



Standards Committee

**Wednesday, 8 September 2010 at 3.00
p.m.**

Committee Room 1, Runcorn Town Hall

A handwritten signature in black ink, appearing to read 'David W R', positioned above a faint rectangular stamp.

Chief Executive

COMMITTEE MEMBERSHIP

Mr Bill Badrock (Chairman)

Parish Councillor Bernie Allen

Parish Councillor Canon David Felix

Mr Robert Garner

Mr Tony Luxton (Vice-Chairman)

Mrs Anita Morris

Councillor Peter Murray

Conservative

Councillor Stan Parker

Labour

Councillor Linda Redhead

Liberal Democrat

Councillor John Swain

Labour

Councillor Kevan Wainwright

Labour

Please contact Angela Scott on 0151 471 7529 or

Angela.scott@halton.gov.uk for further information.

The next meeting of the Committee is on Wednesday, 10 November 2010

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

Part I

Item No.	Page No.
1. MINUTES	1 - 5
2. DECLARATIONS OF INTERESTS	
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. STANDARDS FOR ENGLAND ROUNDUP	6 - 7
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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.

STANDARDS COMMITTEE

At a meeting of the Standards Committee on Wednesday, 26 May 2010 Committee Room 1, Runcorn Town Hall

Present: Councillors Parker, Redhead and Swain, Mr R. Garner, Mr A. Luxton (Deputy Chair) Mrs A Morris and Parish Councillor Mr B Allen

Apologies for Absence: Councillor Murray, Mr W B. Badrock and Parish Councillor Canon D. Felix

Absence declared on Council business: None

Officers present: M. Reaney and A. Scott

Also in attendance: None

**ITEMS DEALT WITH
UNDER DUTIES
EXERCISABLE BY THE COMMITTEE**

STC1 WELCOME TO NEW MEMBERS AND APPOINTMENT OF CHAIR AND DEPUTY CHAIR

Action

The Operational Director, Legal and Democratic Services, Mr Reaney, opened the meeting and welcomed new Members to the Committee.

Nominations were invited for the appointment of chair and deputy chair for the municipal year 2010/11.

RESOLVED: That Mr W Badrock be appointed chair and Mr A Luxton be appointed deputy chair of the Standards Committee for the 2010/11 municipal year.

MR A LUXTON IN THE CHAIR

STC2 MINUTES

The minutes of the meeting held on 24 February 2010, having been printed and circulated, were signed as a correct record.

In noting the contents, the Committee commented on the following matters:

- the awaited issue of the revised Code of Conduct which had been expected in Autumn 2009;
- as agreed previously, an invitation be extended to a representative of Standards for England to attend a future meeting of the Committee to increase understanding of the Code of Practice;
- the availability of on-line guides on the Standards for England website (www.standardsforengland.gov.uk); and
- Mr Reaney extended the offer of additional one to one training for new Members.

Monitoring Officer

STC3 STANDARDS COMMITTEE ANNUAL REPORT

The Committee received a report of the Strategic Director, Resources which summarised the work of the Committee in the last municipal year.

The Committee noted that there had been four meetings in 2009/10. Details of membership and the role of the Committee were outlined in the report. During the year, Members had received a report on the local application of the systems for Declaration of Interests as well as guidance from Standards for England on the powers to suspend a Standards Committee's Assessment and Review functions, the establishment of joint Standards Committees and information on "other action" which could be taken following an assessment of a complaint. Members watched the new training DVD entitled "Assessment Made Clear", which was designed to help Members assess complaints about elected or co-opted Members.

In addition, the Committee had received regular updates of information from Standards for England and digests of cases that had been heard in other authorities. Following attendance at the Standards for England Annual Assembly in October, Mr Reaney and Councillor Wharton reported on matters of relevance.

The Committee noted that the revised version of the Members' Code of Conduct was still awaited.

RESOLVED: That the report be noted and referred to Council for information.

STC4 STANDARDS FOR ENGLAND ROUND UP

The Committee received a report of the Strategic Director, Resources which brought Members up to date on the latest news from Standards for England.

Since the last Committee meeting, Standards for England had released Bulletin 47, which was appended to the report for information. Of particular note was the transfer of functions of the (now abolished) Adjudication Panel for England to the First Tier Tribunal (Local Government Standards in England), whose role was to hear cases referred to it by Ethical Standards Officers or a Standards Committee following an investigation. The Bulletin set out the changes to the powers and procedures of the Tribunal. The issue of costs and the power to make an order for costs if the Tribunal considered that a party had acted unreasonably in bringing, defending or conducting proceedings was also noted. The Committee asked a for a further report to the next meeting to provide clarification on the extent of these powers.

In addition, Members also noted the availability of online guides via the Standards for England website and the article about the benefits and downside of online social networking communication.

Details of the 2010 Annual Assembly of Standards Committees 'A Place for Standards', taking place on 19 October 2010 at the ICC Birmingham were noted. It was agreed that all Members of the Committee be notified and asked to indicate their interest in attending to the Monitoring Officer, who would then consider the position further with the Chair.

RESOLVED: That

- 1) the report be noted;
- 2) all Members of the Committee indicate their availability and/or willingness to attend the 2010 Annual Assembly to the Monitoring Officer; and
- 3) a further report providing clarification on First Tier Tribunal costs be brought to the next meeting.

Monitoring Officer

STC5 DECLARATION OF INTERESTS OF MEMBERS

The Committee received a report of the Strategic Director, Resources on the local application of the systems for declarations of interests by Members in order to maintain the values of good governance and ethical behaviour.

Members were reminded that the first annual report on Declarations of Interest by Members was considered at the meeting on 3 June 2009. This highlighted the importance of integrity in local government and provided guidance on the definition of both personal and personal and prejudicial interests. The Register was updated in May each year and was held by the Principal Committee Services Officer. In addition, a register of gifts and other hospitality was maintained by Committee Services, when Members were required to declare any gifts or hospitality worth £25 or more received in connection with official duties as a Member. Both registers were regularly inspected by the Council's Monitoring Officer.

The Committee noted that all newly elected Members received advice on this requirement as part of the Council's Member Induction Programme.

RESOLVED: That the report be noted.

STC6 DRAFT ACTION LIST

The Committee's Action list was attached for information.

In considering the Action List, the Committee highlighted the importance of training and how the Committee could contribute to Members' awareness of the Standards Committee and its function. In relation to action number 2, it was noted that the Council had approved the increase in numbers of Independent Members from three to four.

The Chair invited all Members to put forward their ideas for any future training requirements.

RESOLVED: That the report be noted.

STC7 RECENT CASE SUMMARIES FROM STANDARDS FOR ENGLAND

The Committee received a report of the Strategic

Director, Resources which outlined recent decisions in cases where a breach of the Code of Conduct had been alleged in other authorities.

The Committee noted the contents of the case of a Parish Councillor suspended from office for a four month period, having been found in breach of several parts of the Members' Code of Conduct.

RESOLVED: That the report be noted.

Dates for the remaining meetings in 2010/11 are as follows:

8 September 2010
10 November 2010
5 January 2011
23 February 2011

Meeting ended at 4.05 p.m.

REPORT TO: Standards Committee

DATE: 8th September 2010

REPORTING OFFICER: Strategic Director Resources

SUBJECT: Standards For England Round Up

WARDS: N/A

1. PURPOSE OF REPORT

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

2. RECOMMENDATION

- 2.1 That the report be noted.

3. SUPPORTING INFORMATION

- 3.1 There have been no issues of Standards for England's Bulletin since the last meeting of this Committee.
- 3.2 On 28 May 2010 Standards for England issued a statement concerning the Government's Planned Decentralisation and Localism Bill, which included a proposal to abolish the Standards Board regime. The Chair of Standards for England indicated great disappointment with the decision pointing out that since 2007 Standards for England had dealt only with those matters which local authorities could not deal with themselves. Their recent review of this devolved local framework found that it was delivering increased confidence in the accountability of local politicians, improved Member behaviour and contributed to better governance. It was confirmed in the statement that Standards for England do not have clear details as yet as to what is proposed for the future and that the local Standards Framework remains pending further legislative change. Standards for England's priorities are to fulfil statutory duties, to support local authorities in maintaining high standards and to assist the Government in developing and implementing any new arrangements.

Since that Statement, monitoring officers have been contacted by Standards for England advising them not to continue providing quarterly update reports.

It remains to be seen what the future will hold for the Standards regime and of course Members will be advised as soon as possible of any developments.

- 3.3** On 24 June 2010, Standards for England advised that a new “Compact Toolkit” offering help and guidance in building up greater working relationships with parish and town councils had been launched. This had been jointly developed by Standards for England, the National Association of Local Councils, and the Society of Local Council Clerks. It is designed for use by Standards Committees, Monitoring Officers, SLCC Branch Officers and County Association Officers

4. POLICY IMPLICATIONS

- 4.1** None

5. OTHER IMPLICATIONS

- 5.1** None

6. 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. RISK ANALYSIS

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

8. EQUALITY AND DIVERSITY ISSUES

- 8.1** The report of itself does not contain specific equality and diversity issues.

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

- 9.1** None

REPORT TO: Standards Committee

DATE: 8th September 2010

REPORTING OFFICER: Strategic Director Resources

SUBJECT: Recent Case Summaries From Standards For England

WARDS: N/A

1. PURPOSE OF REPORT

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

2. RECOMMENDATION

2.1 That the report be noted.

3. SUPPORTING INFORMATION

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

3.2 These cases refer to Hyndburn Borough Council, and Wolverhampton City Council.

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

4. POLICY IMPLICATIONS

4.1 None

5. OTHER IMPLICATIONS

5.1 None

6. 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

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9.1 None

Case Summary - Hyndburn Borough Council

Case no. SBE-09394-F2O3M
Member(s): (Former) Councillor Graham Jones
Date received: 03 Apr 2010

Allegation:

That Councillor Jones failed to treat others with respect and brought his council into disrepute

Standards Board outcome:

The ethical standards officer found that Councillor Jones failed to comply with the Code of Conduct in that he failed to treat others with respect, but in the circumstances of the case, no further action needed to be taken. She found that he did not bring his office or authority into disrepute.

Case Summary

The complainant alleged that Councillor Jones brought the council into disrepute by posting items on his blog relating to the council's investigations of a complaint made by a member of the public. Specifically, Councillor Jones was alleged to have falsely claimed that the council had committed fraud and had subsequently tried to cover this up. The complainant also alleged that Councillor Jones misrepresented the contents of a letter written by the council's managing director by posting extracts of it on his blog.

Between 2007 and 2008 the council undertook three investigations into a complaint by a member of the public about repairs to a council owned building. The member of the public was not satisfied with the outcome of the investigations and in 2009 approached Councillor Jones for help in taking his concerns forward. The council's managing director then undertook an investigation, wrote to the member of the public with his provisional findings and agreed that the matter should be referred to the police. During this time Councillor Jones published posts on his blog saying that the council had admitted defrauding their insurers. He also criticised the way that senior officers had dealt with the member of the public's complaint.

The ethical standards officer considered that Councillor Jones failed to treat the officers with respect by posting statements on his blog that were critical of officer performance and alleged possible officer fraud and corruption while there was an ongoing police investigation. The ethical standards officer did not consider that Councillor Jones brought his office as a councillor or his council into disrepute, although the content of Councillor Jones's blogs might cause a reasonable member of

the public to think less of Councillor Jones as an individual. The ethical standards officer considered that Councillor Jones' criticisms of council officers were motivated by a desire to provide assistance to a local resident, not for any personal gain. They were a temporary lapse in the otherwise good judgment he had demonstrated in his dealings with this matter. The ethical standards officer considered any possible misrepresentation of the managing director's letter was inadvertent, short lived and not intentional. The ethical standards officer took into account that Councillor Jones acted swiftly to remove the posts from his blog site, retracted his statements and apologised to the officers concerned and considered no further action was necessary.

Relevant paragraphs of the Code of Conduct

Paragraph 3 – respect

Paragraph 5 - disrepute

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Case Summary - Hyndburn Borough Council

Case no. SBE- 09357-UV6JL
Member(s): Councillor Peter Britcliffe
Date received: 02 Mar 2010

Allegation:

That Councillor Britcliffe failed to declare a personal and prejudicial interest.

Standards Board outcome:

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

Case Summary

It was alleged that Councillor Britcliffe failed to declare the appropriate interest at a council meeting held on 18 November 2009. At that meeting Councillor Britcliffe updated those present on the 'Pennine Reach Rapid Transit Scheme'. It was alleged that, as the owner of a retail outlet possibly effected by one element of the scheme, that Councillor Britcliffe should have declared a personal and prejudicial interest in the scheme.

Councillor Britcliffe responded to the allegation by saying that the update he provided was about the scheme as a whole and not the element that concerned his retail premises. He said that he felt it was appropriate to take part in discussions about the scheme as leader of the council and because of controversial parking restrictions being considered for his ward, which were part of the wider scheme. Councillor Britcliffe added that all decisions regarding the scheme would be made by the county council not the borough council.

The ethical standards officer considered the circumstances in which Councillor Britcliffe spoke about the Pennine Reach Rapid Transit Scheme at the full council meeting. Councillor Britcliffe was acting in his official capacity when he provided his update, but it was purely an oral update and no discussion or debate took place or was invited. The ethical standards officer concluded that although there was consideration of the update at the meeting, this did not give rise to an obligation to declare interests in relation to this item of business. Therefore the ethical standards officer found that there was no failure to comply with the council's Code of Conduct.

Relevant paragraphs of the Code of Conduct

Paragraph 9 – disclosure of personal interests

Paragraph 12 – effect of prejudicial interests on participation

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Case Summary - Wolverhampton City Council

Case no. SBE-09294- F7VWV
Member(s): Councillor Sandra Samuels
Date received: 25 Feb 2010

Allegation:

Failure to act on a prejudicial interest and bringing her office and the council into disrepute

Standards Board outcome:

The ethical standards officer found that the member failed to comply with the Code of Conduct, but in the circumstances of the case, no further action needed to be taken.

Case Summary

Two complainants made allegations against Councillor Samuels, relating to a meeting of the council on 3 February 2010. She was the chair of the Wolverhampton African Caribbean Resource Centre. There was a motion to restore funding to the Centre. Councillor Samuels declared a personal interest but spoke in the debate, stayed and voted on the motion. It was alleged that she had a prejudicial interest in the business and ought to have withdrawn from the debate.

During her speech she said "If we have to take to the streets and cause a riot out there that is what we will do". It was alleged that these words brought her office or authority into disrepute.

The ethical standards officer investigated Councillor Samuels' role as chair of the Resource Centre. She was closely involved in the running of the Resource Centre, and was a director of the company although she had not registered this interest in the members' register of interests. The ethical standards officer considered that Councillor Samuels had a prejudicial interest which she had not acted upon. She therefore failed to comply with the Code of Conduct. The ethical standards officer noted, however, that Councillor Samuels had received incorrect advice from an officer of the council about the need to declare an interest, and so decided that no action needed to be taken against Councillor Samuels.

Councillor Samuels stated that she had inadvertently referred to causing a "riot" in her speech, and that she had intended to refer to a protest. The ethical standards officer discovered that she had referred to the possibility of a riot with reference to the withdrawal of funding from the Resource Centre on an earlier occasion. The ethical standards officer considered that Councillor Samuels had spoken consciously and that

by using the word “riot” she had brought the council and her office into disrepute. However, she accepted that Councillor Samuels had not meant her words to be taken literally. Councillor Samuels told the council immediately that she had used the words metaphorically. Therefore the ethical standards officer considered that no action needed to be taken in relation to this complaint.

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HALTON BOROUGH COUNCIL

STANDARDS COMMITTEE 8 September 2010

DRAFT ACTION LIST

The following list is for consideration by the Committee

NO	PRIORITY	ACTION	BY	DATE
1	High	Consider further training, ideally with other authorities	OD	Cheshire authorities are committed to joint training event for Members and Parish Council Chairs & Clerks – date to be agreed following issue of new Code of Conduct.
2	High	Constitution of Standards Committee	OD	Committee to welcome new Members and ensure appropriate training is provided
3	High	All Members training on Code of Conduct	OD	More training will be given following adoption of new Code
4	High	Information to be provided about costs at First Tier tribunals	OD	8 September 2010
5	High	Consider attendance at Annual Assembly	OD and Chair	Annual Assembly now cancelled

REPORT TO: Standards Committee

DATE: 8th September 2010

REPORTING OFFICER: Strategic Director Resources

SUBJECT: Blogging Topic Guide

WARDS: N/A

1. PURPOSE OF REPORT

- 1.1 To advise Members of the online publication of a Blogging Topic Guide by Standards for England.

2. RECOMMENDATION

- 2.1 That the report be noted.

SUPPORTING INFORMATION

- 3.1 On 18 August 2010, Standards for England published a Blogging Topic Guide in the Guidance Section of its website, accessible at www.standardsforengland.gov.uk/guidance
- 3.2 This is interesting, bearing in mind discussions of the last meeting of the Committee, on blogging and social networking sites.
- 3.3 The guide points out that blogging is increasingly becoming an important and legitimate part of the operation of a democratic society. It recognises that it is an efficient cost effective means of getting in touch with persons, and whilst it explains the positive role of blogging, it provides information on how the Code of Conduct may apply and gives some examples of tribunal cases which have dealt with the issue.

A hard copy of guide is attached as Appendix 1, but Members are advised there are links to further material contained in the online version.

4. POLICY IMPLICATIONS

- 4.1 None

5. OTHER IMPLICATIONS

- 5.1 None

6. 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. RISK ANALYSIS

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

8. EQUALITY AND DIVERSITY ISSUES

- 8.1 The report of itself does not contain specific equality and diversity issues.

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

- 9.1 None

Blogging

Introduction

Blogging is increasingly becoming an important and legitimate part of the operation of a democratic society. It is an efficient, cost-effective and enjoyable way to get in touch with constituents and discuss important issues with the community you represent.

This guide is aimed at members who are new to blogging and social networking as well as experienced bloggers and networkers. It may also be helpful for standards committee members and monitoring officers. It explains the positive role of blogging. It provides information on how the Code of Conduct (the Code) may apply to blogging and social networking and gives some examples of tribunal cases that have dealt with the issues.

What is a blog?

A blog is a frequently updated individual website discussing subjects ranging from the personal to the political. It may focus on one narrow subject or a whole range of subjects.

What is social networking?

Social networking is an online method of sharing information, photos and views with contacts and associates. Examples of social networking sites are Facebook, Twitter and MySpace.

How do members use blogging and social networking?

There are a number of different ways you can use social networking or blogging.

Social networking or blogging can be:

- sponsored by your authority e.g. a leader or members blog
- carried out as an individual
- carried out anonymously

It is important to note that when blogging the Code may apply. This will depend on the factors explored below.

Using council provided media

If you use online media to promote your work as a member or through council websites you will be regarded as conducting the business of the authority. Communicating in this way is most likely to engage the Code.

As an individual

The content of private, non-political blogs are less likely to engage the Code. It will again depend upon the particular facts whether or not the Code applies.

It is the content of a blog and the circumstances surrounding its creation that will determine whether or not its content falls under the Code. A disclaimer in a private blog which says that any comments are not made in an official capacity will not necessarily prevent breaches of the code being found. See Mullaney and Dorrian cases below.

Anonymous blogging

Anonymous satirical websites raise other issues. The first point to consider is whether it can be proved that you uploaded the site content. Although this may be generally suspected, the First Tier Tribunal (Local Government Standards in England) would expect an Ethical Standards Officer to be able to prove (on a balance of probabilities) that the content has been uploaded by a member. A standards committee would also expect similar proof from an investigating officer. If proof is established it is then necessary to show that you acted, claimed to act or gave the impression that you were acting as a member when you posted the offending comments.

How does the Code of Conduct apply to blogging?

When considering the application of the Code to blogging and social networking, it is essential to consider whether the Code will apply to your blog and which paragraphs you should be aware of in order to ensure ethical blogging.

For the Code to apply to your blog paragraph 2 of the Code needs to be satisfied. Paragraph 2 makes it clear that the Code only applies when you are acting in your official capacity. Official capacity is defined as conducting the business of the authority or acting, claiming to act or giving the impression that you are acting as a councillor. For further information on official capacity please see our quick guide to official capacity.

The decision as to whether you are acting in your official capacity will depend on the particular facts of each case and the circumstances surrounding your blog. There are a number of factors that will be taken into account when assessing this. These include:

- **How well known or high profile you are as a member.** The more high profile you are, the more likely it is that you will be seen as acting in your official capacity when you blog or use a social networking site.
- **The privacy settings on your blog or social networking site.** If you have a private, personal blog, ensure that you have appropriate privacy settings so that you decide who can read your posts. If you have a political blog this may

well be open to all readers. If constituents are able to see your posts, they may assume that you are acting in your official capacity as their representative.

- **The profile on your blog or social networking site.** You should set out clearly in your profile if this is a political or personal blog. Identifying this will enable readers to better understand if you are seeking to act in your official capacity or not. Nevertheless it may be possible in a personal blog to give the impression that you are acting as a member even though you have stated otherwise. Also, you cannot discuss council business on a personal blog and/or make gratuitously offensive remarks about others who are linked to the council and then claim to be doing so in a private capacity.

When blogging you should bear in mind the following paragraphs of the Code will apply to your online behaviour just as they would to any other form of communication.

- **Paragraph 3(1) - Treating others with respect:** The aim of the Code is not to stifle political opinions and arguments. As such, political comments and comments about ideas are less likely to be seen as disrespectful and result in a breach of the Code. However, personal jibes or remarks aimed at an individual may well be seen as disrespectful and could lead to a breach of the Code and possible sanctions.
- **Paragraph 3(2) (d) – Disclosing confidential information:** Before releasing any information on your blog or networking site, check if it is confidential and if you have the right to release it.
- **Paragraph 5 – Disrepute:** Because of your role, your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an impact on your office or authority. Dishonest or deceitful behaviour in your role as a member may bring your office or the authority into disrepute.
- **Paragraph 6 (b) (i), 6(b) (ii) and 6(c) – Use of resources:** You must not use local authority resources “improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.” Also you must ensure that these resources are not used improperly “for political purposes” - including party political purposes. See the Johnson case below.

You should also consider other online activities where the Code may apply:

- **Forum posts.** If you go on to a forum and identify yourself as a member then it is likely that the Code will apply when you post entries. If you put content on the site which you could only have obtained as a member it is possible to argue that you have given the impression that you were acting as a member even if you did not identify yourself as such when you made the posting.
- **Comments made by others.** It is also important to regularly check your own blog or networking site to ensure there are no defamatory or obscene comments posted by others. If this does happen you should remove the posts as soon as you become aware of them. You should also take steps to discourage users from posting such comments in the future.
- **“Friends” on social networking sites.** You should be aware that anyone you include as a friend on social networking sites could be regarded as a “person with whom you have a close association” within the meaning of paragraph 8

of the code – personal interests. Simply including someone on a site as a friend does not establish a close association but it is one factor that would be taken into account in deciding whether such an association exists.

Human rights considerations

In considering whether your use of social networking media have breached the Code, Article 10 of the European Convention on Human Rights (the right to freedom of expression) must also be taken into account. The First Tier Tribunal and court cases have made a number of decisions about this issue.

You are less likely to breach the Code where you are making genuine political statements. This means that you are less likely to breach the Code if your comments are about another member’s political position or are a genuine expression of political differences with someone. The courts have established that this is because of the fundamental importance of freedom of political expression in a democratic society. However, any political expression should avoid being just an expression of personal anger or abuse towards someone since insults and abuse do not normally qualify for the protection of Article 10. If you make rude comments about a member of the public or an officer of an authority it is more likely that you will be found to have breached the Code.

Examples of cases

Examples which illustrate how the First Tier Tribunal and standards committees have viewed cases involving social networking can be found in(1):

Councillor Mullaney APE 0400 and High Court judgment Birmingham City Council

In this decision factors relevant to the conclusion that conduct was within “official capacity” included the following

- The subject member trespassed onto an individual’s property and shot a video that he subsequently posted on You Tube. The aim of the video was to galvanise the planning department into taking action concerning the building.
- The YouTube video concerned identified the subject member at the outset.
- The subject member identified himself several times as a member.
- The video was subsequently published on the subject member’s website - the homepage of which identified him as a member.
- References were made in the video to the jurisdiction of the subject member’s council.
- The subject member failed to remove or edit the video when requested.
- The tribunal decision on breach was upheld by the High Court and the case was sent back to the Appeals Tribunal to consider if the sanction they applied was appropriate.
- The sanction applied was a one month suspension.

[Click here](#) for a link to the case.

Councillor McTigue APE 0421
Middlesbrough Council

The Appeals Tribunal accepted that

- Even if it became clear from the forum (an on-line forum hosted by the local newspaper) that an individual who was posting on the forum was a member, the Code would not automatically be engaged.
- The question was whether in the postings on the forum the member was deemed to be, or gave the impression that he or she was “acting in the role of member”.
- This was fact-sensitive and would very much depend on the content of the postings.
- The subject member had used a pseudonym and stated that she was on the forum as a resident who just happened to be a member. Taking the contents of the postings as a whole the member did give the impression that she was acting in the role of member and representing the council. In a series of posts the subject member discussed council business, outlined what had happened at council meetings and referred to herself as a councillor.
- Sanction applied was a two month suspension.

[Click here](#) for a link to the case

Mayor Johnson
Greater London Authority Standards Committee Decision

- The Mayor of London linked in his tweet to the front page of the Sun, which on that day had announced its decision to endorse the Conservative party.
- The standards committee found that he had breached paragraph 6(b) (ii) of the authority’s Code because he tweeted using his mayoral twitter feed (thus using GLA resources) and was considered to be seeking to affect party political support.
- Sanction applied was for the monitoring officer to speak to the Mayor about his responsibilities under the code.

[Click here](#) for a link to the case.

Councillor Sharratt APE 0458
South Ribble Borough Council

- The member was a journalist who published a small journal.
- The member neither claimed nor gave the impression of acting as a representative of the council. The magazine was ‘published for fun’, and a member of the public would be in no doubt, the panel said, that the journal was not a matter that was the business of the council.
- The Standards Committee accepted the argument that Cllr Sharratt used the magazine to conduct public discourse on the council and party issues, and that his activities on the council, the magazine and the party were seamlessly connected. However, the First-tier Tribunal disagreed. It said the decision in Livingstone (Livingstone v APE (2006) EWHC 2533) referring to ‘activities

which are apparently within the performance of a member's functions' should be narrowly construed.

- The appeals tribunal rejected the finding of the standards committee and concluded there had been no breach of the Code.
- No breach.

[Click here](#) for a link to the case.

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- The member appealed the decision of the standards committee of the London Borough of Barking and Dagenham.
- The member published a video on a website concerning statements about knife crime that were inaccurate.
- The key question considered by the tribunal was whether the member was acting in his official capacity when making the video.
- There was no evidence to support the position that the member was conducting the 'business of the Council' and the parties did not put forward any arguments to this effect
- The Tribunal was drawn to the conclusion that the making of the video was not proximate enough to the role of member so as to bring him into the ambit of acting in his capacity as a member. The Tribunal considered the following factors in reaching its conclusion:
 - The member was making a video on behalf of the BNP with its primary purpose being party political;
 - He was not identified as a member for the London Borough of Barking & Dagenham;
 - He was not taking forward an issue relevant primarily to the London Borough of Barking & Dagenham;
 - He was not taking forward an issue on behalf of an individual constituent; and,
 - The video dealt with a range of issues and the Appellant did not concentrate upon issues within the London Borough of Barking & Dagenham.
- No breach.

[Click here](#) for a link to the case.

Other issues to consider

There are also considerations apart from the Code that should be taken into account when using online media. The following is a brief guide to some of the legal pitfalls(2) in establishing personal blogs. Almost all of these can be avoided if your online content is objective, balanced, informative and accurate.

In the main, you have the same legal duties online as anyone else, but failures to comply with the law may have more serious consequences.

Libel

If you publish an untrue statement about a person which is damaging to their reputation they may take a libel action against you. This will also apply if you allow someone else to publish something libellous on your website if you know about it and do not take prompt action to remove it. A successful libel claim will result in an award of damages against you.

Bias and Predetermination

If you are involved in determining planning or licensing applications, you should avoid publishing anything on your blog that might suggest you have already made up your mind about a matter you may be involved in determining. Otherwise, the decision runs the risk of being invalidated.

Copyright

Placing images or text on your site from a copyrighted source (e.g. extracts from publications, photos etc) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission in advance. Breach of copyright may result in an award of damages against you.

Data protection

Avoid publishing the personal data of individuals unless you have their express written permission.

Obscene material

It goes without saying that you should avoid publishing anything in your blog that people would consider obscene. Publication of obscene material is a criminal offence.

Conclusion

Blogging and social networking are excellent ways to engage a wider audience. In order to blog successfully, you should ensure that you comply with the Code and any other legal requirements.

It is also important to note that, the ethical use of online social media is not limited to what is covered in the Code. You should also consider the Ten General Principles of Public Life. While you may not be investigated or censured for using online media in certain ways, your conduct might still be viewed as less than exemplary and attract adverse publicity for your office and authority.

Helpful links:

You can find further guidance and information on blogging and social networking as a member from the sources below:

- [Blogging quick guide](#)
- Official capacity quick guide
- <http://civicsurf.org.uk/> a resource for blogging members
- <http://www.socialbysocial.com/> a primer for harnessing social media for social good
- [IDeA's Connected Members: A guide to using social media](#)

(1) These cases were heard during the period where the Adjudication Panel for England was in operation. The functions of the Adjudication Panel for England have now been transferred to the First-Tier Tribunal (Local Government Standards in England) and the Adjudication Panel for England has been abolished.

(2) This section is based on material produced by and with the permission of Victoria McNeill, Head of Legal at Norfolk County Council.