



Standards Committee

**Wednesday, 19 November 2008 at
3.00p.m. Committee Room 2, Runcorn
Town Hall**



Chief Executive

COMMITTEE MEMBERSHIP

Mr Bill Badrock (Chairman)

Parish Councillor Ronald Crawford

Parish Councillor Felix

Mr Robert Garner

Mr Tony Luxton

Councillor Philip Balmer

Conservative

Councillor Stan Parker

Labour

Councillor Linda Redhead

Liberal Democrat

Councillor Kevan Wainwright

Labour

Councillor Mike Wharton

Labour

*Please contact Lynn Cairns on 0151 471 7529 or e-mail
lynn.cairns@halton.gov.uk for further information.*

The next meeting of the Committee is on Wednesday, 7 January 2009

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

Part I

Item No.		Page No.
1. MINUTES		
2. DECLARATIONS OF INTEREST		
	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.	
3. APPOINTMENT TO VACANCY		1 - 2
4. ACTION LIST		3 - 6
	The Committee's Action List is attached for consideration and amendment as necessary.	
5. SEVENTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES - FEEDBACK		7 - 16
6. DCLG CONSULTATION: MEMBER/OFFICER CODES OF CONDUCT		17 - 34
7. STANDARDS BOARD INFORMATION ROUND-UP		35 - 44

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: 19th November 2008
REPORTING OFFICER: Strategic Director – Corporate and Policy
SUBJECT: Appointment to Vacancy
WARDS: N/A

1.0 PURPOSE OF THE REPORT

To provide an update on the current position in respect of the appointment to the previous Committee vacancy of “Parish Council Representative”.

2.0 RECOMMENDATION: That the report be noted and Reverend Felix be welcomed as the new additional Parish Council representative on the Committee.

3.0 SUPPORTING INFORMATION

- 3.1 On 27th February 2008, Members agreed to recommend to Council that the Constitution be amended to provide for an additional Independent Member and an additional Parish Council representative on the Standards Committee. This was in order that the Committee could fulfil its requirements in terms of the new filtering process and was in accordance with best practice. Full Council subsequently agreed these changes at its Annual meeting on 16th May 2008.
- 3.2 Since that time, steps to fill the Parish Council vacancy have been taken and Reverend David Felix was subsequently appointed by Full Council on 22nd October 2008.

4.0 POLICY IMPLICATIONS

None.

5.0 OTHER IMPLICATIONS

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

The filling of this vacancy will assist the Committee in carrying out its duties in relation to the hearing of any possible future complaints.

8.0 EQUALITY AND DIVERSITY ISSUES

None.

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

None under the meaning of the Act.

HALTON BOROUGH COUNCIL

STANDARDS COMMITTEE 19 NOVEMBER 2008

DRAFT ACTION LIST

The following list is for consideration by the Committee:-

NO.	PRIORITY	ACTION	BY	DATE
1	HIGH	Further role play session repeating the 'hearing' on 28 th February 2007 with more time allowed – Role of Chair – To maintain impartiality throughout hearing. Facilitate and ensure compliance with procedure. Secure fairness of hearing. (previously 1,5,8,10) Council Solicitor to prepare and circulate flowcharts illustrating the sequence of events and deadlines in relation to hearings. Consider further training involvement by Charles Kerry (Chester) Consider further training involvement by Graeme Creer (Weightmans)	OD	Done – training carried out in Warrington 18 June 2008 Further training opportunities to be considered at 19 November meeting.
3	HIGH	Council Solicitor to arrange for Standards Committee members to attend other Council's Standards Committee hearings as a training opportunity.	OD	Done – Contact made with Wigan
6	HIGH	Consider cost of training initiatives and make provision in budget for 2008/9. Consider funding sources for Training during 2007/8.	OD	No further funding available – training provided from within resources
7	MEDIUM	Develop Standards Committee internet website presence.	OD	June 2008- done further information uploaded on new complaints

				arrangements
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NO.	PRIORITY	ACTION	BY	DATE
9	LOW	Video of interview with Leader of Council and Chief Executive. Further use in conjunction with later training sessions. Explore ways of using training video as part of civic responsibility training in Halton's schools (previously 9,16) [the new monitoring officer to review the video when in post, taking into account recent changes, to determine what amendments are required]	OD	Video reviewed & now out of date due to new Code, on which training has been given
12	MEDIUM	Council Solicitor and Chair invite Halton's parish council clerks and chairpersons to meeting to explore training needs of parish councillors. Halton's parish council clerks and chairpersons training session of parish clerks and chairpersons (prev 12, 13)	Chair/OD	Done – Meeting commenced with Chief Executive, Council Solicitor & all Parish Clerks & Chairs to cover Personal issues. Took place 10 th July 2008. Parishes to bring forward training and training requests. None received. Training on new Code given to all Parishes.
15	MEDIUM	Explore the idea of small loose-leaf folder for members of the Committee to keep copies of key documents: e.g. Principles, Code of Conduct and Guidance.	Chair/OD	March 2008 Practicality still being explored.
16	HIGH	Halton's preparations, arrangements and training for dealing with local filter duties.	OD	In place
17		A letter be sent to the Standards Board for England requesting that their method of allocating places on conferences be amended so that, in future, an invitation be sent to the Chairs of all Standards Committees initially and they be provided with the opportunity of taking up this offer by a specified	OD	Letter sent to Standards Board no response to

		date.		date.
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REPORT TO: Standards Committee

DATE: 19th November 2008

REPORTING OFFICER: Strategic Director - Corporate & Policy

SUBJECT: Seventh Annual Assembly of Standards Committees - Feedback

WARDS N/A

1.0 PURPOSE OF THE REPORT

1.1 To provide feedback on the Seventh Annual Assembly of Standards Committees held on 13th and 14th October 2008.

2.0 RECOMMENDATION

2.1 That the report be noted.

3.0 SUPPORTING INFORMATION

3.1 Further to a previous resolution of the Committee, the Council secured two places on the Annual Assembly of Standards Committees in Birmingham, which took place on 13th and 14th October 2008, for the Chairman and the Monitoring Officer.

3.2 Feedback will be provided for Members 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 None.

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

Document	Place of Inspection	Contact Officer
None.		

ISSUE 1 • AUGUST 2007

OCCASIONAL PAPER

Predisposition, Predetermination or Bias, and the Code

Both predetermination and bias have proved to be difficult and controversial issues for many members and monitoring officers. Although they are judge-made, common law issues, and not part of the Code of Conduct, the Standards Board for England has agreed to publish this occasional paper to help clarify the issues.

Based on advice from leading treasury counsel Philip Sales QC, which can be found on our website, this paper aims to clarify the issues involved and includes examples of where members are predisposed, and so can take part in a debate and vote, and where they are predetermined and their participation in a decision would risk it being ruled as invalid.

Sir Anthony Holland
Chair, the Standards Board
for England

What is predisposition?

It is not a problem for councillors to be predisposed. Predisposition is 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. They may even have been elected specifically because of their views on this particular issue.

What is predetermination or bias?

Predetermination or bias can lead to problems. It is where a councillor is closed to the merits of any arguments relating to a particular issue, such as an application for planning permission, and makes a decision on the issue without taking them into account.

Councillors must not even appear to have already decided how they will vote at the meeting, so that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.

Rarely will membership of an organisation, such as a national charity, amount to predetermination or bias on its own unless it has a particular vested interest in the outcome of a specific decision that a councillor is involved in making.

Making the decision

There is an important difference between those councillors who are involved in making a decision and those councillors who are seeking to influence it. This is because councillors who are not involved with making a decision are generally free to speak about how they want that decision to go.

When considering whether there is an appearance of predetermination or bias, councillors who are responsible for making the decision should apply the following test: would a fair-minded and informed observer, having considered the facts, decide there is a real possibility that the councillor had predetermined the issue or was biased?

However, when applying this test, they should remember that it is legitimate for a councillor to be predisposed towards a particular outcome on the basis of their support of a general policy. This is as long as they are prepared to be open-minded and consider the arguments and points made about the specific issue under consideration.

How can predetermination or bias arise?

The following are some of the potential situations in which predetermination or bias could arise.

Connection with someone affected by a decision

This sort of bias particularly concerns administrative decision-making, where the authority must take a decision which involves balancing the interests of people with opposing views. It is based on the belief that the decision-making body cannot make an unbiased decision, or a decision which objectively looks impartial, if a councillor serving on it is closely connected with one of the parties involved.

example

a) A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. As a result of the complaint the officer has been disciplined. The officer has appealed to a member panel and the councillor seeks to sit on the panel hearing the appeal. The councillor should not participate.

Contrast this with:

b) The complaint about the officer described above is made by the local office of a national charity of which the councillor is an **ordinary** member and has no involvement with the local office. The councillor should be able to participate in this situation **because the matter is not concerned with the promotion of the interests of the charity.**

Improper involvement of someone with an interest in the outcome

This sort of bias involves someone who has, or appears to have, inappropriate influence in the decision being made by someone else. It is inappropriate because they have a vested interest in the decision.

example

A local authority receives an application to modify the Definitive Map of public rights of way. A panel of members is given delegated authority to make the statutory Order. They have a private meeting with local representatives of a footpath organisation and other interest groups before deciding whether the Order should be made. However, they do not give the same opportunity to people with opposing interests.

Prior involvement

This sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with. This may be a problem if the second decision is a formal appeal from the first decision, so that someone is hearing an appeal from their own decision. However, if it is just a case of the person in question being required to reconsider a matter in the light of new evidence or representations, it is unlikely to be unlawful for them to participate.

example

A councillor of a local highway authority who is also a member of a parish council that has been consulted about a road closure could take part in the discussion at both councils. The important thing is that the councillor must be prepared to reconsider the matter at county level in the light of the information and evidence presented there.

Commenting before a decision is made

Once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. However, if the councillor has made comments which suggest that they have already made up their mind, they may not take part in the decision. If the councillor is merely seeking to lobby the meeting at which the decision is taking place, they are not prevented by the principles of predetermination or bias from doing so. There is no particular reason why the fact that councillors can do this, in the same way as the public, should lead to successful legal challenges.

example 1

A council appoints a barrister to hold a public inquiry into an application to register a village green. The barrister produces a report where he recommends that the application is rejected. A councillor attends a meeting in one of the affected wards and says publicly: "speaking for myself I am inclined to go along with the barrister's recommendation". He later participates in the council's decision to accept the barrister's recommendation. At the meeting the supporters of the application are given an opportunity to argue that the recommendation should not be accepted.

This is unlikely to give rise to a successful claim of predetermination or bias. The statement made by the councillor only suggests a predisposition to follow the recommendation of the barrister's report, and not that he has closed his mind to all possibilities. The subsequent conduct of the meeting, where supporters of the application could try and persuade councillors to disagree with the recommendation, would confirm this.

example 2

A developer has entered into negotiations to acquire some surplus local authority land for an incinerator. Planning permission for the incinerator has already been granted. Following local elections there is a change in the composition and political control of the council. After pressure from new members who have campaigned against the incinerator and a full debate, the council's executive decides to end the negotiations. This is on the grounds that the land is needed for housing and employment uses.

The council's decision is unlikely to be found to be biased, so long as the eventual decision was taken on proper grounds and after a full consideration of all the relevant issues.

Conclusion

Councillors are entitled to have and express their own views, as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.

For more information on the issue of predetermination or bias, councillors should talk to their monitoring officers or their political group.

The opinion of Philip Sales QC can be found on our website at:
www.standardsboard.gov.uk/Publications/OccasionalPaper

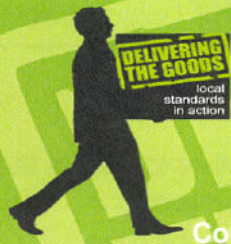
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Confidence in local democracy



The

Standard



the
Standards Board
for England

Conference newsletter | Tuesday 14 October 2008 | Issue two | www.annualassembly.co.uk

Devolved framework a success, says MP

Sadiq Khan MP spoke yesterday of the importance of the conduct regime to local democracy.

Speaking on his eighth day as Parliamentary Under-Secretary of State at Communities and Local Government, Mr Khan said the devolution of the conduct regime has been a success.

He added that those involved have delivered the goods so far and

thanked delegates for their hard work.

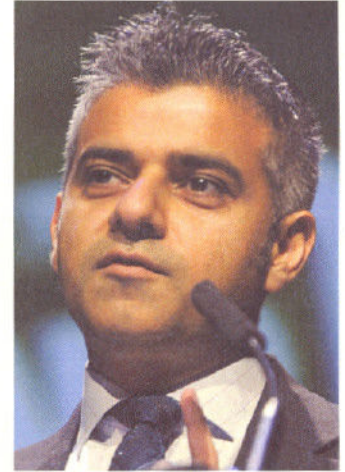
The minister said that the public should have trust in their elected representatives and talked of the probity, accountability and objectivity expected of members.

He continued that the last 12 months have been among the most important since the conduct regime was established in 2001.

Mr Khan commented on the success of the revised Code of Conduct, which is clearer, simpler and more proportionate. He said it has bedded in well, but that it is now time to make revisions. Consultation on proposed amendments has now begun and comments are being invited before the closing date of 24 December.

The minister concluded by emphasising that the Standards Board is there to support local authorities

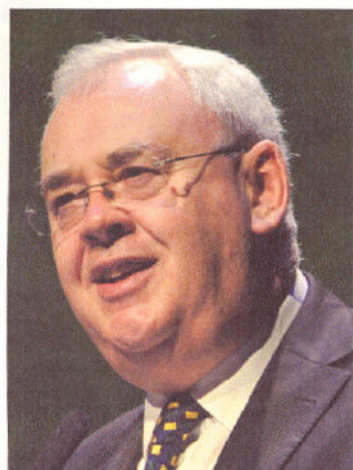
and that they should make the most of the organisation as a resource.



Sadiq Khan MP

Good progress under new framework

Dr Robert Chilton, recently appointed Chair of the Standards Board, believes that local authorities have made good progress in adopting the new local framework.



Dr Robert Chilton

Addressing delegates in yesterday's opening session, Dr Chilton said he is keen to hear from authorities themselves about their experience.

He spoke of a number of important issues that have already been competing for his attention. These include the relationship between local government and national politics. He also shared the Standards Board's experience of this year's party conferences.

In addition, the attention demanded by individual cases was discussed,

and he mentioned the issue of alternative action.

Glenys Stacey, Chief Executive of the Standards Board, also talked about alternative action in her opening speech, as one of a number of hot topics. She described it as an important tool, but one that needs to be used wisely.

Glenys revealed some of the latest figures for the second quarter of monitoring returns. These included more than 1,000 cases being reported so far. About half (54%) of complaints have been

made by members of the public. The final statistics will be on the Standards Board's website in November.

She referred to the Standards Board's corporate plan for 2009-11, which will reflect the organisation becoming an established strategic regulator. This will mean a continuing emphasis on guidance and support, and also developing proportionate ways of working with the authorities that are finding it difficult to maintain standards.

Closing governance gaps

The importance of ensuring local authorities employ good corporate governance arrangements within their committee structures will be discussed in a mini plenary this morning.

Joining the dots at 09.30 will allow delegates to examine case studies highlighting the

challenges faced by local authority standards, audit and overview and scrutiny committees.

The session will show how standards, audit, and overview and scrutiny committees together form an important part of governance arrangements within local authorities. It will explore their roles and responsibilities and will

outline common features and differences between the committees. The session will also show how the committees can work together to ensure that good governance is achieved.

Case studies will highlight the innovative ways that committees can work with

each other to ensure they close potential 'governance gaps'.

These include the example of Newport, where a review of its scrutiny arrangements led to them being relocated to a "Law & Standards" division.

Session information such as handouts and presentation slides will be available at www.annualassembly.co.uk.

Agenda: Tuesday

- 08.00 – 09.00 Refreshments

- 09.00 – 10.30 Breakout sessions

- 10.30 – 11.00 Refreshments

- 11.00 – 12.15 A higher level

- 12.15 – 13.30 Lunch

- 13.30 – 15.00 Breakout sessions

- 15.00 – 15.15 Comfort break

- 15.15 – 15.30 Delivering the goods

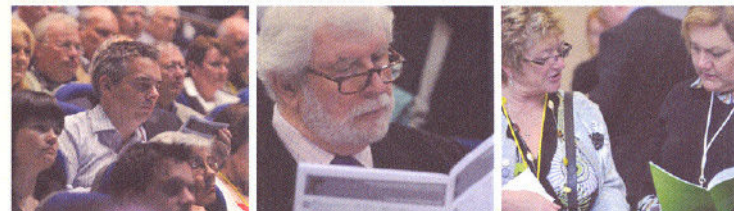
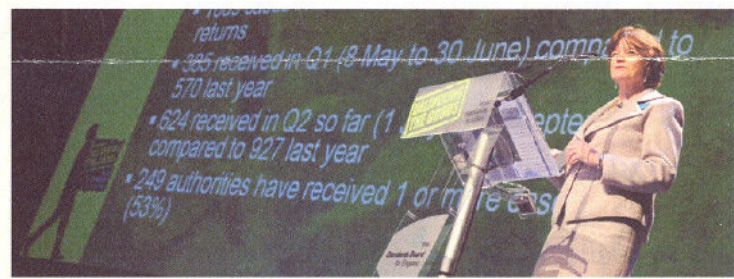
- 15.30 – 15.45 Local standards in action

- 15.45 – 16.15 Networking

- 16.15 Close of conference

Standards and Ethics

The Standards Board is supporting the 'Standards and Ethics' award at this year's Local Government Chronicle (LGC) Awards. Please visit www.lgcawards.co.uk for more details.



Please put any of your unwanted papers in the recycle bins situated around the conference centre. Thank you.

Eighth Annual Assembly

We will send all booking information to delegates attending this year's conference for next year's Annual Assembly as soon as it becomes available.

The Eighth Annual Assembly of Standards Committees will be again held at the ICC in Birmingham from 12-13 October 2009. We hope to see you again.

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See you again We hope you enjoyed the conference and look forward to seeing you at the 2009 Annual Assembly.



The planning process	Scenario	Areas of the code that might be engaged
Gather evidence and analyse the issues	Borchester Land put forward 50 acres as a growth option for 5,000 houses and a Tesco superstore to the Council	Paragraph 8: Personal interests
Develop a vision ('place shaping')	Matt Crawford (for Borchester Land) takes Cllr David Archer (Parish and District Councillor) out for a pint and a meal at Grey Gables to discuss the development	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests Paragraph 6: Improper use of position Paragraph 3(2)(d): Not compromising impartiality of those who work for the authority
Generate options and alternative strategies	Jail	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests Paragraph 6: Improper use of position Paragraph 3(2)(d): Not compromising impartiality of those who work for the authority Paragraph 4 (a): Disclosing confidential information
Evaluate options fairly	Jail	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests Paragraph 6: Improper use of position
Select a preferred strategy	Core strategy working party meets to consider options (Cllr Archer is a member)	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests Paragraph 6: Improper use of position
Consult on preferred option	Council decides and consults on a preferred strategy - Grange Farm is included	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests Paragraph 3(2)(d): Not compromising impartiality of those who work for the authority Paragraph 6: Improper use of position Possibly paragraph 4(a): Confidential information.
	Brian Aldridge (friend of Cllr David Archer) organises meeting at the Bull and frames development in very positive terms	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests Paragraph 6: Improper use of position Paragraph 5
	Oliver Stirling (gentleman farmer) leads protest. Councillor Fletcher condemns the scheme	

Areas of the code that might be engaged

Scenario

The planning process

Refine plan using responses to consultation	Jail	Core strategy working party meets to consider options (Cllr Archer is a member)	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests Paragraph 6: Improper use of position
Public hearing to check 'soundness' of plan			
Adopt plan incorporating inspectors' recommendations	£	Full council meets to adopt the core strategy.(Cllrs Fletcher and Archer are present)	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests Paragraph 6: Improper use of position
Site brief / regeneration scheme/AAP/ Masterplan	Jail		Paragraph 6: Improper use of position Paragraph 3(2)(d): Not compromising impartiality of those who work for the authority
Pre-application advice	£ Jail	Borchester Land and Tesco make presentation to parish council and promise goodies. Meeting is invited to reach an agreement 'in principle' on what community benefits would be needed to support development	Paragraph 6: Improper use of position Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests
Application submitted, validated and consultation		Borchester Land submit detailed planning application and section 106. Considered by planning officers	Paragraph 3(2)(d): Not compromising impartiality of those who work for the authority Paragraph 6: Improper use of position Paragraph 3 (2)(b): Bullying
Recommendation reached	£ Jail		Paragraph 3(2)(d): Not compromising impartiality of those who work for the authority Paragraph 6: Improper use of position Para3(2)(b): Bullying
Section 106 agreement	£		
Committee meet Decision issued	£ Jail	Councillor Archer suggests a committee site visit, at which he talks about the merits of the scheme	Paragraph 9: Declaration of interests Paragraph 10: Prejudicial interests
Pre-commencement approvals			
Development built			

REPORT TO: Standards Committee

DATE: 19th November 2008

REPORTING OFFICER: Strategic Director (Corporate and Policy)

SUBJECT: DCLG Consultation: Member/Officer Codes of Conduct

WARDS: All

1.0 PURPOSE OF THE REPORT

1.1 To seek approval of a basis for the Council responding to the Government's Consultation Paper on an Officers' Code of Conduct.

2.0 RECOMMENDATION: That

2.1 the Standards Committee note the consultation in respect of a revised Officers' Code of Conduct being considered by the Executive Board, and the proposed response to this consultation outlined in Appendix B to this report; and

2.2 the Strategic Director (Corporate and Policy) be authorised to draw up and submit a response to the Consultation Paper in respect of the Members' Code of Conduct as outlined in Appendix A to this Report.

3.0 SUPPORTING INFORMATION

3.1 There are separate codes of conduct for Members and officers. Both of these codes appear in the Halton Constitution.

3.2 The Members' Code includes the Ten Principles of Public Life recommended in the Neil Report into Conduct in Public Life (see Appendix C). These Principles have been prescribed by law. Halton's version follows the national model. Members accepting office agree to be guided by the Code. Breach of the Code is dealt with under the Standards Committee process.

3.3 The officers' Code of Conduct has never been prescribed by law. There has been a national model recommended at one time by the Local Government Management Board (LGMB). It is substantially that model which has been approved by the Council and has been included in the Constitution (Appendix D). Breach of the Code can form the basis for engaging the disciplinary code. Officers are expected to comply with the Code and in recent years employees' Particulars of Employment have explicitly required them to comply with its terms.

- 3.4 Officers are subject to various Codes. For example carers who are Council employees are already subject to a national Code. Those employees who belong to particular professional bodies (surveyors, accountants and others) are required to comply with the Codes imposed by those bodies. Compliance with those professional body codes is not *directly* enforceable by the Council.
- 3.5 Since the Local Government Act 2000 there has been power to establish a national statutory code of conduct for officers. Unlike the Members' powers the Government has refrained from making a national code although there was some consultation on its possible content in 2004. The 2000 Act incorporates by law any national model employee code approved under the Act by DCLG directly into employees' contracts of employment. In the event that the draft Officer Code is introduced in its current form it would be necessary to make adjustments to harmonise the detailed Halton officer code with the values listed in the new National Officer Code. This is quite feasible.
- 3.6 A new Consultation paper was published by DCLG in October 2008. Any comments must be received by the Department by 24 December 2008. This paper: "Codes of Conduct for local authority members and employees", invites responses to 22 questions.
- 3.7 The paper can be inspected at:-
<http://www.communities.gov.uk/documents/localgovernment/doc/562D53.doc>
- 3.8 The covering letter is at:-
<http://www.communities.gov.uk/documents/localgovernment/doc/982078.doc>
- 3.9 In **the very broadest outline** the Government's Consultation paper invites comments on proposals to:-

Members

- Make the code apply expressly to Members acting in non-official capacity to the extent that they commit serious criminal offences in their private lives whether in the UK or elsewhere.
- Make some changes to the detailed wording of the Code.
- Halt ethical investigations under the Code until outcome of any related criminal investigation/proceedings.
- Allow two months for Members to decide whether they wish to sign up to the new Code after its introduction
- Add a new General Principle: Members should not engage in conduct which constitutes a criminal offence.

Officers

- Introduce for the first time a national mandatory Code of Conduct in the form of Core Values that will apply to limited categories of Council employee.
- Apply the new officer code to parish council employees.

3.10 Consultation on the Officers' Code of Conduct falls within the remit of the Executive Board and, as such, the Board has been requested to consider this at its meeting of 20th November 2008 and to delegate authority to the Strategic Director (Corporate and Policy) to respond as outlined in Appendix B of this report. The decision of the Standards Committee will be reported to that meeting.

4.0 POLICY IMPLICATIONS AND COUNCIL'S PRIORITIES

4.1 The proposed basis for reply to the paper is consistent with the Council's policies and Strategic Priorities.

5.0 OTHER IMPLICATIONS

5.1 A clearer and more practical set of Codes of Conduct is to be welcomed and will provide a more secure foundation for the provision of economic effective and efficient provision of services on a transparent, accountable and human rights compliant basis.

5.2 Any amendments to be made to the Council's constitution as a result of this consultation will need to be referred to Full Council for approval.

6.0 RISK ANALYSIS

6.1 A more resilient and practical approach to Codes of Conduct will minimise risk.

7.0 EQUALITY AND DIVERSITY ISSUES

7.1 The Code addresses equality and diversity and an improved version will enhance the Council's policy and practice in this area and further its IDEA accreditation.

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

Document	Place of Inspection	Contact Officer
Consultation Paper	Internet address given above	Mark Reaney

APPENDIX A

Halton Borough Council - Proposed Response to Model Code Consultation

This is organised by reference to the question numbering scheme extracted from the Consultation paper.

MEMBERS' CODE

1

Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?

It is agreed that the members' code should apply to a member's conduct when acting in a non-official capacity.

2

Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details.

The definition of 'criminal offence' is acceptable.

3

Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.

The definition of 'official capacity' is acceptable.

4

Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

It is agreed that the members' code should only apply where a criminal offence and conviction outside the UK would have been a criminal offence if committed within the UK.

5

Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

Investigations into breaches of the Code involving alleged criminal activity should be placed on hold by the Standards Committee and the Standards Board until the criminal investigation and justice process is complete. However there should be scope for the Standards Committee to choose to

suspend a Member until the outcome of the criminal process where issues of confidence in and effective working of the Council are jeopardised by the presence and functioning of the councillor as an elected member. During the period of suspension all rights of acting would be placed on hold. This should not be subject to appeal but must of course be subject to judicial scrutiny.

6

Do you think that the amendments to the members' code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?

The proposed wording is satisfactory and no other suggestions are proposed.

7

Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?

There are no aspects of conduct in a Members' official capacity that should be removed from the Code. A proportionate approach is adopted in keeping with the importance of confidence in integrity in public life.

8

Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.

There are no other aspects of conduct in a Member's official capacity that should be included in the Code.

9

Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code?

Two months appears to be a more than adequate period within which Members can consider whether they would agree to observe the Member Code.

Amendments to the General Principles

10

Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

The addition of a new general principle saying that Members must not engage in conduct that constitutes a criminal offence is acceptable.

11

Do you agree with this broad definition of ‘criminal offence’ for the purpose of the General Principles Order? Or do you consider that ‘criminal offence’ should be defined differently?

The definition of ‘criminal offence’ is acceptable.

12

Do you agree with this definition of ‘official capacity’ for the purpose of the General Principles Order?

The definition of ‘official capacity’ is acceptable.

APPENDIX B

Halton Borough Council - Proposed Response to Model Code Consultation

This is organised by reference to the question numbering scheme extracted from the Consultation paper.

OFFICER CODE

13

Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment, is needed?

A mandatory model code of conduct should apply to all local government employees and should in accordance with the Local Government Act 2000 be applied by law automatically and without variation to the contracts of employment of all local government employees.

14

Should we apply the employees' code to firefighters, teachers, community support officers, and solicitors?

The Code should be applied alike to all employee groups within the Council. Standard values should arch over all categories of staff.

15

Are there any other categories of employee in respect of whom it is not necessary to apply the code?

The Code should apply to all local government employees in much the same way that the carers code applies regardless of seniority

16

Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?

The Core values of the Officer Code as stated are adequate and no need for additions or deletions.

17

Should the selection of 'qualifying employees' be made on the basis of a "political restriction" style model or should qualifying employees be selected using the delegation model?

Employees requiring to comply with the Code of Conduct should not be restricted to those at a certain grade or those exercising delegated powers. A

framework of conduct recognised by reference to national standards should be asserted from the outset of an employee's career. The practical implications of the Code may vary depending on where the employee stands and their level of seniority but the standards should be common and should permeate the officer cadre.

18

Should the code contain a requirement for qualifying employees to publicly register any interests?

Yes the Code should require employees to register their interests publicly but this aspect should be restricted to those who are on salary scale prescribed for politically restricted posts.

19

Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?

The registrable categories of interest as set out in the consultation paper are appropriate and no other categories are suggested for inclusion.

20

Does the section of the employees' code which will apply to qualifying employees capture all pertinent aspects of the members' code? Have any been omitted?

All the pertinent aspects of the Members' Code have been reflected into the Officer Code.

21

Does the section of the employees' code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?

The restrictions imposed are proportionate to the standards of public conduct.

22

Should the employees' code extend to employees of parish councils?

Parish Councils can hold major budgets. Halton is not accustomed to its Parish Councils' holding such budgets but it is quite possible that the existing complement or indeed new parish councils may achieve larger scale resources and staffing. Their officers should be subject to the same Code as officers of Principal Councils such as Halton.

APPENDIX C

THE **EXISTING** TEN PRINCIPLES OF PUBLIC LIFE – **MEMBERS**

The General Principles

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to uphold the law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

NOTE

Under the Consultation document proposals a further principle would be added:-

Duty to abide by the law

Members should not engage in conduct which constitutes a criminal offence.

APPENDIX D

OFFICERS' CODE – CURRENT VERSION

Officers' Code of Conduct

THE EMPLOYEE CODE

1. Introduction

(a) This Code has been drawn up broadly in line with the Local Government Management Board's draft Code of Conduct.

(b) The public is entitled to expect the highest standards of conduct from all employees who work for local government and to expect that their conduct should never be influenced by improper motives.

(c) This Code has been formulated to provide a set of standards of conduct expected of employees at work and the link between that work and their private lives.

(d) The Code takes into account the requirements of the law and the provisions on official conduct in the appropriate national conditions of service.

(e) The Code applies to all Council employees. Those employees involved in processing applications for services or resources, licences or statutory consents and those involved in the procurement of goods and services need to pay particular attention to the Code.

(f) Any alleged breaches of the Code maybe dealt with under the Council's disciplinary procedure.

(g) If employees are in any doubt about any of the provisions of the Code they should seek advice from their Chief Officer.

2. Standards

Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to other employees and Members with impartiality. Employees should bring to the attention of the management any deficiency in the provision of service and must report any impropriety or breach of procedure to their senior officer.

3. Disclosure of Information

(a) The law requires that certain types of information must be available to Members, auditors, government departments, service users and the public.

(b) Under the Local Government Act 1972 the public have a right to see certain information. In most circumstances these rights are related to Committee/Board reports and background documents.

(c) Employees must not use any information obtained in the course of their employment for personal gain or benefit, or pass it onto others who might use it in such a way.

(d) Only employees authorised by their Chief Officer to do so may talk to the Press, or otherwise make public statements on behalf of their department. Any employee contacted by the Press should pass it to their senior officer

who will in normal circumstances refer the matter to the Corporate Communications Division who will deal with it.

(e) If employees consider that the non-disclosure of certain information is contrary to the wider public interest, they should advise their Chief Officer or the Chief Executive of the information and the issues concerned.

4. Political Neutrality/Activity

(a) Employees serve the Council as a whole. It follows, therefore, that they must serve all Members not just Members of any controlling group, and must ensure that the individual rights of all Members are respected.

(b) Some senior employees will be expected, within the Council's guidelines, to advise political groups. These employees have a duty to advise minority groups as well as the controlling group.

(c) Some employees, who are normally those in more senior positions, are in politically restricted posts and by law are prevented from taking part in certain political activities outside their work. Employees who are in this position should have been told of this in writing and of the rules for claiming exemption, but any employee who is any doubt about their position should contact their Chief Officer.

(d) If an employee is in any doubt about whether an activity is political activity and covered by these rules they should seek advice from their Chief Officer.

(e) It is important that all employees are aware of their position in terms of political activity because if these statutory provisions are breached this may constitute a breach of the Contract of Employment which may be dealt with under the Council's disciplinary procedure.

(f) Employees, whether or not politically restricted, must follow every lawful policy of the Council and must not allow their own personal or political opinions to interfere with their work.

5. Relationships

(a) Members

Some employees are required to give advice to Members as part of their job and mutual respect between employees and Members is essential to good local government.

(b) The Local Community and Service Users

Employees must always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the community.

(c) Contractors

All relationships with contractors or potential contractors must be made known to the appropriate Manager. Orders and contracts must be awarded in line with the Council's financial regulations.

Employees who engage or supervise contractors or have an official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity, must declare that relationship to the appropriate manager.

6. Outside Commitments

(a) An employee's off-duty hours are their personal concern but they must not place themselves in a position where their employment and private interests conflict. The Council would not wish to preclude employees unreasonably from undertaking additional work unless that work conflicts with or detrimentally affects the Council's interests or in any way weakens public confidence in the conduct of the Council's business, or in any way affects the ability to fulfil the Contract of Employment.

(b) However, officers above scale 6 are expected to devote the whole of their paid employment work to the Council and must not engage in any other business or take up any other additional appointment for financial gain without the agreement in advance of their Chief Officer.

(c) If agreement is given employees must be made aware that no outside work of any sort should be undertaken in the workplace and use of facilities, e.g. telephones, photocopying is forbidden. Breach of this provision may result in a disciplinary offence.

7. Personal Interests

(a) Employees must declare to their line manager, non-financial interests that they consider could bring conflict with the Council's interests (e.g. acting as a school governor within schools maintained by the Council, involvement with an organisation receiving grant aid from the Council, membership of an NHS Trust Board, involvement with an organisation or pressure group which may seek to influence their authority's policies). Membership of a trade union is exempted from this requirement.

(b) Employees must declare any financial interest, which could conflict with the Council's interests.

(c) Employees who have an interest, financial or non-financial, should not involve themselves in any decision on allocation of Council services or resources from which they, their friends or family might benefit, and should ensure that the matter is referred immediately to their line manager (e.g. allocation of Council housing or assessment of housing benefit).

8. Equality Issues

Employees have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with, as well, of course, as the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

9. Separation of Role During Tendering

(a) Employees should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.

(b) Employees in contractor or provider units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.

(c) Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.

(d) Employees must ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

10. Corruption

It is a criminal offence for an employee to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity. It is for the employee to demonstrate that any such rewards have not been corruptly obtained.

11. Use of financial resources

Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner, ensuring value for money to the local community and avoiding legal challenge to the Council.

12. Gifts and Hospitality

(a) The Local Government Act 1972 forbids acceptance by any local government officer of any fee or reward other than proper remuneration and contravention of this provision is a criminal offence.

(b) Officers should be aware of the Prevention of Corruption Act 1916 which states that the giving of any money, gift or consideration to any officer by a person trying to obtain a public contract is deemed to have been given corruptly unless the recipient proves to the contrary.

(c) The offers of gifts to officers from persons who have or may seek to have dealings with the authority should be viewed with extreme caution. Officers should consider how the acceptance of such a gift would be viewed by a member of the public. Officers are personally liable for all decisions connected with the acceptance of gifts or hospitality and for avoiding the risk of damage to public confidence in local government.

(d) The only exceptions to this rule are small gifts of nominal value:-

- given by way of trade advertisements to a wide range of people, e.g. inexpensive calendars, diaries, tape measures and similar articles for use at work.

- on the conclusion of a courtesy visit, for example to a factory or other premises.

(e) Any hospitality given or received by officers should be justified as in the public interest. The hospitality given should be on a scale appropriate to the occasion.

(f) Offers of hospitality must be refused where a suggestion of improper influence is possible. Special care must be taken where hospitality is offered by a person having or seeking business with, or a decision from, the Council.

(g) Each officer who is offered a gift or hospitality shall, before any action is taken, discuss the offer with his/her line manager, except in the case of gifts or hospitality of a nominal value.

(h) In the case of the Chief Executive, before any action is taken, he will discuss the offer with the Strategic Director – Corporate and Policy and in his absence with the Monitoring Officer.

(i) Each Chief Officer shall maintain a gift and hospitality register. This register shall record:-

- what gift/hospitality was offered and to whom;
- by whom it was offered;
- when and with whom the offer was discussed;
- the decision whether or not to accept the gift/hospitality.

(j) In the event that it is decided it would be inappropriate to accept the gift/hospitality, the officer to whom it was offered will inform the offeror accordingly, explaining the reasons for refusal.

13. Use of services, etc. of firms dealing with the Council

(a) If any officer has good reason to believe that any offer of preferential terms is designed to promote a firm's interest in its dealings with the Council, then the offer should be refused and the matter treated as if a gift had been offered. The above Standing Orders would then apply.

(b) Caution should be exercised by officers using services offered by firms which they know have dealings with the Council. Officers must ensure that goods or services bought from such firms are at a price readily available to the public.

14. Sponsorship - Giving and Receiving

(a) Where an outside organisation wishes to sponsor or is sought to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

(b) Where the authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. Similarly where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

15. Confidentiality

As an Officer of the Council you will occasionally acquire information which has not been made public and is confidential. You should not disclose this information to the public without the express approval of your Chief Officer. You should never disclose any information to personally advance yourself or someone known to you, or to the disadvantage or discredit of the Council or anyone else.

ADDITION TO OFFICER CODE IF CONSULTATION PAPER PROPOSALS APPROVED BY GOVERNMENT

Adjustments would be necessary to rationalise the current officer code AROUND these principles.

Proposed core values

The model employees' code: core values for all employees

General principles

The public is entitled to expect the highest standards of conduct from all local government employees. The role of such employees is to serve their employing authority in providing advice, implementing its policies and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Accountability

Employees are accountable, and owe a duty to, their employing authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political neutrality

Employees, excluding political assistants, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where employees are politically restricted, by reason of the post they hold or the nature of the work they do, they must comply with any statutory restrictions on political activities.

Relations with members, the public and other employees

Mutual respect between employees and members is essential to good local government and working relationships should be kept on a professional basis. Employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently and without bias.

Equality

Employees must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

Stewardship

Employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal interests

An employee must not allow their private interests or beliefs to conflict with

their professional duty. They must not misuse their official position or information acquired in the course of their employment to further their private interest or the interests of others.

Employees should abide by the rules of their authority about the declaration of gifts offered to or received by them from any person or body seeking to do business with the authority or which would benefit from a relationship with that authority. Employees should not accept benefits from a third party unless authorised to do so by their authority.

Whistleblowing

Where an employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with the model code of conduct for employees, the employee should report the matter, acting in accordance with the employees' rights under the Public Interest Disclosure Act 1998 and with the authority's confidential reporting procedure or any other procedure designed for this purpose.

Treatment of Information

Openness in the dissemination of information and decision making should be the norm in authorities. However, certain information may be confidential or sensitive and therefore not appropriate to a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

Appointment of staff

Employees of the authority, when involved in the recruitment and appointment of staff, must ensure that appointments are made on the basis of merit. In order to avoid any accusation of bias, those employees must not be involved in any appointment, or any other decision relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related or with whom they have a close personal relationship outside work.

Investigations by monitoring officers

Where a monitoring officer is undertaking an investigation in accordance with Part III of the Local Government Act 2000 and associated regulations, employees must comply with any requirement made by that monitoring officer in connection with such an investigation.

REPORT TO:	Standards Committee
DATE:	19 th November 2008
REPORTING OFFICER:	Strategic Director - Corporate & Policy
SUBJECT:	Standards Board Information Roundup
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 the Standards Board.

2.0 RECOMMENDATION

- 2.1 That the report be noted.

3.0 SUPPORTING INFORMATION

- 3.1 A copy of Bulletin 40, released since the last meeting of the Committee, is attached at Appendix 1. In particular, Members' attention is brought to:

- (a) the analysis of the first quarter of local case handling; and
- (b) consultation on the adjournment of local assessment decisions.

- 3.2 In respect of (b), the consultation related to the option of Standards Committees to refer a case to the monitoring officer of the authority concerned. If this option was chosen, the Committee could give directions to the monitoring officer about how to deal with the case under Section 66(6) of the Local Government Act 2000, either by way of a direction to investigate it or to take other action. However, if a case was referred for action other than investigation it could not subsequently be investigated. Therefore, some Standards Committees have been reluctant to direct the monitoring officer to deal with a case by way of other action when they may not know enough about the circumstances of the case.
- 3.3 Two options were outlined in the consultation, with concerns and advantages highlighted. The Standards Board has advised that an analysis on the consultation feedback will be in the next bulletin, which will be presented to the Committee in due course.

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 None.

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

None under the meaning of the Act.

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Standards Board investigations

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Annual Review 2007-08 available online

Monitoring officer seminar

Ethical governance toolkit

Contact

Enquiries line: 0845 078 8181

Minicom: 0161 817 5449

www.standardsboard.gov.uk

email: bulletin@standardsboard.gov.uk



Welcome to Issue 40 of the *Bulletin*.

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

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

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

Glenys Stacey
Chief Executive



Seventh Annual Assembly of Standards Committees

13-14 October 2008, ICC Birmingham

See page 4 for more details

Guidance on the local standards framework

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

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

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

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

Analysis of first quarterly monitoring returns

Data collection

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

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

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

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

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

Feedback

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

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

Analysis

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

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

Standards committees

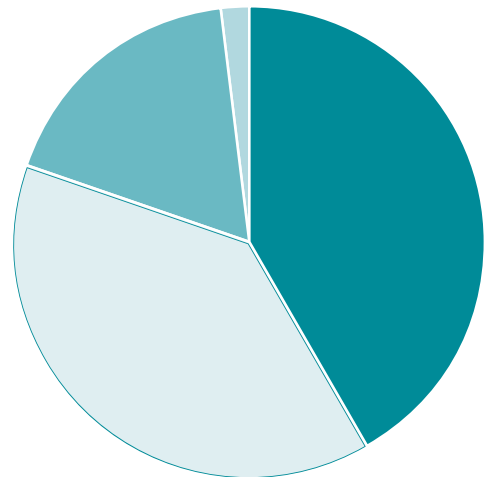
- On average, standards committees have nine members in total, which includes three independent members and, if the authority has parish or town councils, three parish representatives.

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

Cases handled locally

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

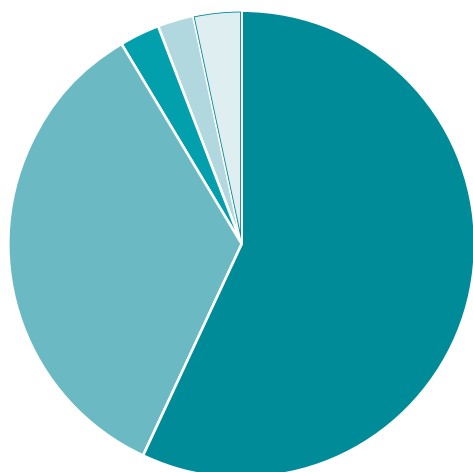
REFERRAL DECISIONS



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

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

SOURCE OF COMPLAINT



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

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

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

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

Forthcoming events

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

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

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

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

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

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

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

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

Seeking views on adjourning local assessment decisions

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

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

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

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

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

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

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

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

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

Concerns

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

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

Advantages

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

Alternative

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

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

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

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

New Deputy Chair and Board members appointed

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

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

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

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

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

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

Standards Board investigations

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

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

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

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

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

The functions of a standards committee are:

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

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

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

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

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

Annual Review 2007-08 available online

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

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

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

Monitoring officer seminar

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

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

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

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

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

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

Ethical governance toolkit

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

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

For further information on the ethical governance toolkit and for contact details, please visit the Ethical Governance section of the IDeA website, which you can find at www.idea.gov.uk/knowledge or contact the Audit Commission by email at infogovcounterfraud@audit-commission.gov.uk.