enquiries@standardsforengland.gov.uk)

**Published on 4th January 2010.**

**HALTON BOROUGH COUNCIL**

**STANDARDS COMMITTEE 24<sup>th</sup> FEBRUARY 2010**

**DRAFT ACTION LIST**

The following list is for consideration by the Committee:-

<b>NO</b>	<b>PRIORITY</b>	<b>ACTION</b>	<b>BY</b>	<b>DATE</b>
1	HIGH	Consider further training, ideally with other authorities	OD	Approval in principle secured from Cheshire authorities – date to be agreed following new Code of Conduct.
2	HIGH	Constitution of Standards Committee	OD	Necessary action to be taken to ensure Committee membership is up to date.
3	HIGH	All Member training on Code of Conduct	OD	More training will be given following adoption of new Code