



Leicester  
City Council

## **MEETING OF THE STANDARDS COMMITTEE**

**DATE: WEDNESDAY, 15 JULY 2009**

**TIME: 5.30 PM**

**PLACE: COMMITTEE ROOM 2, 1<sup>ST</sup> FLOOR, TOWN HALL**

### **Members of the Committee**

Councillors Corrall, Draycott, Keeling, Scuplak, Shelton and Thomas

Mrs Sheila Brucciani (Independent Member) (Chair)

Ms Kate McLeod (Independent Member)

Ms Mary Ray (Independent Member)

Members of the Committee are invited to attend the above meeting to consider the items of business listed overleaf.

for Director of Resources

**Officer contact: Heather Kent**  
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Leicester City Council  
Town Hall, Town Hall Square, Leicester LE1 9BG  
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## **INFORMATION FOR MEMBERS OF THE PUBLIC**

### **ACCESS TO INFORMATION AND MEETINGS**

You have the right to attend Cabinet to hear decisions being made. You can also attend Committees, as well as meetings of the full Council.

There are procedures for you to ask questions and make representations to Scrutiny Committees, and Council. Please contact Committee Services, as detailed below for further guidance on this.

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Dates of meetings are available at the Customer Service Centre (New Walk Centre, King Street), Town Hall Reception and on the Website.

There are certain occasions when the Council's meetings may need to discuss issues in private session. The reasons for dealing with matters in private session are set down in law.

### **WHEELCHAIR ACCESS**

Meetings are held at the Town Hall. The Meeting rooms are all accessible to wheelchair users. Wheelchair access to the Town Hall is from Horsefair Street (Take the lift to the ground floor and go straight ahead to main reception).

### **BRAILLE/AUDIO TAPE/TRANSLATION**

If there are any particular reports that you would like translating or providing on audio tape, the Committee Services Officer can organise this for you (production times will depend upon equipment/facility availability).

### **INDUCTION LOOPS**

There are induction loop facilities in meeting rooms. Please speak to the Committee Services Officer at the meeting if you wish to use this facility or contact them as detailed below.

**General Enquiries - if you have any queries about any of the above or the business to be discussed, please contact Heather Kent, Democratic Support on (0116) 229 8816 or email [heather.kent@leicester.gov.uk](mailto:heather.kent@leicester.gov.uk) or call in at the Town Hall.**

**Press Enquiries - please phone the Communications Unit on 252 6081**

## **PUBLIC SESSION**

### **AGENDA**

**1. APOLOGIES FOR ABSENCE**

**2. DECLARATIONS OF INTEREST**

Members are asked to declare any interests they may have in the business on the agenda, and/or indicate that Section 106 of the Local Government Finance Act 1992 applies to them.

**3. MINUTES OF PREVIOUS MEETING **Appendix A****

The minutes of the meeting of the Standards Committee, held on 13 May 2009, are attached and Members are asked to confirm them as a correct record.

**4. MEMBERSHIP OF THE STANDARDS COMMITTEE**

Members are asked to note the membership of the Standards Committee, as detailed on the front of the agenda.

**5. TERMS OF REFERENCE AND ESTABLISHMENT OF THE STANDARDS SUB-COMMITTEES **Appendix B****

Members are asked to note the Terms of Reference for the Standards Committee and to approve the establishment of a Standards Sub-Committee (Initial Assessment) and a Standards Sub-Committee (Review), with the Terms of Reference as attached.

**6. DISCUSSION WITH THE CHIEF EXECUTIVE**

The Chief Executive has been invited to the meeting to discuss with Members issues of Standards and Ethics throughout the Authority.

**7. REVISIONS TO CODE OF PRACTICE FOR MEMBER INVOLVEMENT IN DEVELOPMENT CONTROL DECISIONS **Appendix C****

The Director of Legal Services submits a report that enables the necessary approvals to be given for further revisions to be made to the Council's current Code of Practice for Member Involvement in Development Control Decisions. The Standards Committee is asked to note the proposed revisions and comments of the Planning and Development Control Committee and confirm its agreement to the revised Code of Practice being submitted to Council.

**8. CODE OF PRACTICE - MEMBER INVOLVEMENT IN LICENSING DECISION-MAKING**

The Director of Legal Services asks the Standards Committee to note the following:

The Director of Legal Services has prepared a draft Code which has been the subject of initial comment from the Chair of the Licensing Committee and the Head of Licensing. There is already in existence a Council Code of Practice on Hearings to meet the requirements of the Licensing Act 2003 and it makes sense to ensure that the Member Code does not duplicate the existing Code and vice versa. Both Codes will now be reviewed and it is envisaged that a report will come back to your September committee meeting and a future Licensing Committee meeting detailing the way forward.

**9. CORPORATE GOVERNANCE ANNUAL REPORT [Appendix D](#)**

The Director of Resources submits a report that enables compliance with the requirements of the Council's Corporate Governance Code by carrying out an annual review, reports the position regarding Local Government Ombudsman complaints and informs the Council's Annual Governance Statement. The Standards Committee is recommended to review the position as summarised in this annual report and to forward any comments to Cabinet for consideration.

Appendix 2 of the report is available to view on the Council's Website only, at the following link:

<http://www.cabinet.leicester.gov.uk/ieListDocuments.aspx?CId=124&MId=2877&Ver=4>

**10. STANDARDS BOARD FOR ENGLAND GUIDANCE ON OTHER ACTION [Appendix E](#)**

The Director of Legal Services submits a document from the Standards Board for England that contains guidance on other action for initial assessments and reviews of complaints against Councillors. The Standards Committee is asked to note the guidance.

**11. NEW REGULATIONS AND GUIDANCE ON DISPENSATIONS [Appendix F](#)**

The Director of Legal Services submits a document from the Standards Board for England that gives guidance relating to the new regulations on the granting of dispensations for members, allowing them to speak and vote at a meeting when they have a prejudicial interest. The Standards Committee is asked to note the guidance.

**12. STANDARDS BOARD FOR ENGLAND BULLETIN 44 [Appendix G](#)**

The Director of Legal Services submits the Standards Board for England Bulletin 44. The Standards Committee is asked to note the contents of the

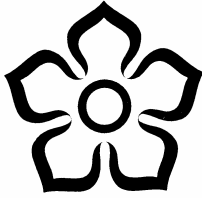
bulletin.

**13. STANDARDS COMMITTEE WORK PROGRAMME** [Appendix H](#)

The Director of Legal Services submits a work programme for the Standards Committee for the municipal year 2009-10. The Standards Committee is recommended to note the work programme.

**14. ANY OTHER URGENT BUSINESS**

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Leicester  
City Council

Minutes of the Meeting of the  
STANDARDS COMMITTEE

Held: WEDNESDAY, 13 MAY 2009 at 5.30pm

P R E S E N T :

Mrs Sheila Brucciani (Independent Member) - Chair  
Ms Mary Ray (Independent Member)

Councillor Clair  
Councillor Mary Draycott MBE  
Councillor Corrall  
Councillor Mugglestone  
Councillor Thomas

**55. APOLOGIES FOR ABSENCE**

Apologies were received from Kate McLeod and Councillor Keeling.

**56. DECLARATIONS OF INTEREST**

Members were asked to declare any interests in the business on the agenda and/or declare that Section 106 of the Local Government Finance Act 1992 applied to them.

Councillor Thomas declared a personal interest in Item 4. "Code of Practice for Licensing Decisions," as he was Chair of the Licensing Committee.

**57. MINUTES OF PREVIOUS MEETING**

RESOLVED:

that the minutes of the meeting of the Standards Committee, held on 11 March 2009, be confirmed as a correct record.

**58. CODE OF PRACTICE FOR LICENSING DECISIONS**

Anthony Cross, Head of Litigation and Advocacy Law, briefed the Committee on planning issues and the proposal that a Code of Practice for Licensing decisions be adopted.

Anthony stated that he had been working on revisions to the Code of Practice for Development Control Decisions, and that these had been submitted to the Cabinet Lead for comment, prior to taking it through the approval process. He

also reported that Councillor Clair was to be appointed as Chair, subject to approval at Annual Council. He would receive comprehensive training to enable him to carry out his duty effectively. It was noted that training for Members was being arranged for June 2009 and Independent Members were welcome to attend. They would be notified of the dates.

Anthony referred to a recent court of appeal case which seemed to be saying that decision-making by Members should not be seen as being similar to legal decisions, for example, by a court. This suggested that the court understood the political process involved in local government. He stressed that this was only the beginning of a potential shift in opinion on the matter.

Anthony reported that he had held discussions with Councillor Thomas, Chair of the Licensing Committee, regarding the introduction of a Code of Practice for Licensing decisions. He stated that a previous code had been drafted, following the introduction of the Licensing Act 2003, but had been rejected by a previous meeting of the Licensing Committee. He stated that current feeling was that a code that dealt with key issues, such as the licensing objectives and lobbying, would be useful. It was not necessary to address interests, as these were sufficiently covered by the Code of Conduct. Any such code would be submitted to political groups, and the Standards and Licensing Committees, prior to its consideration at Council. Anthony mentioned previous issues about whether Councillors should sit on hearings regarding premises in their ward, and stated that this would not be specifically prescribed in the Code, but Members would know that if they were familiar with certain premises, they would not sit on the panel, as it could cloud their judgement.

Councillor Thomas gave the Committee a summary of his views on, and involvement with, the Licensing Committee. He stated that the initial Code of Practice had been rejected, as its purpose was not as clear as for the one for Development Control decisions, and Members felt that they were being overly-controlled in their decisions. They also were already aware of interests and impartiality issues. He explained the pressure Members were under to make considered judgements, in order to protect the Council from unnecessary challenge. He suggested that training on legal issues could help Members understand the process of appeal. He stated that the decisions of the Licensing Committee and its sub-committees and hearings needed to be reinforced by an appropriate code of practice.

Members noted that the new Code would be a compromise between the original Code and what Licensing Committee Members felt necessary. The importance of a process of training was noted, in order for expertise to be built up over time.

Councillor Thomas extended an open invitation to the Independent Members to attend meetings of the various Licensing committees and panels and this was welcomed. Members asked if other authorities had codes of practice for licensing decisions, and it was reported that some did. The Independent Members also asked for a list of the licences covered by the Committee, and it was agreed that this would be supplied.



The Monitoring Officer welcomed the Standards Committee's interest in the matter, stating that it demonstrated the Council's commitment to promoting high standards.

The Chair thanked Anthony and Councillor Thomas for their contributions on the matter.

RESOLVED:

that the Standards Committee notes the need for a Code of Practice for Licensing decisions, and recommends its implementation.

#### **59. STANDARDS SUB-COMMITTEE INITIAL ASSESSMENT AND REVIEW FLOWCHART**

The Monitoring Officer submitted an updated flowchart, following comments made by the Standards Committee at the meeting held on 11 March 2009.

With regard to the definition of vexatious complaints, Members felt that the reference to "significant burden on the authority" should not be prioritised and asked for it to be moved to the end of the section. They also felt that reference should be made in point (c) to harassing Members as well as the authority and its staff.

Members felt that under "Actions for Decision", referral to the Standards Board should appear at the end, as it would be a very rare occurrence. This box should also read "Refer complaint to Standards Board for England," as the Board would decide what action it wished to take.

Members also asked for the sentence, "Where any of these criteria are failed the complainant will be informed about the review process," to be removed, as it was felt to be unnecessary.

RESOLVED:

that the flowcharts for Initial Assessment and Review be approved, subject to the above amendments, and that they be made available for use once amended.

#### **60. INDEMNIFICATION ARRANGEMENTS FOR INDEPENDENT MEMBERS**

The Monitoring Officer, in response to a previous query from Independent Members, stated that they had equal insurance cover to Elected Members and Co-Opted members.

Councillors asked whether they were covered for liability for actions in the Council Chamber. The Monitoring Officer responded that Members in the Council Chamber had the benefit of "qualified privilege," meaning that they were protected by law if what they said, if incorrect, was in good faith. This was different from Parliament, which provided "full privilege."

RESOLVED;

that the insurance cover for Independent Members be noted.

**61. STANDARDS BOARD FOR ENGLAND - QUARTERLY RETURN  
SUBMISSION STATISTICS**

The Monitoring Officer submitted a report that gave a summary of complaints received and their outcomes, and gave a comparison between Leicester City Council and other local authorities.

Members discussed the differences between the number of complaints received by Leicester, Nottingham and Derby. Concern was raised that Nottingham had not received any complaints. It was noted that Leicester's high number of complaints followed a County Council publicity campaign. Members asked for future data to be supplied on the County Council's complaints for comparison.

The Monitoring Officer assured Members that complaints were initially checked to see if they fell within the criteria for consideration by the Sub-Committee, and that officers were neither being overly-cautious, nor rejecting complaints incorrectly.

The meeting considered the possibility of linking with another authority, possibly the County Council, to act as "critical friends" for each other and to share good practice. It was pointed out that a relationship had already been established with the County Council, that would involve sharing information and joint publicity and training. It was noted that a level of feedback was expected from the appointed investigators for complaints.

RESOLVED:

that the report be noted, and that officers note the relationship that had been established with Leicestershire County Council to share expertise, publicity and training.

**62. STANDARDS BOARD FOR ENGLAND BULLETIN NUMBER 43**

The Monitoring Officer submitted, for information, the latest bulletin from the Standards Board for England.

The Chair drew Members' attention to the Standards and Ethics Award, which had been won by Rossendale Borough Council. She encouraged members to read the profiles of the entrants for this award, with a view to aiming for such excellence within the City Council. She also suggested that Rossendale's profile be forwarded to the Chief Executive in advance of her attending the next meeting, in order to show the role the Chief Executive could play in championing standards.

Councillor Thomas referred to a comment in the bulletin regarding the proposed Officers' Code of Conduct, and asked what the impact of this would

be. It was pointed out that the Council already had an Officers' Code that was part of the contract, but that this was very old. Members felt that, as this was in the Standards Committee's terms of reference, they should look at this Code, in advance of a national one being published. It was agreed to review this as part of the work programme.

RESOLVED:

that the Standards Board for England Bulletin 43 be noted.

### **63. STANDARDS COMMITTEE WORK PROGRAMME**

The Monitoring Officer submitted a report that outlined the current work programme of the Standards Committee. It was noted that a full update report was to be submitted to the next meeting of the Standards Committee, which would give a summary of progress with each of the items.

As previously discussed in the meeting, Members asked that the Officers' Code of Conduct be added, and that the Chief Executive's attendance at the July meeting be confirmed. The Chair also asked that the work programme be arranged in date order.

Members discussed Item 20, the Council Script, "Member Conduct at Meetings." It was noted that the spirit of the script mirrored the Code of Conduct, but that it could be adjusted to relate more closely, in order for Members to be able to use it more effectively. Members expressed a need for current conduct in the Chamber to be improved, especially as it was now webcast. They felt that the Constitution's provisions for dealing with misconduct (Paragraph 30 of the Council Procedure Rules,) should be strengthened. They also asked that the local provisions that appeared in the Council script be reviewed and updated to reflect the Code of Conduct and also to provide informal resolution of complaints. It was agreed that the Lord Mayor was to be invited to a future meeting of the Standards Committee, and that this should be added to the work programme.

RESOLVED:

that the Standards Committee work programme be approved, subject to the above additions.

### **64. CLOSE OF MEETING**

The meeting closed at 6.55pm.

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# Appendix B

## **STANDARDS COMMITTEE**

### Terms of Reference

1. To oversee and promote the Council's arrangements to ensure and maintain probity and the highest standards of governance in the conduct of business by members (including co-opted members) and officers.
2. To oversee and advise full Council and Cabinet on matters relating to the Council's corporate governance and ethical framework.
3. To receive the Council's annual Corporate Governance Review Statement.
4. To oversee, promote, monitor observance and recommend necessary change to Members' and officers' Codes of Conduct and Political Conventions.
5. To oversee and ensure the provision of appropriate training to Members and officers to enable them to adhere at all times to the provisions of the Council's Political Conventions and governance arrangements.
6. In accordance with the relevant legislation and associated Guidance, to hear and determine any allegation that a Member of the Council has failed, or may have failed, to comply with the Council's Code of Conduct.
7. To oversee the process and, through its Sub-Committees, initially assess and review as necessary written allegations submitted to the Council that an Elected or Co-opted Member of the Council has failed or may have failed to comply with the City Council's Code of Conduct for Members.
8. In the event of there being a local investigation of an allegation, to decide, with reasons, the outcome of the investigation and to exercise its powers and sanctions.
9. To consider under Sections 1 and 2 of the Local Government and Housing Act 1989:-
  - (a) any application received from any officer of the Council for exemption from political restriction in respect of the post held by that officer and may direct the Council that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Council under Section 2(2) of that Act; and,
  - (b) upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.

### Matters Reserved to the Committee:

1. All matters of significance are reserved to the Committee save as set out in the Terms of Reference of its established Sub-Committees.
2. All matters within the Terms of Reference of the Standards Committee which are not reserved to full Council or this Committee, either by legislation, regulation or local determination, are delegated to the Town Clerk.

## **STANDARDS SUB-COMMITTEE (INITIAL ASSESSMENT)**

### Terms of Reference.

1. In accordance with the relevant legislation and associated Guidance, the Sub-Committee is empowered to initially assess and decide upon all written complaints received by the Council's Monitoring Officer which allege that an Elected or Co-opted Member of the Council has failed or may have failed to comply with the City Council's Code of Conduct for Members.
2. To authorise the Monitoring Officer to take all reasonable steps to implement its decision(s), with reasons, and to notify the person making the allegation and the Member concerned of that decision.
3. In the event of there being a local investigation, the Standards Sub-Committee (Initial Assessment) shall determine, with reasons, whether:-
  - (i) it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;
  - (ii) the matter should be referred for a hearing of the Standards Committee; or,
  - (iii) the matter should be referred to the Adjudication Panel for determination.
4. Composition – The Standards Sub-Committee (Initial Assessment) shall comprise of 4 Members, one of whom shall be an Independent Member of the Standards Committee (who will also Chair the Sub-Committee), and three Elected Members of the Council.
5. Quorum – The quorum for a meeting of the Standards Sub-Committee (Initial Assessment) shall be 3 Members (with an Independent Member as Chair).
6. Frequency of Meetings –The Standards Sub-Committee (Initial Assessment) will meet as necessary to initially assess any allegation received.

## **STANDARDS SUB-COMMITTEE (REVIEW)**

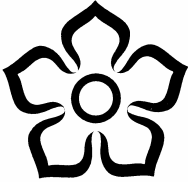
### **Terms of Reference**

1. In accordance with the relevant legislation and associated Guidance, to review, as necessary, any decision taken at a Hearing of the Standards Committee.
2. Composition – The Standards Sub-Committee (Review) shall comprise of 4 Members of the Standards Committee. One of the Members of the Standards Sub-Committee (Review) shall be an Independent Member of the Standards Committee (and Chair of the Sub-Committee).
3. Quorum – The quorum for a meeting of the Standards Sub-Committee (Review) shall be 3 Member (with an Independent Member as Chair of the Sub-Committee) and at least one Elected Member of the Council.
4. Frequency of Meetings – The Standards Sub-Committee (Review) shall meet as and when required to hear and review, as necessary, any decisions made against an Elected or Co-opted Member of the Council.

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# Appendix C



Leicester  
City Council

**WARDS AFFECTED**  
All Wards

## **FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**

**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**  
**STANDARDS COMMITTEE**  
**COUNCIL**

**14<sup>TH</sup> JULY 2009**  
**15<sup>TH</sup> JULY 2009**  
**TBC**

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## **REVISIONS TO CODE OF PRACTICE FOR MEMBER INVOLVEMENT IN DEVELOPMENT CONTROL DECISIONS**

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### **REPORT OF THE DIRECTOR OF LEGAL SERVICES**

#### **1. PURPOSE OF REPORT**

This report is to enable the necessary approvals to be given for further revisions to be made to the Council's current Code of Practice for Member Involvement in Development Control Decisions.

#### **2. SUMMARY**

- 2.1 So as to maintain the integrity of Member involvement in the development control decision-making process that the Council has an up-to-date Member Code of Practice. The Council's current Code of Practice was last revised in 2007 and further changes are now required.

#### **3. RECOMMENDATIONS**

##### **3.1 Planning and Development Control Committee**

The Committee is asked to approve the revisions proposed by officers and make any comments and delegate to the Director of Legal Services and the Director, Planning and Economic Development, in consultation with the Chair and Vice-chair, to undertake any further amendment arising from the committee's consideration and comments from the Standards Committee prior to the final version of the Code being submitted to Council.

##### **3.2 Standards Committee**

The Committee is asked to note the proposed revisions and comments of the Planning and Development Control Committee and confirm its agreement to the revised Code of Practice being submitted to Council.

### 3.3 Council

3.3.1 Council is asked to approve the revised Code of Practice and the date it is to come into effect and to delegate authority to the Director of Legal Services, in consultation with the Chair and Vice-chair of the Planning and Development Control Committee, to make any further amendments to the Code should this be required in consequence of future changes to the statutory Model Code of Conduct.

3.3.2 Council is also asked to delegate to the Director, Planning and Economic Development, in consultation with the Chair of the Planning and Development Control Committee and Director of Legal Services, preparation and finalisation of councillor guidelines to cover the situation where Members, as part of their community role, engage in pre-application discussions in relation to major planning applications linked to regeneration issues or any significant ward applications.

## **4. REPORT**

4.1 The Code was last revised in 2007. Since then the following developments have taken place:

4.1.1 There have been further High Court decisions that touch on local authority planning decision-making.

4.1.2 The Local Government Association have re-issued their "Probity in Planning" document which makes reference to the importance of a local code of planning good practice. I will be arranging to circulate to all Members of the Planning and Development Control Committee a copy of the recently reissued document "Probity in Planning".

4.1.3 The "Probity in Planning" document includes a section on pre-application discussions and the role of members in this part of the planning process. There is potential for conflict in relation to probity issues if Members who are also decision-makers are seen to be actively taking part in formulating and agreeing proposals. In such circumstances, they would clearly have a predetermined view and so would not be able to be a decision-maker. Government guidance has recently been issued – Councillor Involvement in Pre-application Discussions – and on the basis of this, to ensure Members can have a role without prejudicing those Members who have to make decisions, it is suggested that delegation be given to officers to prepare a pre-application discussions protocol.

4.1.4 The Council's Standards Committee (the Committee Chair and the independent members) have reviewed the training provided to members of the Planning and Development Control Committee and also have observed the committee "in action".

- 4.1.5 The Government's response to the recent Killian Pretty Review on the planning applications process in relation to the role of elected members.
- 4.1.6 The Government commented last year on the Member Code of Conduct. At the time of preparing this report there has been no announcement about any further changes. Delegated Authority is being requested to be given to the Director of Legal Services, in consultation with the Chair and Vice-chair of the Planning and Development Control Committee, to make any further amendments to the Code of Practice should this be required.
- 4.2 In order that the Code remains up to date, it is therefore timely to look at it critically to ensure that it remains fit for purpose, and as a result of work undertaken by the Head of Planning Management and Delivery and Head of Litigation further changes are now being suggested.
- 4.3 The revised Code is appended at Appendix 1. The key suggested changes are:
  - 4.3.1 To reflect the Council's role as a place-shaper in terms of the spatial planning approach. Paragraph 1.5 has been amended and there is a new paragraph 1.7 making it clear that in reaching decisions the Committee has to consider, in the planning context, the wider public interest.
  - 4.3.2 To make a clear cross-reference to the statutory Model Code of Conduct (paragraph 1.6).
  - 4.3.3 To change the current practice that allows a Committee Member, who has been involved with a particular matter that is the subject of a committee report and who wishes to make representations, from participating as a Committee Member at the meeting at which the report is to be discussed – paragraph 4.2. In such circumstances, while the Committee Member could still come along to the committee as a Ward Member and make representations, a substitute (a fully trained Member) would be needed to replace the Member concerned on the committee.
  - 4.3.4 To ensure that where a Ward Member attends committee s/he makes the necessary declarations (paragraph 7.6).
  - 4.3.5 Where Members are proposing to make a decision contrary to the officer recommendation, before the vote is taken the Chair will clarify the planning reasons (paragraph 10.1).
  - 4.3.6 To pick up the Killian Pretty recommendation that local authorities should review and update their schemes of delegation so that the committee work is focussed on applications of major importance or wider significance and that a minimum delegation rate to officers of at least 90% is achieved by all councils before the end of 2009 and to ensure planning reasons are given by Members who wish matters to be considered by committee (paragraph 12.1).

4.3.7 There are also a number of minor amendments in relation to headings, etc.

- 4.4 Consultation by the Government has concluded in relation to possible amendments to the statutory Model Code of Conduct. At the time of writing the Government's response is not to hand. Delegated authority to the Director of Legal Services is being recommended so that dependent on revised regulations any necessary/consequential amendments to the Council's Code of Practice can be made.
- 4.5 Formal approval of the Code under the Council's Constitution is via the Standards Committee and Full Council. The proposed changes to the Code were discussed at officer level and initially with the Chair and Vice-chair of the Planning and Development Control Committee in the municipal year 2008/09 and more recently in the municipal year 2009/10. The proposed changes to the Code have also been forwarded to Group Whips.

## **5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **5.1 Financial Implications**

None.

### **5.2 Legal Implications**

Covered in the report.

## **6. OTHER IMPLICATIONS**

OTHER IMPLICATIONS	YES/NO	Paragraph References Within Supporting information
Equal Opportunities	NO	
Policy	NO	
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	NO	

## **7. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

Relevant legislation, court decisions, national policies and guidance – Local Government Association's "Probity in Planning" document and Department for Communities and Local Government's "Government's Response to the Killian Pretty Review".

**8. CONSULTATIONS**

Cllr Patrick Kitterick, Cabinet Lead, Regeneration  
Andrew L Smith, Divisional Director, Planning  
Mike Richardson, Head of Planning Management and Delivery

**9. REPORT AUTHOR**

Anthony Cross, Head of Litigation, Legal Services, x296362

**10.**

KEY DECISION	REASON	APPEARED IN FORWARD PLAN	EXECUTIVE OR COUNCIL DECISION
NO	NOT APPLICABLE	NOT APPLICABLE	COUNCIL

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## **Appendix 1**

### **LEICESTER CITY COUNCIL**

#### **CODE OF PRACTICE FOR MEMBER INVOLVEMENT IN DEVELOPMENT CONTROL DECISIONS**

This Code applies to Members appointed to serve on the City Council's Planning and Development Control Committee or Ward Members who attend at committee to make representations in relation to any planning application / planning contravention considered by the committee.

#### 1 General

- 1.1 At the start of each four-year local election cycle Members who wish to serve on the Planning and Development Control Committee must undertake initial training in planning and their decision-making role. This training is also recommended for all Members.
- 1.2 Committee Members (and any substitute Members) must participate in annual refresher training. Training will be provided either by officers or via external training agencies.
- 1.3 Members will respect the role of officers to make professional recommendations to the Council and will not put pressure on individual officers to secure a specific recommendation on a particular application or report.
- 1.4 If Members wish their views to be considered and reported as part of the recommendation and decision-making process, representations must be made in writing to the Head of Planning Management and Delivery.
- 1.5 **[NEW]** Compliance with Government targets means that most planning applications are considered by officers under delegated powers in accordance with the Council's Constitution. The focus of the Planning and Development Control Committee is now more on consideration of the more significant/strategic planning applications.
- 1.6 **[EXPANSION OF THE EXISTING PROVISION CURRENTLY CONTAINED IN THE INTRODUCTION]** This Code should be read in conjunction with the Council's Political Conventions and the statutory Model Code of Conduct applicable to Members. Members are reminded that under the statutory Code a Member (whether or not s/he serves on the Committee) cannot participate at all in any aspect of decision-making where s/he has a personal and prejudicial interest.
- 1.7 **[NEW]** *As a reminder, the basis of the planning decision-making is the consideration of private proposals against the wider public interest. Often much is at stake and conflicting views may be held by relevant parties. While Ward Members may take account of such views, Committee Members should not favour one person, company, group or locality or put themselves in a position where this may arise so they can freely consider the wider public interest.*

## 2 Pre-application Presentations by Applicants/Developers

2.1 The Head of Planning Management and Delivery will arrange for appropriate presentations to be made in respect of significant planning applications, which will be open to all Members. Such presentations will be of a fact-finding nature to enable Committee and Ward Members to become familiar with development proposals and to ask questions. Provided Committee Members do not at such presentations express a view about the proposals, they will be able to participate in any subsequent committee meeting when the planning application is discussed. Committee Members, however, will be required to declare, in accordance with paragraph 6.1, that they have attended a presentation.

## 3 **[NEW HEADING]** Referral of Applications for Decision to the Planning and Development Control Committee

3.1 **[AMENDMENT]** Members should contact the Head of Planning Management and Delivery as soon as possible of any applications in their ward being considered by Planning Management and Delivery on the weekly list of planning applications circulated to them that they consider should be the subject of a committee decision.

3.2 The contact will need to be in writing, to include e-mail, and specify the planning reason(s) for the request.

3.3 Planning Management and Delivery case officers are able to assist Members with the formulation of reasons which might include such things as design considerations, highway implications and implications for local residents (amenity), etc.

3.4 **[AMENDMENT]** Members are asked to note that decisions may need to be taken soon after the circulation of the weekly list and they are advised to check with the specific case officer the earliest date when a decision may be made.

## 4 **[NEW HEADING]** Prohibition of Committee Member Contact with Applicants, Agents and Third Parties

4.1 **[AMENDMENT]** Where Committee Members are contacted to support or oppose any planning application or a particular recommendation, they should explain that they cannot get involved or indicate the likely decision the Council (at either committee or officer level) will take because they might take part in the decision-making process.

4.2 **[AMENDMENT]** Where, for whatever reason, a Committee Member wishes to make representations in respect of an application or report to be considered by the Committee, s/he will not be able to participate as a Committee Member at a Committee meeting when the report on the application, etc, is to be considered. Such a Member would be expected to arrange for a substitute trained Member to attend the Committee meeting. In such circumstances the Committee Member may attend the Committee meeting as a Ward Member to make representations on the application subject to making an appropriate declaration with regard to their involvement in accordance with paragraphs 7.1 – 7.3.



- 4.3 **[AMENDMENT]** Committee Members should not advise applicants, prospective or otherwise, agents or third parties about the likely acceptability of planning proposals. They should advise them to contact a fellow Ward or other Member and the appropriate officer for advice.
- 4.4 Committee Members should not meet applicants or agents prior to or during the processing of an application unless an officer is present. Where any meeting has taken place with a Committee Member, s/he should refer to any such meeting if they speak about the matter. In accordance with paragraph 6.3, any such meeting would need to be declared at the start of the committee meeting. The position with regard to Ward Members meeting with applicants or agents is covered in paragraph 7.8.
- 4.5 Where the Chair or Vice-chair have been contacted about a matter being considered by committee, s/he will tell the committee of the contact and explain to committee the issues which were discussed.
- 4.6 Committee Members should not act as agents or submit planning applications for other parties or voluntary bodies. Members (including Members not on the committee) will not address committee as the applicant's agent.

## 5 Committee

- 5.1 Political group meetings held prior to a committee meeting should not be used to decide how Members should vote on a particular planning application. The Local Government Ombudsman has previously expressed the view that the use of political whips to seek to influence the outcome of a planning application could amount to maladministration.
- 5.2 All matters on the agenda for discussion will be the subject of an officer report containing all relevant information and an officer recommendation to enable a decision to be taken.
- 5.3 Committee Members are required to read the report in advance of the meeting so as to be able to understand the issues.
- 5.4 **[AMENDMENT]** To enable any last-minute issues to be considered, the Head of Planning Management and Delivery prepares an Addendum Report. Committee Members will be provided with the report which will be available in the group rooms from 4.00 pm on the date of the committee meeting. Where the last-minute issues would lead to a change of recommendation, the Addendum Report will recommend deferral of that application unless the possibility is clearly identified in the recommendation to the original report. As necessary, the presenting officer will refer to the Addendum Report during consideration of any specific report in the committee meeting.
- 5.5 Representations received after the Addendum Report has been finalised will be summarised orally.
- 5.6 Where requested, written representations from applicants, objectors and third parties will be circulated to Committee Members by the Director (Legal Services) only if the necessary copies are provided or paid for and adequate notice is given to Committee Services Section. Written representations will not be accepted at the meeting.

5.7 If Committee Members receive letters or any other written information about a matter due to be reported to committee, they will ensure that a copy is made available to the Head of Planning Management and Delivery for inclusion in the Addendum Report and make the appropriate declaration under paragraph 6.3.

## 6 Declarations of Interest and Representations

6.1 **[AMENDMENT]** At the start of each committee meeting Committee Members are required to make any formal declaration of interest in relation to the matters specified on the agenda. Such a declaration will be in accordance with the provisions of the Local Government Act 2000, as amended, the requirements of the Statutory Model Code of Conduct and also under the terms of this Code.

6.2 When a Committee Member's interest is personal and prejudicial, the Member concerned will leave the room when the matter comes to be considered by the committee and not take part in the decision-making process.

6.3 **[AMENDMENT]** Where Committee Members declare they have received representations, they need to identify what those representations were, eg, letter, e-mail, attendance at a meeting, presentation, meeting with applicant, etc.

6.4 **[AMENDMENT]** Where Committee Members have previously expressed a general or specific view about any application or report so as not to have an "open mind", they will be considered to have a predetermined view and therefore will be required to declare the interest, and when the matter comes to be considered by committee they will leave the room and not take part in the decision-making process.

6.5 Committee Members who have been appointed by the City Council to serve on any body that has an advisory role in relation to planning applications (eg, CAP) are required to declare whether or not they have previously been involved in any discussion of an application/report before the committee, and where the Member concerned has previously expressed a view or opinion supporting or opposing any application/report, they will be considered to have a predetermined view and therefore will declare the interest, leave the room and not take part in the decision-making process.

6.6 **[AMENDMENT]** Members are reminded that failure to make appropriate declarations could constitute a breach of the statutory Model Code of Conduct.

6.7 **[AMENDMENT]** Declarations of interest are for Members to make and at times will very much depend on particular factual circumstances. The Director (Legal Services) or his representative (eg, the committee solicitor) will be able to provide advice, but Members are encouraged to seek advice at an early stage and wherever possible not in the immediate run up to the start of a committee meeting.

## 7 Attendance of Members Not on the Committee (Ward Members)

7.1 **[AMENDMENT]** Unlike Committee Members, Ward Members may meet with constituents who are applicants, agents or objectors prior to or during the processing of any application and such a meeting does not require an officer to be present.

Where a Ward Member subsequently attends committee to make representations, a declaration of interest will be required in accordance with paragraphs 6.3 and/or 6.4 where the Ward Member wishes to make any representations at the committee meeting.

- 7.2 Ward Members who do not serve on the committee and who wish to make representations at committee in respect of any report shall notify the Committee Chair and/or Democratic Services no later than 12.00 noon on the day of any committee meeting.
- 7.3 At the discretion of the Committee Chair, the report(s) the Ward Member's representation refers to will be considered by the committee at the beginning of the meeting and so may be taken "out of order".
- 7.4 Ward Members will sit in the public gallery, and the Chair will call them to the committee table to sit in the designated place.
- 7.5 The Chair will use his/her discretion taking into account the particular circumstances if more than one Ward Member wishes to make representations on the same report.
- 7.6 **[AMENDMENT]** Before making any representations the Ward Member will be required to make a declaration of interest in accordance with paragraphs 6.1 – 6.3 and also indicate whether or not the Member concerned has had any meetings with any applicant and/or agent or local residents as the case may be. A Ward Member with a personal and prejudicial interest is not able to attend the meeting to make any representations.
- 7.7 **[AMENDMENT]** A Ward Member making representations is expected to keep his/her presentation to within five minutes. The Chair will exercise discretion to allow such additional time as may be required for all valid points to be given an airing. Where a Ward Member wishes to provide written information to the committee, s/he will comply with paragraph 5.6. The Chair will invite officers to respond to any information or views expressed by Ward Members and give the Ward Members an opportunity to reply. After that reply and before the committee considers the report, the Member will return to the public gallery.
- 7.8 As a matter of courtesy, where a Ward Member is approached to make representations / attend at the committee meeting on behalf of an applicant who does not reside in their ward but in a ward represented by a Committee Member, the Ward Member concerned will notify the Committee Member to make them aware of the other Member's involvement.

## 8 Section 106 Agreements

- 8.1 An agreement under section 106 of the Town and Country Planning Act can only be required to meet an identified planning need arising from the development envisaged by the application.
- 8.2 **[AMENDMENT]** Where the committee resolve that a section 106 agreement is required, but this has not been recommended by the Director, Planning and Economic Development, , the application will be deferred for an officer report on the appropriateness and content of the agreement. The report will be brought back to

committee as soon as possible in order to comply with statutory or other demonstrably material consequential Government targets.

## 9 Deferrals and Site Visits

- 9.1 **[AMENDMENT]** Given the use of IT that enables Committee Members to see photographs of the site covered by a committee report, together with site plans and drawings, a deferral for a site visit will not normally be necessary. Any deferral will require planning reasons and will need to be moved, seconded and agreed by the Committee.
- 9.2 Site visits following a deferral do not have any decision-making status and will be solely an opportunity for Committee Members to visit the site with an officer.
- 9.3 **[AMENDMENT]** Third parties including objectors are not entitled to attend site visits. They will be advised to make any representations in writing to the Head of Planning Management and Delivery or through Ward Members.
- 9.4 Applicants and agents cannot use a site visit as an opportunity to state their case to Committee Members. They will be advised to make written representations to the Head of Planning Management and Delivery or to Committee Members before the site visit or before the committee meeting at which the matter will be reconsidered.

## 10 Departures from Officer Recommendations

- 10.1 Committee Members wishing the committee to consider a different recommendation from that made by the Corporate Director must move an amendment, giving planning reasons, and have it seconded. The Chair will then clarify the planning reasons and, as necessary, the amended recommendation will then be voted on. Should it be accepted by the committee, the planning reasons will be included in the minutes of the meeting.

## 11 Decision-making **[AMENDMENTS]**

Committee Members should approach this in accordance with the following:

- 11.1 By considering the material (written or oral) provided by the presenting officer(s).
- 11.2 On the basis of material planning considerations relevant to each report with particular emphasis on identified Development Plan policies.
- 11.3 Approach decision-making with an open mind.

## 12 Delegation of Decisions to Officers

- 12.1 **[AMENDMENT]** Provided consideration of the application in question will meet statutory or other demonstrably material consequential Government targets in relation to decision-making, the committee may agree to delegate any further decision-making (eg, finalisation of the conditions to be attached to the grant of planning permission) to the Head of Planning Management and Delivery in accordance with the departmental scheme of delegation.

## 13 Briefing Meeting

- 13.1 The Head of Planning Management and Delivery, or his representative, will brief the Chair, Vice-chair and party spokespersons in advance of every committee meeting to explain the basis of the officer recommendations and to go through the Addendum Report.

## 14 City Council Applications

- 14.1 The City Council's own planning applications must be dealt with on the same basis as all other applications. Recommendations and decisions must be based only on material planning considerations and must not have regard to any other benefit which may accrue to the Council as a result of a particular decision on such an application.

## 15 Member Applications

- 15.1 Where a Member has a personal interest in a Planning Application (eg, it relates to land owned by them or is made as part of an appointed role of the City Council), they must take no part in the processing of the application, not attend at the committee or participate in the decision-making process. If a Committee Member's application has to be considered by the committee, the Committee Member(s) will declare a personal and prejudicial interest in accordance with paragraph 6.2 by reference to the Member Code of Conduct and when the report on the application is considered the Committee Member will leave the room and not take part in the decision-making process.

## 16 Appeals

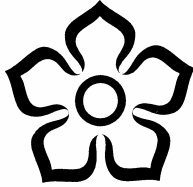
- 16.1 Officers will prepare, and where necessary present, the City Council's case in an appeal based on the terms of the decision and the material considerations on which that decision was made. They will present the best possible arguments and available evidence in support of the decision, whether or not that decision was in accordance with the Corporate Director's recommendation.
- 16.2 In cases where the decision was not in accordance with the recommendation and where the appeal is to be determined at a hearing or inquiry, the Corporate Director will invite the Chair or, in consultation with the Chair, another appropriate Committee Member to put forward evidence on behalf of the committee.

## 17 Complaints

- 17.1 Where a complaint is made under the Council's Complaints Procedure about a committee decision, a reply will be prepared by officers in consultation with the Chair.

AJC/DG

3.7.09



Leicester  
City Council

WARDS AFFECTED  
All Wards

CABINET  
AUDIT COMMITTEE  
STANDARDS COMMITTEE

22<sup>ND</sup> JUNE, 2009.  
30<sup>TH</sup> JUNE, 2009.  
15<sup>TH</sup> JULY, 2009

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## CORPORATE GOVERNANCE: ANNUAL REPORT FOR 2008/9

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### REPORT OF THE DIRECTOR OF RESOURCES

#### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to:

- \* Enable compliance with the requirements of the Council's Corporate Governance Code by carrying out an annual review of Corporate Governance arrangements for the year 2008/9;
- \* Report the position regarding Local Government Ombudsman complaints.
- \* This annual review will inform the Council's Annual Governance Statement which will be reported to the Board on the 12<sup>th</sup> May, Audit Committee in May, Cabinet in June., Standards Committee in July and will form part of the Council's statutory Statement of Accounts.

#### 2. SUMMARY

- 2.1 The annual review has been carried out in consultation with lead officers responsible for all key policies and procedures which form the Council's Corporate Governance Framework. Wherever possible assurances have been given but where this has not been possible an action plan has been presented with the aim of enabling assurance to be given within a reasonable timescale. The outcome is summarised in **Appendix 1**, attached, and shown in full in **Appendix 2 (available on the intranet only for Committees and Cabinet)**.
- 2.2 The Framework provides that the Authority must carry out a self-assessment as to compliance with CIPFA/SOLACE's six core principles of good governance. See **Appendix 3**.
- 2.4 This report also summarises the position in respect of complaints to the Local Government Ombudsman during 2008/9. See **Appendix 4 and 5**. There have been no findings of maladministration during the year.

### **3. RECOMMENDATIONS**

3.1 **Corporate Directors' Board, Audit and Standards Committees** are asked to review the position as summarised in this annual report and to forward any comments to Cabinet for consideration.

3.2 **Cabinet is recommended to:**

3.2.1 Review the position as summarised in this annual report together with any comments received from Audit and Standards Committees; and

3.2.2 Authorise the Director of Legal Services to produce a final form of Corporate Assurance Statement in consultation with the Council's Leader and Chief Executive;

### **4. REPORT**

4.1 **What do we mean by governance?**

Corporate Governance has been defined as "the system by which organisations are directed and controlled".

Every Council operates through a governance framework; the more effective the framework the more effective the Council will be as a community leader and deliverer of services.

CIPFA has stated that governance is "about how Local Government bodies ensure that they are doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

It comprises of systems and processes, and cultures and values, by which Local Government bodies are directed and controlled and through which they account to, engage with and, where appropriate, lead their communities".

4.2 **The Authority's current Corporate Governance Code**

Leicester's well established Corporate Governance Code, adopted in May, 2002 was updated in 2008 to comply with CIPFA/SOLACE's 2007 guidance "Delivering Good Governance in Local Government".

The Framework has been enhanced to provide for an annual self assessment as to whether the Authority complies with CIPFA/SOLACE's six core principles of good governance:

- i. Focusing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area;
- ii. Members and officers working together to achieve a common purpose with clearly defined functions and roles;



- iii. Promoting values for the Authority and demonstrating the values and good Governance through upholding high standards of conduct and behaviour;
- iv. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
- v. Developing the capacity and capability of members and officers to be effective;
- vi. Engaging with local people and other stakeholders to ensure robust public accountability;

The Code builds on the private sector's experience and makes use of a governance system to provide a framework of accountability as a basis for continuous improvement in the delivery of services.

#### 4.3 **Annual Review 2008/9**

Lead officers have been appointed for all key policies and procedures, as set out in **Appendix 1**. They are responsible for satisfying themselves that the policies and procedures work properly in practice and must provide the necessary reports and assurance statements to enable the annual report to be co-ordinated. Internal Audit has recommended that each lead officer sign a hard copy of the Assurance Statement given.

The outcome of the Annual Review for 2008/9 is detailed in **Appendix 2 (available on the intranet only for Committees and Cabinet)** and the level of assurance given in respect of each Key Policy and Procedure is summarised in **Appendix 1**. A five category traffic light approach has been used i.e

- \* Green
- \* Green/amber
- \* Amber
- \* Red/amber
- \* Red

“Green” means the standards have been met, compliance can be assured, and that the evidence of compliance can be provided by management.

“Green/amber” means controls sufficiently reduce the level of risk but there are some reservations; most risks are adequately managed for others there are minor issues that need to be addressed by management.

“Amber” means only some of the risks are adequately managed; for others there are significant issues that need to be addressed by management.

“Red/amber” means there are indications that the level of risk remains high and immediate action is required by management.

“Red” means the level of risk remains high and immediate remedial action is required by management.

Lead officers have been asked to complete the Annual Assurance Statements so that it is clearly linked to that of the previous year; to update action plans to show:

- \* Tasks completed with completion date.
- \* Tasks ongoing with a realistic target date.
- \* Tasks that have been carried forward from one year to the next with an explanation of a realistic target date.
- \* New tasks identified matched with a realistic target date.

There has also been a request for action plans to be prioritised, by showing the priority to be given for each action i.e. “high” (**H**), “medium” (**M**), or “low” (**L**).

The Director of Partnership, Performance and Policy has carried out an initial assessment of the Authority’s compliance with CIPFA/SOLACE’s Six Core Principles of Good Governance. See **Appendix 3**.

The Chief Executive is the officer responsible for signing off an “Annual Assurance Statement”, together with the Leader of the Council.

Oversight of the Council’s corporate governance arrangements is a function of Cabinet and also falls within the remit of the Audit and Standards Committees.

#### **4.5 Audit Commission’s Corporate Assessment**

The Audit Commission’s Corporate Assessment, published in June, 2008 identified areas for improvement:

- \* The Council should strengthen the transparency and accountability of decision making.
- \* The role of the Standards Committee, Monitoring Officer and Leader in setting and maintaining the highest standards of ethical governance should be clarified and a more proactive approach taken to training and developing councillors and staff in modern corporate governance.
- \* The Council should consider whether some training such as one the Council’s Code of Conduct should be mandatory.
- \* Some practices such as Cabinet members also being members of regulatory committees should be discontinued immediately. Such measures will help to reinforce the Council’s standing in the community and demonstrate effective and confident community leadership.

The Council’s Standards Committee has been proactive. It received a report entitled “Standards Activities” in September, 2008 which considered the Audit Commission’s recommendations and this was the basis of an improvement

programme. A work programme was approved by Standards Committee in November, 2008 and is subject to regular review whenever it meets.

The Council has also responded positively to the Audit Commission's Public Interest Report, published in December, 2007 relating to procurement. An improvement plan has been implemented. The Audit Commission's recommendations following a progress audit will also be reported to the Audit Committee and Cabinet.

#### 4.6 Overall position

Wherever possible lead officers have provided assurances that procedures work properly in practice. Where they cannot give a full assurance an action plan has been produced with the aim of enabling assurance to be given within a reasonable timescale.

In respect of a number of key policies / procedures assurances provided by a lead officer have been supported by assurances received from Service Departments.

The assessment of level of assurance shows that the overall corporate position is positive because all assessments are green/amber or green except for one. See the summary in **Appendix 1**. This includes a comparison with the previous two years.

Progress has been made in a number of areas; for example, Communication Strategy. However, there has been a deterioration in some areas, notably Information Governance. Steps continue to be taken to address this and a full corporate review of service provision is underway.

Whilst the overall position is positive, particular attention should be given to action plans for areas in need of improvement.

#### 4.7 Internal Audit

Corporate Governance procedures are subject to annual scrutiny by internal audit. Each year to date the outcome has been positive, supported by recommendations for improvement which have been implemented. The 2007/8 review is currently subject to audit and any recommendations will be reported to Committees and Cabinet.

#### 4.8 Complaints to the Ombudsman

A summary of Local Government Ombudsman complaints received from 1<sup>st</sup> April 2008 to 31<sup>st</sup> March 2009 is shown attached as **Appendix 4** including a comparison with the previous two years 2006/7 and 2007/8.

There have been no findings of maladministration in 2008/9 against the Council.

**Appendix 5** is a comparison table Family Authorities for the years 2006/7, 2007/8 and 2008/9.

Nine complaints were closed as “local settlements” i.e. where a complaint does not warrant a full investigation by the Ombudsman or where it is not necessary to bring the matter to the public attention. In such cases the Council can initiate a local settlement by taking action or agreeing to take action which the Ombudsman considers to be satisfactory in the circumstances. This can take the form of compensation or provide some other benefit for that person.

A total of £4,817.10 compensation has been paid to complainants.

**5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

**5.1 Financial Implications**

Covered in the report.

**5.2 Legal Implications**

Covered in the report

**6. OTHER IMPLICATIONS**

OTHER IMPLICATIONS	YES/NO	Paragraph references within supporting information
Equal Opportunities	Yes	E.g consultation strategy policy
Policy	Yes	E.g. partnership policies
Sustainable and Environmental	Yes	EMAS policy
Crime and Disorder	Yes	E.g. partnership policies
Human Rights Act	Yes	E.g. information governance
Elderly/People on Low Income	Yes	E.g. partnership policies

**7. RISK ASSESSMENT MATRIX**

See Appendices 1 and 2: all lead officers have provided assurance statements together with prioritised action plans.

**8. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972**

Relevant legislation, national policies and guidance, the Council’s corporate rules, policies and standards referred to in this report.

**9. CONSULTATIONS**

Trevor Croote for the External Auditor, Corporate Directors’ Board, Charles Poole, Lee Harrison, Mark Noble, Laurie Goldberg, Johanne Robbins, Ed Smith, Liz Reid Jones, Carol Brass, Geoff Organ, Mark Bentley, James Royston, Stewart Leverett, Miranda Cannon.

**5. REPORT AUTHOR**

Peter Nicholls, Director of Legal Services, x6302

## APPENDIX 1

Page no. in App. 2	KEY POLICIES AND PROCEDURES	CURRENT LEAD OFFICER	ASSESSMENT OF LEVEL OF ASSURANCE 06/07	ASSESSMENT OF LEVEL OF ASSURANCE 07/08	ASSESSMENT OF LEVEL OF ASSURANCE 08/09	SUMMARY POSITION
1	Consultation strategy	Lee Harrison Head of Partnership Performance and Policy on behalf of the Chief Executive.	Green / amber	Green / Amber	Amber	We identified that the toolkit needs to be reviewed to ensure that it is up to date.
2	Performance management framework	Adam Archer, Special Projects Manager on behalf of the Chief Executive	Green / amber	Amber	Green	Assurance can be given in all areas subject to implementation of an action plan which addresses internal audit recommendations.
3	Project management	Miranda Cannon, Director of Change and Programme Management.	Green / amber	Amber	Green / amber	Since the previous review in 07/8 the development of project and programme management across the Council is now a specific programme in our organisational development portfolio. This work commenced in January, 2009 and is targeted for completion in September, 2009 at which point it will become our usual way of working. It is not yet a green rating until this is achieved.
10	Members' Code of Conduct and Political Conventions and	Charles Poole, Service Director – Democratic Services	Green / amber	Green / Amber	Green/Amber	Assurance can be given in all areas, subject to

Page no. in App. 2	KEY POLICIES AND PROCEDURES	CURRENT LEAD OFFICER	ASSESS- MENT OF LEVEL OF ASSURANCE 06/07	ASSESS- MENT OF LEVEL OF ASSURANC E 07/08	ASSESS- MENT OF LEVEL OF ASSURANCE 08/09	SUMMARY POSITION
	Members support framework					continuation of regular awareness training
13	The Council Constitution	Peter Nicholls, Director of Legal Services	Green / amber	Green / Amber	Green/Amber	Assurance can be given in all areas subject to an improvement plan.
15	Information Governance	Ed Smith, Head of Information Governance, on behalf of Peter Nicholls, Director of Legal Services	Green / amber	Amber	Amber / red	Assurance can be given in all areas covered by the central function but not at member level. Audits are planned and an improvement plan being implemented. The Board has authorised a review to strengthen corporate arrangements.
22	Communication strategy	Mark Bentley, Head of Communications, on behalf of the Chief Executive	Red / amber	Red / Amber	Amber	New strategy to be produced over coming months, based on One Leicester work.
23	Partnership policies	Lee Harrison, Head of Partnership, Performance and Policy on behalf of the Chief Executive	Green / amber	Green /Amber	Green	The Council has adopted a governance framework for major partnerships.
24	Effective Human Resource Policies	Fiona Skene, HR Director	Green / amber	Green / Amber	Green / Amber	HR strategy and annual HR work programme are in place with agreed review arrangements.
29	Whistle blowing	Fiona Skene, HR Director	Green / amber	Green / Amber	Green/Amber	New policy subject to formal agreement to reflect

Page no. in App. 2	KEY POLICIES AND PROCEDURES	CURRENT LEAD OFFICER	ASSESS- MENT OF LEVEL OF ASSURANCE 06/07	ASSESS- MENT OF LEVEL OF ASSURANC E 07/08	ASSESS- MENT OF LEVEL OF ASSURANCE 08/09	SUMMARY POSITION
						concerns raised by external audit.
30	Code of Conduct (officers)	Fiona Skene, HR Director	Green / amber	Green / Amber	Green / Amber	Current code works well.
31	EMAS	Carol Brass, Team Leader, Environment Team, on behalf of Jeff Miller, Director of Regeneration, Highways and Transportation.	Green / amber	Green / Amber	Green / Amber	There have been no major non conformities raised by the EMAS verifiers.
46	Procurement strategy	Geoff Organ, Head of Corporate Procurement, Support and Income Services, on behalf of the Chief Finance Officer	Green – R3 / Green / amber – R1,2,5. Red / amber – R4 (but will change to green by the end of the year)	Green / amber	Green	The revised procurement strategy is complete. A Contract Management and Procurement Improvement plan is being implemented on target. Progress is monitored by the VFM Select Committee.
48	Contract Procedure Rules	Geoff Organ, Head of Corporate Procurement, Support and Income Services on behalf of Chief Finance Officer	Green / amber – R1 / amber	Green / amber	Green	Compliance can be assured in respect of contracts handled by Legal Services but not in respect of contracts handled and managed within departments. A Corporate Improvement Plan is being implemented on target. The new CPRs were approved by Council on 25 <sup>th</sup> November,



Page no. in App. 2	KEY POLICIES AND PROCEDURES	CURRENT LEAD OFFICER	ASSESS- MENT OF LEVEL OF ASSURANCE 06/07	ASSESS- MENT OF LEVEL OF ASSURANC E 07/08	ASSESS- MENT OF LEVEL OF ASSURANCE 08/09	SUMMARY POSITION
						2008 and 6 briefing sessions were held in February, 2009 with over 250 officers attending.
49	Anti-fraud and corruption	Mark Noble, Chief Finance Officer	Green / amber	Green / Amber	Green / amber	Limited assurance can be derived from the work carried out as to the effectiveness of the anti-fraud and corruption strategy. More work needs to be done to address the raising of fraud awareness by members of staff.
53	Risk management strategy	Mark Noble, Chief Finance Officer	Green / amber	Green	Green / amber	Assurance can be derived from the work outlined as to the effectiveness of the risk management strategy, although we need to remain vigilant that it is effective. Changes to the management structure of the Council will further embed Risk Management.
55	Effective administration of financial affairs (Finance Procedure Rules and associated guidance)	Mark Noble, Chief Finance Officer	Green	Green	Green	Reasonable assurance on the effectiveness of the system of financial controls can

Page no. in App. 2	KEY POLICIES AND PROCEDURES	CURRENT LEAD OFFICER	ASSESS-MENT OF LEVEL OF ASSURANCE 06/07	ASSESS-MENT OF LEVEL OF ASSURANCE 07/08	ASSESS-MENT OF LEVEL OF ASSURANCE 08/09	SUMMARY POSITION
						be derived from the internal audit work delivered during 2007/8 as reflected in the review of the System of Internal Control.
58	Health and safety policy	Fiona Skene, HR Director	Green / amber	Green / Amber	Green / Amber	The corporate H&S report and action plan ensures that senior managers are aware of current H&S performance, key H&S challenges, HSE intervention throughout the organisation and priority actions for the coming year.
64	Safeguarding Children	Rachel Dickinson, Strategic Director Children's Services	1. Green / amber. 2. Green / amber 3. Green 4. Green 5. Green / amber. 6. Green amber	Green	Green / Amber	The change in assessed risk level to green/amber from green reflects impact of any serious cases review post baby Peter and risks if Laming requirements of Council are not met, and not any reduction in safeguarding actions. Appropriate actions are being taken to address this.

**Available on Insite only.**

**GOOD GOVERNANCE IN LOCAL GOVERNMENT – LEICESTER CITY COUNCIL**

<b>SUPPORTING PRINCIPLES</b>	<b>LOCAL AUTHORITY REQUIREMENTS</b>
<b>1. Focusing on the purposes of the Authority and on outcomes for the community and creating and implementing a vision for the local area.</b>	
1.1 Exercising strategic leadership by developing and clearly communicating the Authority’s purpose and vision and its intended outcome for citizens and service users.	(a) Develop and promote the Authority’s purpose and vision. (b) Review on a regular basis the Authority’s vision for the local area and its implications for the Authority’s governance arrangements. ( c) Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners. (d) Publish an annual report on a timely basis to communicate the Authority’s activities and achievements, its financial position and performance.
1.2 Ensuring that users receive a high quality of service whether directly or in partnership or by commissioning.	(a) Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available. (b) Put in place effective arrangements to identify and deal with failure in service delivery.
1.3 Ensuring that the Authority makes best use of resources and that tax payers and service users receive excellent value for money.	(a) Decide how value for money is to be measured and make sure that the Authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.

<b>WHERE ARE WE NOW?</b>	<b>ACTION PLANNED</b>	<b>RESPONSIBILITY</b>	<b>TIMESCALE</b>
<p>1.1 Clear vision and priorities established and communicated via One Leicester plan. Revised Corporate Plan agreed by Strategic Management Board in March 09 which reflects the One Leicester vision. An organisational development and efficiency plan and new service improvement and efficiency plans are being drafted which support the delivery of the corporate plan. A strategic portfolio of projects and programmes which support delivery of the corporate plan and One Leicester is also in place. The corporate and service planning framework has been reviewed by SMB to ensure it is aligned to the new organisational structures.</p>	<p>Agreement of Cabinet and full Council to the new corporate and service plans. Implementation of these plans.</p>	<p>Strategic management Board.</p>	<p>June 2009</p>

<p>1.2 CPA service scores reflect that all services are operating at minimum standards (2), with two consistently operating above minimum standards. Performance Management project is reviewing and development our arrangements for managing quality of service. New Operational Board will focus on managing service performance and risk on a quarterly basis which will feed into quarterly reporting to the Priority Boards and Strategic Management Board.</p> <p>1.3 The Use of Resources judgment indicates that the council regularly operates above minimum standards (3) with an adequate Value for Money rating. Revised service planning process includes a strong focus on value for money and efficiency.</p>	<p>Implementation of changes arising from Performance Management Project.</p> <p>Implementation of new management arrangements.</p>	<p>Chief Executive and Chief Operational Officer.</p>	<p>Sept 2009</p>
<p><b>2. members and officers working together to achieve a common purpose with clearly defined functions and roles</b></p>			
<p>2.1 Ensuring effective leadership throughout the Authority and being clear about executive and non-executive functions and the roles and responsibilities of the scrutiny function.</p>	<p>(a) Set out a clear statement of the respective roles and responsibilities of the executive and of the executive's members individually and the Authority's approach towards putting this into practice.</p> <p>(b) Set out a clear statement of the respective roles and responsibilities of other Authority members, members generally and senior officers.</p>		

<p>2.2 Ensuring that a constructive working relationship exists between Authority members and officers and that the responsibilities of members and officers are carried out to a high standard.</p>	<p>(a) Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for collective decision of the Authority, taking account of relevant legislation and ensure that it is monitored and updated when required.</p> <p>(b) Make a Chief Executive or equivalent responsible and accountable to the Authority for all aspects of operational management.</p> <p>(c ) Develop protocols to ensure that the Leader and Chief Executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained.</p> <p>(d) Make a senior officer (the S151 officer) responsible to the Authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts and for maintaining an effective system of internal financial controls.</p> <p>(e) Make a senior officer (usually the Monitoring Officer) responsible to the Authority for ensuring that agreed procedures are followed and that all applicable statues are regulations are complied with.</p>
<p>2.3 Ensuring relationships between the Authority, its partners and the public are clear so that each knows what to expect of the other.</p>	<p>(a) Develop protocols to ensure effective communication between members and officers in their respective roles.</p> <p>(b) Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process, including an effective remuneration panel (if applicable).</p> <p>(c ) Ensure that effective mechanisms exist to monitor service delivery.</p> <p>(d) Ensure that the organisation’s vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated.</p> <p>(e) When working in partnership, ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the Authority.</p> <p>(d) When working in partnership: - ensure that there is clarity about the legal status of the partnership.</p>

		- ensure that representatives of organisations both understand and make clear to all other partners the extent of their Authority to bind their organisation to partner decisions.	
<b>WHERE ARE WE NOW?</b>	<b>ACTION PLANNED</b>	<b>RESPONSIBILITY</b>	<b>TIMESCALE</b>
2.1 A revised organisational structure has been adopted to ensure delivery of 'One Leicester'. This is now being fully implemented and relevant policies and procedures being updated.	Embedding of the new structure	Chief Executive (CX)	Sept 09
2.2 These roles are identified in the revised structure and relevant changes are being made to the constitution and scheme of delegation.	As above	As above	June, 09
2.3 Protocols exist within the existing structure and guidelines for partnership working have been adopted and reviewed. The Cabinet Lead for Frontline Services has responsibility for performance monitoring. A review of partnership and performance management is part of the organisational development and improvement programme.	1. Implement review of strategic partnership arrangements.  2. Implement review of performance management.	CX	July 2009
<b>3. Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.</b>			
3.1 Ensuring Authority members and officers exercise leadership by behaving in ways that exemplify high	(a) Ensure that the Authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect.		



standards of conduct and effective governance.	<p>(b) Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the Authority, its partners and the community are defined and communicated through codes of conduct and protocols.</p> <p>(c ) Put in place arrangements to ensure that members and employees of the Authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.</p>
3.2 Ensuring that organisational values are put into practice and are effective.	<p>(a) Develop and maintain shared values including leadership values for both the organisation and staff reflecting public expectations, and communicate these with members, staff the community and partners.</p> <p>(b) Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice.</p> <p>(c ) Develop and maintain an effective standards committee.</p> <p>(d) Use the organisation’s shared values to act as a guide for decision making and as a basis for developing positive and trusting relationship within the Authority.</p> <p>(e) In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners’ behaviour both individually and collectively.</p>

<b>WHERE ARE WE NOW?</b>	<b>ACTION PLANNING</b>	<b>RESPONSIBILITY</b>	<b>TIMESCALE</b>
<p>3.1 A Code of Conduct is in place and 'One Leicester' sets out the culture for public services aspired to by the Council and its partners. Joint Directors meetings with key partners take place monthly as a key part of corporate management arrangements. Developing a programme of regular engagement of all elected members and middle / senior management.</p>	<p>Deliver a programme of elected member, management and partner development in the context of organisational development and improvement.</p>	<p>DC/ CX</p>	<p>Ongoing</p>
<p>3.2 The Standards Committee has been reconstituted. Values are defined as part of One Leicester and are shared by our partners and therefore reflect how we work as an organisation and how we work in partnership. These inform the way we work and are reflected in our corporate plan and inform the changes we plan to make to our organisation as reflected in our organisational development and improvement plan.</p>	<p>Further development and strengthening of the Standards Committee</p>	<p>Director of Assurance and Democratic Services (DADC)</p>	<p>Ongoing</p>
<p><b>4. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.</b></p>			
<p>4.1 Being rigorous and transparent about how decisions are taken and listening and acting on the</p>	<p>(a) Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the Authority's performance overall</p>		

<p>outcome of constructive scrutiny.</p>	<p>and that of any organisation for which it is responsible.</p> <p>(b) Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based.</p> <p>(c ) Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice.</p> <p>(d) Develop and maintain an effective audit committee (or equivalent) which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee.</p> <p>(e) Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints.</p>
<p>4.2 Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.</p>	<p>(a) Ensure that those making decisions whether for the Authority or the partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications.</p> <p>(b) Ensure that proper professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately.</p>
<p>4.3 Ensuring that an effective risk management system is in place.</p>	<p>(a) Ensure that risk management is embedded into the culture of the Authority, with members and managers at all levels recognising that risk management is part of their jobs.</p> <p>(b) Ensure that effective arrangements for whistle blowing are in place to which officers, staff and all those contracting with or appointed by the Authority have access.</p>
<p>4.4 Using their legal powers to the full benefit of the citizens and communities in their area.</p>	<p>(a) Actively recognising the limits of lawful activity placed on them by, for example, the ultra vires doctrine but also strive to utilise their powers to full benefit of their communities.</p> <p>(b) Recognise the limits of lawful action and observe both the specific</p>

requirements of legislation and the general responsibilities placed on Authorities by public law.

(c ) Observe all specific legislative requirements placed upon them as well as the requirements of general law, and in particular to integrate the key principles of good administrative law

- rationally, legally and natural justice.
- into their procedures and decision making processes.

<b>WHERE ARE WE NOW?</b>	<b>ACTION PLANNED</b>	<b>RESPONSIBILITY</b>	<b>TIMESCALE</b>
4.1 Revised Scrutiny arrangements were put in place in 2007	Continue to consider arrangements and effectiveness	CX	Ongoing
4.3 The Corporate Assessment identified that the Council has a culture that is too risk averse rather than risk managing. New risk management arrangements will be embedded that reflect the changes to our officer structures and which embed a fit for purpose approach to managing operational and strategic risks. A new learning and development strategy will help support us in embedding a new corporate culture alongside our specific programme of work on developing individual performance management and development.	Embed the new risk management arrangements as part of the revised structures.	Strategic management Board.	Sept 09
4.4. The Council uses its powers for the benefit of citizens but the Corporate Assessment identified that it might not always maximize this benefit often settling for the minimum or statutory requirement.	Implement learning and development strategy and individual performance management and development programme to support cultural change.	CX / Head of City Learning	Oct 09
<b>5. Developing the capacity and capability of members and officers to be effective.</b>			
5.1 Making sure that members and officers have the	(a) Provide induction programmes tailored to individual needs and		

<p>skills, knowledge, experience and resources they need to perform well in their roles.</p>	<p>opportunities for members and officers to update their knowledge on a regular basis.  (b) Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the Authority.</p>
<p>5.2 Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.</p>	<p>(a) Assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively.  (b) Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.  (c) Ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs.</p>
<p>5.3 Encourage new talent for membership of the Authority so that best use can be made of individual's skills and resources in balancing continuity and renewal.</p>	<p>(a) Ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the Authority.  (b) Ensure that career structures are in place for members and officers to encourage participation and development.</p>

<b>WHERE ARE WE NOW?</b>	<b>ACTION PLANNED</b>	<b>RESPONSIBILITY</b>	<b>TIMESCALE</b>
<p>5.1 Induction programmes are provided for both elected members and officers. Member Development Programme adopted. Officer induction being further reviewed in light of new organisational arrangements and as part of the organisational development and improvement programme on individual performance management and development.</p>	<p>Implement Member Development Programme</p>	<p>DADS</p>	<p>Ongoing</p>
<p>5.2 The Council has an appraisal approach for officers which needs reviewing refreshing and aligning to the achievement of One Leicester. This is being done via the programme referenced above.</p>	<p>Organisational development and improvement programme on individual performance management.</p>	<p>DC</p>	<p>Oct 09</p>
<p>5.3 The Council has introduced Ward Community Meetings but its career structures were criticised in the Corporate Assessment. This is being done via the programme referenced above.</p>	<p>1. Continue to develop Ward Community Meetings</p> <p>2. Reconsider career development in the light of 'One Leicester' and the new structure. Organisational development and improvement programme on individual performance management.</p>	<p>CX</p>	<p>?</p>
		<p>DC</p>	<p>Oct 09</p>

<b>6. Engaging with local people and other stakeholders to ensure robust public accountability</b>	
<p>6.1 Exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships.</p>	<p>(a) Make clear to themselves, all staff and the community to whom they are accountable and for what.            (b) Consider those institutional stakeholders to whom the Authority is accountable and assess the effectiveness of the relationships and any changes required.            (c) Produce an annual report on the activity of the scrutiny function.</p>
<p>6.2 Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the Authority, in partnership or by commissioning.</p>	<p>(a) Ensure clear channels of communication are in place with all sections of the community and other stakeholders and put in place monitoring arrangements and ensure that they operate effectively.            (b) Hold meetings in public unless there are good reasons for confidentiality.            (c) Ensure that arrangements are in place to enable the Authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands.            (d) Establish a clear policy on the types of issues they will meaningfully consult on or engaged with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result.            (e) On an annual basis publish a performance plan giving information on the Authority's vision, strategy plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.            (f) Ensure that the Authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.</p>



6.3 Making best use of human resources by taking an active and planned approach to meet responsibility to staff.	(a) Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.		
<b>WHERE ARE WE NOW?</b>	<b>ACTION PLANNED</b>	<b>RESPONSIBILITY</b>	<b>TIMESCALE</b>
6.1 See 4.1	Consider inclusion of Scrutiny section in State of the City Report	CX	July 09
6.2 The Council conducts appropriate meetings in public and has a consultation toolkit to maintain good practice. However, the Corporate Assessment identified that the Council was not always as consistent in its approach or effective in feeding back the outcomes of engagement exercises as it could be. A revised corporate database is in place and a mapping of activity undertaken	Undertaken action plan identified as a result of the mapping exercise		July 09
6.3 The Corporate Assessment identified improvements required in workforce planning and engagement and a revised approach has been adopted.	1. Implement the revised Workforce Strategy	Head of Human Resources	Ongoing

## LOCAL GOVERNMENT OMBUDSMAN COMPLAINTS

<b>COMPLAINTS RECEIVED</b>			
	<b>06/07</b>	<b>07/08</b>	<b>08/9</b>
<b>Complaints received</b>	<b>147</b>	<b>130</b>	<b>136</b>
<b>Complaints closed</b>	<b>119</b>	<b>109</b>	<b>117</b>
<b>Complaints closed – less premature</b>	<b>69</b>	<b>70</b>	<b>73</b>
<b>Complaints open at year end 31 March 2008</b>	<b>28</b>	<b>21</b>	<b>19</b>

	<b>06/07</b>	<b>07/08</b>	<b>08/09</b>
Chief Executive	0	0	0
R&C	34(23%)	18(14%)	29
C&YPS	13(9%)	18(14%)	17
Housing	0	0	0
Adults and Housing	96(67%)	88(67%)	88
Resources	2(1%)	6(5%)	2
<i>TOTAL</i>	<b>147</b>	<b>130</b>	<b>136</b>

<b>LOCAL GOVERNMENT OMBUDSMAN COMPLAINTS</b>			
<b>BREAKDOWN OF OUTCOMES</b>			
	<b>06/07</b>	<b>07/08</b>	<b>08/09</b>
No Maladministration	21(18%)	30(28%)	35(30%)
Local Settlement	9(7%)	14(13%)	10(8%)
Outside Jurisdiction	15(13%)	10(9%)	8(7%)
Ombudsman's Discretion*	12(10%)	15(14%)	20(17%)
Premature	61(51%)	39(35%)	44(38%)
Discontinued/Withdrawn	0	1(1%)	0
Maladministration found	1(1%)	0	0
<b>Total</b>	<b>119</b>	<b>109</b>	<b>117</b>

\*complaints described as Ombudsman's Discretion are those which have been terminated for reasons other than that there was no evidence of maladministration or that the complaint was locally settled. For example, a complaint might be terminated because the complainant wishes to withdraw his/her complaint.

<b>LOCAL GOVERNMENT OMBUDSMAN COMPLAINT OUTCOMES BY DEPARTMENT 2008/2009</b>								
	<b>NM</b>	<b>LS</b>	<b>OJ</b>	<b>OD</b>	<b>MI</b>	<b>P</b>	<b>W</b>	<b>TOTAL</b>
Chief Executive's Office	0	0	0	0	0	0	0	0
C&YPS	7	0	2	4	0	2	0	15
Regeneration & Culture	13	1	1	4	0	8	0	27
Adults and Housing	15	9	5	11	0	34	0	74
Resources	0	0	0	1	0	0	0	1

NM No Maladministration

LS Local settlement

OJ Outside Jurisdiction

OD Ombudsman Discretion

MI Maladministration & Injustice

P Premature (opportunity to put the complainant through our 3 stage complaint procedure **NOT** recorded in the Ombudsman's year end figures.

The total amount paid out in Local Settlement payments was  
£4717.10 detailed below:

<b>Department</b>	<b>Ref No</b>	<b>Subject</b>	<b>Compensation</b>
A&H	08/048437	Damage caused and a delay in completing repairs	£50.00
A&H	08/002036	Delay in dealing with Council tax query	£150.00
A&H	08/010504	Delay in completing repairs	£250.00
A&H	07/03114	Delay in responding to information request	£125.00
A&H	07/13478	Error in the calculation of business rates	£250.00
A&H	06/10364	Council's failure to respond to letters regarding Housing Benefit, rent arrears and outstanding legal costs	£200.00
A&H	08/005739	Delay in completing repairs	£250.00
A&H	06/13146	Failure to make a proper diagnosis of structural problems with tenants property	£1862.10
			<b>Total: £3362.10</b>
R&C	07/00747	Removal of a vehicle that was not displaying a valid tax disc	£1455.00
			<b>Total: £1455.00</b>
			<b>Total: £4817.10</b>

Action taken:

The Housing repairs section is currently introducing a new way of carrying out repairs called Mobile Working whereby a majority of jobs will no longer be given an appointment survey for materials and then have a follow up appointment to carry out the work; instead the repair will be carried out in the first visit even if that involves collecting special materials.

In respect of other matters complained about and dealt with as a Local Settlement, management has taken action to ensure a more consistent approach.

**Complaints – Findings of Maladministration  
Comparison Table of Family Authorities**

Authority	06/7		07/08		08/09	
	Findings of Maladministration	Total No. of complaints	Findings of Maladministration	Total No. of complaints	Findings of Maladministration	Total No. of complaints
Leicester	0	69	0	94	Figures not released by the LGO until July 2009	Figures not released by the LGO until July 2009
Birmingham	2	231	0	386		
Blackburn with Darwen	0	32	0	41		
Bolton	0	46	0	54		
Bradford	0	74	1	80		
Bristol	1	90	3	116		
Coventry	0	36	1	59		
Derby	0	40	0	37		
Dudley	0	63	6	71		
Kingston-upon-Hull	0	33	0	63		
Nottingham	1	55	1	74		
Plymouth	1	60	1	54		
Portsmouth	0	27	0	37		
Southampton	0	38	0	41		
Wolverhampton	0	40	1	40		

These figures do not include complaints which are 'premature'. That is complaints which the authority has not had an opportunity to deal with.



**OTHER  
ACTION  
GUIDANCE**

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# introduction

- 1) This guidance on other action is aimed at members of standards committees. It is not mandatory but has been written to help describe what other action is, when it might be used, and how the process can be managed.
  - Although there is no formal route for dealing with a member who refuses to comply with other action, failure to cooperate may amount to bringing the authority into disrepute.
- 2) Advice for monitoring officers on carrying out other action is available in the Standards Board's guidance, **Local Investigations and Other Action and How to Conduct an Investigation**.
- 3) The Standards Board's key messages on other action are:
  - Complaints should not be referred for other action when an investigation is in the public interest, when an allegation challenges the member's honesty or integrity, or where if proven to be true, the alleged conduct would undoubtedly warrant a sanction.
  - A referral for other action closes the opportunity to investigate.
  - A decision to refer a complaint for other action makes no finding of fact, and the action decided on must not imply that the subject of the complaint has breached the Code of Conduct.
  - Assessment sub-committees cannot direct the subject member or any other party to take action. The direction is to the monitoring officer.

# what is other action?

- 4) An assessment sub-committee has **three** options when dealing with a complaint that a member has failed or may have failed to comply with the Code of Conduct. The Local Government Act 2000, as amended, states that it can decide to refer the complaint to the monitoring officer of the authority concerned, refer it to the Standards Board, or take no action.
- 5) If the assessment sub-committee decides to refer a complaint to the monitoring officer, it can direct them to investigate the matter. Alternatively, it can direct them to take steps other than carrying out an investigation. This is known as other action.
- 6) Generally, there are **two** indicators for other action. The **first** is when there is evidence of poor understanding of the Code of Conduct and/or the authority's procedures. The **second** indicator for other action is when relationships within the authority as a whole have broken down to such an extent that it becomes very difficult to conduct the business of the council.
- 7) The Standards Committee (England) Regulations 2008 explain that the steps a standards committee can direct a monitoring officer to take are:
  - arranging for the member to attend a training course
  - arranging for the member and complainant to engage in a process of conciliation
  - any other steps (not including an investigation) which appear appropriate
- 8) Suggestions as to types of training courses a member might attend, and other steps a standards committee might consider appropriate, are listed in the next section (**What might other action involve?**).

# what might other action involve?

- 9) The Standards Committee (England) Regulations 2008 specifically provide that a referral for other action may consist of a direction to the monitoring officer to arrange for the member to attend a training course. Training may be in anything the assessment sub-committee deems appropriate, such as:
- chairing skills
  - working with external bodies and partnerships
  - governance issues
  - the Code of Conduct
  - council procedures and protocols
  - legal matters
  - planning and licensing
  - working with officers
  - use of council resources
- 10) In general, other action may take the form of directing the monitoring officer to arrange for the:
- redrafting of council procedures or policies
  - training of members of the council as a whole
  - mentoring of a member or members, or whole council
  - management of conflict
  - development of council protocols
  - implementation of a council complaints procedure
- 11) A referral for other action does not mean that the member has been found to have done anything wrong (see the next section '**Deciding to take other action**'). It is therefore very important that the action proposed does not imply this. Other action cannot, for example, take the form of requiring the subject member to apologise. Of course, in those cases where the member has admitted the breach and offered an apology, the assessment sub-committee may decide that no further action is necessary.
- 12) **It is particularly important to remember that an assessment sub-committee can only direct a monitoring officer to take other action. It has no power to direct anyone else to do so.**

# deciding on other action

- 13) A decision to refer a complaint for other action – like all assessment decisions – does not involve making any findings of fact. All parties should understand that a decision to take other action means that no conclusion has been reached about what happened. Furthermore, no decision has been made about whether the subject member failed to comply with the Code.
- 14) Similarly, everyone involved in a decision to take other action must understand that the purpose of such a referral is not to find out whether the member breached the Code of Conduct. This is regardless of how simple it may be to establish the facts. A decision to direct the monitoring officer to take other action is an alternative to an investigation. It cannot ever result in a finding that the member has or has not failed to comply with the Code.
- 15) The assessment sub-committee needs to be satisfied that even if the specific allegation had occurred as alleged, it would not be behaviour which would necessarily require the subject member to face one of the sanctions it could impose. This excludes training, which can be other action decided on at assessment stage, and a sanction following a hearing. The assessment sub-committee should also be satisfied that other action could assist the proper functioning of the council.
- 16) Other action is not intended to be a quick and easy means of dealing with matters which the assessment sub-committee considers to be too trivial or time-consuming to investigate. Genuinely trivial cases are better dealt with by a decision to take no action. While other action can be a cost-effective way of getting a matter resolved, it is not a quick-fix. Furthermore, other action should not be seen as a routine or cheap way of disposing of an allegation, as it can sometimes be a drawn out, costly and time-consuming process.
- 17) Standards committees should take care to avoid it appearing to the complainant that deciding to take other action is sweeping matters under the carpet. The decision should demonstrate to the complainant that their complaint is being addressed and being taken seriously, although perhaps as part of a wider issue.
- 18) Importantly, if a complaint merits being investigated, then it should be referred for investigation. For example, complaints should not be referred for other action when an investigation would be in the public interest. Other action should also be avoided where the allegation fundamentally challenges the member's honesty or integrity. It should additionally be avoided where the allegation, if proven, would warrant any of the sanctions (apart

# deciding on other action

from training) available to a standards committee after a hearing.

- 19) Assessment sub-committees must not refer an allegation for other action without consulting the monitoring officer, who will often be present at the assessment meeting. If the monitoring officer is not present, and has not given any indication of their views on other action, the assessment meeting may need to be adjourned.
- 20) The monitoring officer may be able to advise the assessment sub-committee how viable the proposed other action is, by providing information on the resources available to them. They may be able to tell the assessment sub-committee how much any proposed other action might cost. They might also be able to advise whether, for example, the authority has access to the facilities or resources needed to accomplish it, such as trained mediators.

# when is other action appropriate?

- 21) The first stage in assessing a complaint is to determine whether it is within jurisdiction. In other words, the assessment sub-committee needs to decide whether, if what the complainant alleges were true, the Code of Conduct would apply. If the Code would not apply to the alleged conduct, the only decision an assessment sub-committee is able to make is to take no action. Other action will never be appropriate in these cases.
- 22) In general, the Standards Board believes that other action is most beneficial when used to deal with systemic problems rather than individual ones. The action proposed does not have to be limited to the subject of the complaint. Several members, or indeed a whole authority, could be included in the action the monitoring officer is asked to take.
- 23) Matters which standards committees might consider referring for other action include:
- the same particular breach of the Code by many members, indicating poor understanding of the Code and the authority's procedures
  - a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the council
  - misunderstanding of procedures or protocols
  - misleading, unclear or misunderstood advice from officers
  - lack of experience or training
  - interpersonal conflict
  - allegations and retaliatory allegations from the same members
  - allegations about how formal meetings are conducted
  - allegations that may be symptomatic of governance problems within the council, which are more significant than the allegations in themselves
- 24) We advise standards committees to draw up assessment criteria which detail the matters they will take into account when deciding what action, if any, to take. Every decision to take other action – like all assessment decisions – can then be made with reference to these criteria.

# adjournment

- 25) Some assessment sub-committees are reluctant to refer a complaint for other action without knowing whether the subject member and other members of the authority will cooperate with the proposed approach.
- 26) One way of dealing with this issue is by adjourning the assessment of a complaint that the assessment sub-committee considers might be suitable for other action. The standards committee can then ask the monitoring officer to find out whether the member or members will cooperate. Although this option is not specifically provided for by the legislation, we do not consider that it is prohibited. Meetings may also be adjourned to enable the monitoring officer to find out more information about the complaint.
- 27) It is up to each authority to decide whether their assessment of a particular complaint should be adjourned. They should consider the advantages and disadvantages of adjournment when making this decision. They should also bear in mind that we advise that assessment decisions should be made within an average of 20 working days, and that an adjournment may mean that that the average assessment time increases.
- 28) Advantages of adjournment are:
- Those sitting on the assessment sub-committee will know what the members think about the proposed solution, and may therefore be more confident in making their decision.
  - Members may be likely to cooperate if they are made aware of the options available.
  - When members indicate that the action would be ineffective, the sub-committee still have the option of deciding to refer the complaint for investigation.
  - Further information obtained by the monitoring officer may mean that the complaint is effectively resolved, enabling the sub-committee to decide to take no action.
- 29) Disadvantages of adjournment are:
- Finding out members' views runs the risk of putting the decision about what action to take into the hands of the member, rather than the sub-committee.
  - The authority of the standards committee may be undermined if other action is agreed through negotiations between the monitoring officer and the member or members.
  - By making further enquiries, the monitoring officer may end up starting an investigation before the assessment decision is made.

# adjournment

- The member or members may try to pass on more information to the monitoring officer, to persuade the sub-committee to take no action.
- 30) As an alternative to adjourning the assessment meeting, the standards committee could agree that the monitoring officer seeks views on other action when they receive a complaint.



# role of the monitoring officer

- 31) When a matter has been referred for other action, it is the monitoring officer's duty to give notice to the relevant parties. These relevant parties are:
- the subject member
  - the person who made the allegation
  - the standards committee of any other authority concerned
  - any parish council concerned
- 32) If the standards committee issues a decision notice that goes to all these parties, the Standards Board considers that the monitoring officer's responsibility is met.
- 33) Whoever notifies the parties of the decision should take care over how the decision is conveyed. It is important that the wording does not imply that the member is culpable. It is also important that members do not feel they have been found guilty without an investigation of the allegation. Note that both parties could end up potentially feeling dissatisfied. This is because complainants and subject members do not have the right to have the decision to refer a matter for other action reviewed under Section 57B of the Local Government Act 2000.
- 34) When a monitoring officer receives a referral with a direction to take other action, they must deal with it in accordance with the direction. They do not have discretion to take a different course of action and should make every attempt to ensure that the action specified is carried out successfully.
- 35) Information and advice for monitoring officers on carrying out other action is available in the Standards Board's guidance, **Local investigations and other action** and **How to conduct an investigation**.
- 36) The monitoring officer must submit a written report to the standards committee within three months of receiving the direction, or as soon as possible after that. This report must give details of the action taken or the action proposed to comply with the direction.

# consideration of the monitoring officer's report

- 37) The standards committee or an appropriate sub-committee should consider the monitoring officer's report and decide whether it is satisfied with the action described. The meeting at which the report is considered is subject to the general notice and publicity requirements under regulation 8 of the Standards Committee (England) Regulations 2008.
- 38) The monitoring officer's report can be considered by the same members who initially assessed the complaint, by another sub-committee, or by the standards committee as a whole. This is a decision to be made by each authority, and will depend on the way in which the committee has been set up, what sub-committees it has and the terms of reference of each body.
- 39) The advantage of the same members considering the report is that they will be aware of the details of the original complaint. However, some authorities may consider that convening a sub-committee simply for this purpose is not a good use of time and resources. They might instead choose to include consideration of the monitoring officer's report as an item on the agenda of the regular meeting of the standards committee.
- 40) If the standards committee or sub-committee **is** satisfied with the action described in the monitoring officer's report, it should give notice of this to all of the following:
- the subject member
  - the person who made the allegation
  - the standards committee of any other authority involved
  - any parish council concerned
- The matter is then closed.
- 41) If the standards committee or sub-committee is **not** satisfied, it must give another direction to the monitoring officer, which must again be to take some kind of other action. The standards committee cannot at this stage decide that the matter should be investigated. This is discussed further in the section below.
- 42) If the report describes action which has been proposed but not yet taken, the standards committee should decide whether this is satisfactory. If it has doubts about whether the action will take place, it should consider whether or not to give a further direction to the monitoring officer. The standards committee or sub-committee may also consider making a further direction where the report indicates that the member has refused to cooperate, has done so unwillingly or inadequately, or has not engaged with the process.

# what if other action does not work?

- 43) Each time a standards committee or sub-committee directs a monitoring officer to take other action, the monitoring officer must submit a written report detailing the action taken or proposed. If dissatisfied, the standards committee can direct the monitoring officer to take further other action.
- 44) In theory, if a standards committee continues to be dissatisfied, it can continue to issue directions until it is satisfied. However, standards committees should be proportionate and reasonable in their directions. We believe that the process should be drawn to a close after a limited number of attempts by the monitoring officer to bring about other action – even where this has not occurred in accordance with the direction.
- 45) There is no formal route for dealing with a member who categorically refuses to comply with other action. However, the Standards Board believes that deliberate and continued failure to cooperate with a monitoring officer who is trying to carry out the directions of a standards committee may potentially amount to conduct which brings the office of councillor into disrepute. Furthermore, an assessment sub-committee may take this into account when deciding what action to take if they are assessing a complaint about a member who has previously failed to cooperate.
- 46) If a standards committee receives a complaint that a member did not cooperate with other action in relation to a previous complaint, they should only assess the complaint about the failure to cooperate. They should not take into account the conduct which led to the original complaint.
- 47) If the complaint is accepted for investigation then it is vitally important that any investigation focuses on the lack of cooperation and not the original complaint that led to the other action. Otherwise there is a danger that the original complaint will be resurrected. This is particularly important where the member says that the lack of cooperation was because they had done nothing wrong.

# why other action closes the opportunity to investigate

- 48) Once an assessment sub-committee has decided to refer a matter for other action, this becomes the way forward in that particular case. If a standards committee is not satisfied that the action taken has not achieved the aim of the direction to take other action, it cannot then decide the matter should be investigated. The assessment sub-committee needs to be clear at the outset that should other action be unsuccessful or only partially successful, that it would still then remain the preferred course of action.
- 49) The legislation is clear on this issue. Once an allegation is referred under Section 57A(2) of the Local Government Act 2000 to the monitoring officer to take steps other than investigation, those steps are the ones referred to in regulation 13(3) of the Standards Committee (England) Regulations 2008. They are limited to arranging for training, a process of conciliation or such other steps – not including investigation – which the standard committee considers to be appropriate. There is no power that allows the case to be referred on for investigation if these options under regulation 13(3) are perceived to have failed.
- 50) Regulation 14(1) of the same regulations says that regulation 14 applies only if regulation 13 is not applied. If other action has been attempted, regulation 13 has been applied.
- 51) As well as being set out in statute, there are sound reasons why complaints which have been referred for other action should not then be investigated. Firstly, there are difficulties in deciding why the action has 'failed'; whether it has failed and if so, why an investigation is thought to be needed. This subjective judgment has the potential to increase the complainant or the subject member's dissatisfaction with the process. In some circumstances, it may also risk deliberate non-cooperation with the action prescribed in order to secure an investigation.
- 52) An investigation should not be viewed as something that can take place after other action has been attempted and is not to the satisfaction of one of the parties. There is a risk that other action will not be taken seriously if it is seen merely as a precursor to an investigation.

# why other action closes the opportunity to investigate

- 53) The issue of timeliness is also key for all parties when dealing with an allegation of misconduct. It is questionable as to how fair the process would be, for both the subject member and complainant, if it is extended for the duration of the other action taking place and the investigation that follows it. Where other action is undertaken before an investigation, there is the risk that the case will be prejudiced. Witnesses may become prejudiced, there may be problems obtaining evidence, and an investigation may be jeopardised if the issues are discussed in detail as part of a mediation process.

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Appendix F

# DISPENSATIONS



# contents

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# introduction

This guidance on dispensations is aimed at standards committees. It is not mandatory but has been written to help describe when standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest.

# dispensations

## Granting dispensations under the new regulations

The legislation states standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest. The criteria for granting these dispensations changed in June 2009

Concerns were raised by some authorities, as well as the Standards Board for England, about the provisions of previous dispensation regulations. Due to these concerns, the Standards Committee (Further Provisions) (England) Regulations 2009 (the regulations) revoke the previous regulations. They replace them with new provisions to clarify the grounds on which standards committees may grant dispensations to local authority members.

Under Section 54A(1) of the Local Government Act 2000 an authority's standards committee can set up a sub-committee to consider requests for dispensations. Any reference in this guidance to the standards committee includes any sub-committee which has this function.

Dispensations may be granted for speaking only, or for speaking and voting. The 2007 Code of Conduct (the Code) relaxed the provisions for restricting members from speaking. Therefore, the need to request a dispensation in this respect is now limited to circumstances where the public do not have the right to speak, or to where a parish or police authority has not adopted paragraph 12(2) of the Code.

Part 4 of the regulations sets out the

circumstances in which a standards committee can grant dispensations to members of relevant authorities in England, and police authorities in Wales. If a member acts in accordance with the granting of a dispensation, taking part in business otherwise prohibited by an authority's code of conduct would not result in a failure to comply with that code.

A standards committee may grant a dispensation to a member or co-opted member of an authority in the following circumstances:

- where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting **OR**
- where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

**Note:** Political balance is a legal formula, set out in the Local Government and Housing Act 1989 and associated regulations. It applies only to relevant authorities and places an obligation on them to reflect the political balance of their elected members when determining who should sit on certain committees. It does not apply to parish councils.

Standards committees must ignore any dispensations that have already been given to others at the meeting to decide whether either of these criteria apply.

There are two **exceptions** to this:

- Members cannot be given a dispensation allowing them to vote in

# dispensations

overview and scrutiny committees about decisions made by any body they were a member of at the time the decision was taken.

- A dispensation cannot be given to allow an executive member with a prejudicial interest in an item of executive business to take an executive decision about it on their own.

The dispensation granted may apply to just one meeting or it may be applicable on an ongoing basis. However, the dispensation cannot be used to allow participation in the business of the authority if it was granted more than four years ago.

## Legal requirements for granting dispensations

- 1) Standards committees can grant a dispensation if more than 50% of members have a prejudicial interest in an item of business to be discussed at a meeting which is covered by their code of conduct. They must ignore any members who have already been granted dispensations when doing this (see paragraph [\*]). The list of meetings is set out in paragraph 1(4) of the Model Code of Conduct contained in the Local Authorities (Model Code of Conduct) Order 2007. These are meetings of:
  - the authority
  - its executive and its committees and sub-committees
  - any other committees, sub-committees, joint committees, joint sub-committees or area committees

of the authority.

- 2) Standards committees can grant a dispensation for an item of business if the political balance of a meeting would be upset enough to prejudice the outcome of the vote. They must ignore any members who have already been granted dispensations when doing this (see paragraph [\*]). This means that due to the number of members who are prevented from voting the political balance of the committee is changed. This is similar to a provision that has been in existence in Wales for some time. As before, this does not apply to parish councils as they are not bound by the political balance rules.

[\*]The requirement to ignore any members who have already been granted dispensations means that standards committees should disregard any previously granted dispensations in order to work out whether the two circumstances above apply.

So, if there were ten members on a committee, six of whom would not be able to vote on some business, all six can claim a dispensation. If previously granted dispensations were not disregarded, once two people had been granted dispensations, the remaining four would be ineligible because at that point 50% of the committee would be able to vote.

In addition it is necessary to consider if any of the exceptions set out above apply.

# dispensations

## Issues and criteria to consider when granting dispensations

The number of members in each political group on an authority could affect the eligibility to apply for a dispensation.

In situations where one political party has a large majority on an authority, and therefore on its committees, members of that political party will not be eligible to apply for a dispensation frequently under the criterion for political balance (see page 3). Where an authority has two or more political parties, and the number of members that each party has is fairly evenly balanced, the eligibility to apply for a dispensation will rise.

Clearly there is a difference between being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. We recommend that the standards committee considers the need for criteria to be applied to requests for dispensations. The committee will need to balance the prejudicial interest of the member seeking the dispensation to vote on an item of business, against the potential effect on the outcome of the vote if the member is unable to do so.

## Considerations for dealing with dispensation requests

**Q. Is the nature of the member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?**

For instance, it is unlikely that it would be appropriate to grant a dispensation

to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative. The adverse public perception of the personal benefit to the member would probably outweigh any public interest in maintaining the political balance of the committee making the decision. This is especially where an authority has well-established processes for members on committees to be substituted by members from the same political party.

However, the prejudicial interest could arise from the financial effect the decision might have on a public body of which they are a member. In such cases, it is possible that any public interest in maintaining the political balance of the committee making the decision might be given greater prominence.

**Q. Is the interest common to the member and a significant proportion of the general public?**

For example, the member might be a pensioner who is considering an item of business about giving access to a local public facility at reduced rates for pensioners. Some cautious members might regard this as a possible prejudicial interest. However, as a significant proportion of the population in the area are also likely to be pensioners, it might be appropriate to grant a dispensation in these circumstances.

# dispensations

**Q. Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?**

For instance, a member might represent the authority on another public body – such as a fire or police authority – and have particular expertise in the work of that body. Therefore it may be appropriate for that member to be allowed to address the decision-making body, even where there is no right for the public to do so. This would mean that the body would have the benefit of the member's expertise before making a decision which would benefit it financially.

**Q. Is the business that the interest relates to about a voluntary organisation or a public body which is to be considered by an overview and scrutiny committee? And is the member's interest not a financial one?**

In circumstances such as these, the standards committee might believe that it is in the interests of the authority's inhabitants to remove the incapacity from speaking or voting.

**Practical guidance on the process for granting dispensations and recording them**

The process for making requests for dispensations, the criteria that will be applied and the process that will be followed when the request is considered should all be clearly understood by those

concerned. Therefore, standards committees should set all this out and make it available to members.

A member must submit an application in writing explaining why a dispensation is desirable. Only the member can do this – they can't ask somebody else to do it on their behalf. It is sensible to send that application to the monitoring officer so that they can arrange for it to be considered by their standards committee.

A standards committee meeting must be convened to consider the application for a dispensation. Therefore, it is not possible to grant a dispensation as a matter of urgency to deal with emergency business.

The committee must consider the legal criteria set out on pages 3–4, including the exceptions. They must also consider any other relevant circumstances. These can include any local criteria they have adopted.

The committee will need to consider whether the member making the request will be allowed to make oral representations to the committee or whether the application will be dealt with only through written representations.

A standards committee has the discretion to decide the nature of any dispensation. For example, the committee may consider that it is appropriate that the dispensation allows the member to speak and not vote, or to fully participate and vote. The committee can also decide how long the dispensation should apply, although it cannot be longer than four years.

It is our view that the regulations do not

# dispensations

allow standards committees to issue general dispensations to cover members for any situation where a prejudicial interest may arise. The regulations refer to circumstances that arise at “a meeting”. Therefore, we would expect most dispensations to cover a specific item of business at one meeting of the authority.

The decision must be recorded in writing and must be kept with the register of interests established and maintained under Section 81 (1) of the Local Government Act 2000.

Standards committees can refuse to grant a dispensation. The regulations allow for standards committees to use their discretion rather than impose an obligation for them to grant dispensations.

# Appendix G



## New regulations come into force

In **Bulletin 42** we explained that regulations were being prepared to allow the Standards Board to suspend the initial assessment functions of an authority and to enable authorities to establish joint standards committees. The Standards Committee (Further Provisions) Regulations 2009 came into force on 15 June 2009. **Guidance about establishing joint standards committees** has been issued by the Standards Board to coincide with the regulations.

The regulations are much as expected and you may wish to refer to the **relevant article in Bulletin 42** for a summary of what they contain.

The regulations also amend the powers of standards committees to grant dispensations to members who would otherwise be unable to take part in authority business because of a prejudicial interest. There is a separate article about dispensations in this Bulletin and **guidance has also been issued** on our website.

## Changes to criteria for granting dispensations

The Standards Committee (Further Provisions) (England) Order 2009 makes changes to the criteria for granting dispensations for members to speak and vote when they have a prejudicial interest.

A standards committee can grant a dispensation to a member:

- where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting **OR**
- where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

To decide whether these criteria apply, members must ignore any dispensations that have already been given to others at the meeting. The requirement to ignore any dispensations already granted means that any previously granted dispensations are disregarded for the purposes of working out whether the two circumstances above apply.



So, if there were ten members on a committee, six of whom would not be able to vote on some business, all six can claim a dispensation. If previously granted dispensations were not disregarded, a situation could arise where once two people had been granted dispensations, the remaining four would be ineligible. This is because at that point there would be less than 50% of the committee who could not vote.

Even if the criteria apply, members cannot get a dispensation to:

- allow them to take part in voting at an overview and scrutiny committee about a decision made by any body of which they were a member at the time the decision was taken
- allow an executive member with a prejudicial interest in an item of executive business to take an executive decision about it on their own

Ultimately it is for an authority's standards committee to decide what criteria they will apply when considering a request.

The criteria that will be applied and the process that will be followed should be made available to all members by the standards committee.

By law, a member must submit an application in writing for consideration by the standards committee. It is up to the standards committee whether or not they grant a dispensation and there is no right of appeal from their decision.

A standards committee can decide the nature of any dispensation it grants. For example, the dispensation may allow a member to speak and not vote, or to fully participate and vote. The committee can also decide how long the dispensation should apply, although it cannot be longer than four years.

After four years has elapsed since a dispensation was granted, it can no longer be used.

The decision must be recorded in writing and must be kept with the register of interests maintained by the monitoring officer.

We have issued new guidance on dispensations to reflect the new regulations. The guidance can be found by clicking [here](#).

## Standards Board responds to CSPL inquiry

The Standards Board has responded to the inquiry into MPs' expenses held by the Committee on Standards in Public Life. You can view our response to the Committee on Standards in Public Life's inquiry by clicking [here](#).

## Support for Code of Conduct 'remains high'

Newly-published research suggests that member behaviour is improving and that support for the Code of Conduct remains high.

The Standards Board surveys the level of satisfaction in local government with our performance, and attitudes to the ethical environment, every two years. This year we commissioned BMG Research to carry out this survey on our behalf. As some of you may know, the survey was first undertaken in 2004



and was repeated in 2007.

The report's key findings are:

- 62% consider us successful in keeping local government, in general, informed about what we are doing (52% in 2007 and 46% in 2004). We are committed to making continuous improvements in this area.
- Support for the Code of Conduct remains high - 94% support the requirement for members to sign a Code of Conduct (93% in 2007 and 84% in 2004)
- 47% of respondents stated that they think members standards of behaviour have improved (44% in 2007, 27% in 2003).
- 75% of stakeholders have confidence in the way their local standards committee deals with complaints about members.
- This year we also asked respondents if they support the requirements for an officer's code - 88% of members expressed support for a requirement for an officer's code compared with 70% of monitoring officers and 78% of town/parish clerks. We will be feeding this information back to the department for Communities and Local Government.

Questions asked in the survey covered a number of areas including:

- attitudes to the Standards Board and ethical environment
- perceptions of the Standards Board
- views on our publication and website
- suggestions for ways in which we can improve our communication

In total, BMG received 1,973 completed questionnaires; this represents a response rate of 44% among town and parish councils, and 32% among principal and other authorities.

The research findings allow us to identify strengths and weaknesses, as well as demand for our services. In this way we can tailor our communications and advice and guidance to the needs of our stakeholders. Since the research also collects data on attitudes to the ethical environment, we can also use it to help us assess the impact of the standards framework.

Thank you to everyone who participated in this survey, it is only through your continued support with our research that we are able to track the progress we are making.

A copy of the full report can be downloaded by clicking [here](#).

For further information, please contact:

Cara Afzal (Deputy Research and Monitoring Manager) on 0161 817 5314 or email [cara.afzal@standardsboard.gov.uk](mailto:cara.afzal@standardsboard.gov.uk).

## Studying the impact and effectiveness of the ethical framework in local government

In 2006, we commissioned Cardiff University to carry out a five-year project to identify the impact of the standards framework within nine local authorities. Year one of this study is now complete.

This project also involved a survey of the public within the nine areas to identify any link between the activities of a local authority and public perceptions. This research is being led by Dr Richard Cowell from the Centre for Local and Regional Government Research.

The research aims to address three main questions:

- Has the ethical framework caused any changes in local government processes and systems, and culture and values?
- Has the ethical framework had any effect on the conduct of councillors?
- Has the ethical framework had any effect on public attitudes to local government either directly, or through any changes in council processes and/or councillor conduct?

### What has the research found so far?

**Changes in processes, systems, culture, and values:** The research identifies that, in most councils, the ethical framework and standards have become established and accepted as part of corporate life. The majority of respondents are positive about the move towards local regulation (apart from a concern about costs). The formal components of the ethical framework are being implemented successfully and there is some desire among those interviewed for committees to take a more pro-active role in promoting good conduct.

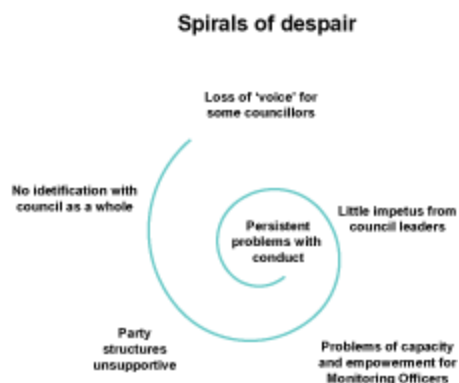
**The conduct of councillors:** The research reveals many feel that the conduct of councillors has improved in recent years, and that ethical issues are being treated seriously. There also seems to be widespread support for the view that the ethical framework has been beneficial. Councils with better conduct tend to make more effort to continually train and remind councillors of their responsibilities, and to make involvement in training mandatory. The ethical framework has helped improve conduct by acting as a regulatory mechanism, being used to support the sanctioning, demotion or resignation of councillors who have caused serious ethical problems.

**Effect on public attitudes:** The research found that more positive public survey responses for trust are achieved in councils displaying good standards of conduct. In addition, councils with high levels of trust tend to be well managed. Nearly half of the public survey respondents were confident that their local authority would uncover breaches in standards of behaviour by a councillor. Furthermore, a similar proportion believe that those breaching the Code would be dealt with effectively.

The research has also highlighted two very useful typologies, “Virtuous circles”, and ‘Spirals of despair’.

- **“Virtuous circles”** - refer to those organisational and cultural factors that lead to effective use of the ethical framework and good conduct
- **“Spirals of despair”** - are factors that result in poor conduct





For more details on these factors, please click [here](#) to read the full report.

We are committed to making findings from our research accessible to our stakeholders and to this end we will continue to use various forums to disseminate the findings.

If you have any thoughts on this report, or the usefulness and accessibility of other Standards Board research please do not hesitate to contact Cara Afzal, Deputy Research and Monitoring Manager on 0161 817 5414, or email [cara.afzal@standardsboard.gov.uk](mailto:cara.afzal@standardsboard.gov.uk).

## Quarterly returns – one year on

We have been collecting quarterly returns for a year now and so take the opportunity to reflect on how the local framework has bedded in.

Firstly, we would like to thank all monitoring officers and their colleagues who made returns to the Standards Board. We are delighted with the consistent high level of completed returns. For quarter four – as with quarter two – we received a return from every authority. This was a particularly good achievement as we asked those authorities that were being abolished to send their returns earlier than the normal schedule. Undoubtedly, these authorities were under extreme pressure preparing for the transition to unitary status.

We do not underestimate how difficult it must have been to find time to complete the quarterly returns. We are hopeful that the impressive return rate will continue into the next financial year.

The next collection period for the 1 April – 30 June quarter will be 1-14 July.

### What can we tell from the first year's worth of data?

#### Standards committees

Quarterly returns tell us that a typical standards committee has **10** members. In an authority without parishes it has **9** members, including **4** independent members. In an authority with parishes it is slightly larger with **11** members, including **4** independent members and **3** parish representatives.

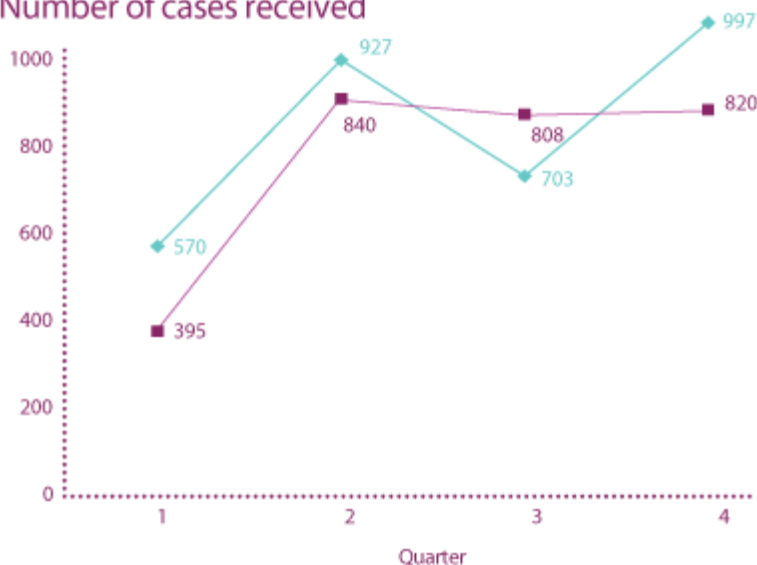
On average, district and metropolitan councils have the largest standards committees and police authorities have the smallest. Standards committee composition has remained constant through all quarters

#### Case handling

A total of **2,863** cases have been recorded on quarterly returns so far. This covers the time period 8 May 2008 to 31 March 2008. **345** authorities have dealt with at least one case during the first year. Of all the authorities with cases, the average recorded is **2** per quarter, a total of **8**.

It is still perhaps too early to identify trends and make generalisations, but it is interesting to note that in quarter 4, the number of cases received under the new framework is very similar to the previous two quarters (see chart below). This may indicate that the case load is levelling out, now that potential complainants are aware of the new system.

### Number of cases received

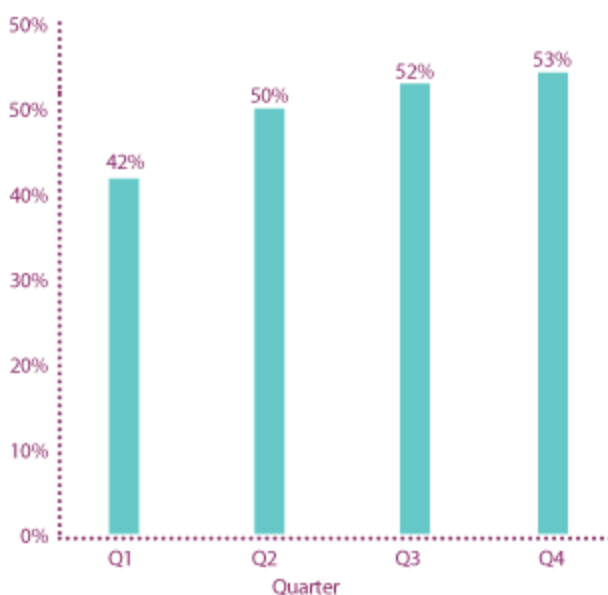


The majority of complaints, **54%**, are made by the public and **36%** are from council members. The remaining **10%** are from a combination of officers, parish or town clerks, MPs, monitoring officers, and those that fall into the category of 'other'. Again, these percentages have seen little change during the year.

### Initial assessment

The percentage of cases where no further action is taken is increasing each quarter.

### Percentage of no further action decisions



There have been 526 review requests through the year and 384 of these have been assessed. **94%** have remained 'no further action' and the other 25 (**6%**) were either referred for investigation or referred to us.

There are 224 cases with investigation outcomes recorded on quarterly returns. In **71%** of cases, no

breach of the Code was found. In **25%** of cases, a breach was found and a penalty was imposed, and in **4%** of cases a breach was found but no further action was taken.

More details about the quarterly returns, such as what breaches of the Code have been recorded, can be found on our website by clicking [here](#). You can also contact the monitoring team on 0161 817 5300 or email [authorityreturns@standardsboard.gov.uk](mailto:authorityreturns@standardsboard.gov.uk).

## Good response for annual returns

We are very pleased with the number of returns we have received for the annual return questionnaire, which was launched on 20 April 2009.

As of 29 May, 95% of authorities had completed a return. This figure includes the new unitary authorities, which completed a shortened version.

We are now entering the analysis phase and first impressions are that there is a good range of notable practice to share with standards committees. More information about our findings will follow in future *Bulletins* and on our website.

## Probity in Planning Guidance Issued

The Local Government Association has recently published a revised guidance note on good planning practice for councillors and officers dealing with planning matters.

This 2009 update provides refreshed advice on achieving the balance between the needs and interests of individual constituents and the community and the need to maintain an ethic of impartial decision-making with regards to planning decisions.

For more information please see the [LGA website](#).

## A new look

From July this year there's a new look and feel to our communications – and we're introducing an abbreviated version of our name: Standards for England.

We've made this switch to emphasise how our role has changed over the past 18 months. During that time we've moved from being an organisation focused mostly on handling complaints to the strategic regulator of standards among local politicians. We'll be telling you more about our new role in our corporate plan, which will be available shortly.

And in our new role we're all about Standards for England.

We believe in principled local politics. Working with local authorities, their monitoring officers and local standards committees, it's our job to champion and promote high standards of conduct among our local politicians. We want to make sure the public are in no doubt that standards and principles matter to local government.

We've made changes after sampling the views of key stakeholders, including those in local government.

We asked: what leadership do you expect from us? Our communications will do more to highlight the positive aspects of conduct; making the point that ethical behaviour is both a good thing in itself and good for local democracy.

You can read more about our refreshed identity on our website from 1 July. We'll be introducing style changes to our publications and our website over the next few months. We hope you'll like them, and as always we'll welcome your feedback.

We believe in Standards for England. We hope you do too.

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### Standards Committee 2009 Work Programme

	Work area	Timescales	Lead Officer	Comments	Progress
	Develop flowchart/list of questions for members on Assessment and Review Sub-committees	February 09	GA	Report to Standards Committee In February	Complete
	Revise wording to incorporate comments	May 09	GA	If agreed will be made available for subsequent sub-committees	Complete
	Training on Investigations	13 <sup>th</sup> Feb 09			Complete
	Definition and guidance on "hearsay"	February 09	PN	Report to Standards Committee	Complete
	Revision of guidance	March 09	PN		Complete
	Training on Standards Complaints Process including ethical governance	20 March 09	LRJ/PN/GA	To review in light of any changes to membership after May	Complete
	Ensure effective interface with the Delivering Excellence programme	Ongoing	PN	Invite sent for March Standards Committee. Neil Sartorio to attend.	Complete
	Invite speaker for the DE team to Standards Committee	March 09	PN		
	Indemnification arrangements	May 09	Oral update PN		Complete
	Make links between Audit, Standards and Scrutiny committees	May 09	PN/CP/LRJ	Issue has been included on scrutiny development plan	Complete
	Licensing Code of Conduct	May 09	AC attended May	Licensing to invite member of standards committee. Terms of Reference to be shared with Standards members	Complete
	2009 Assembly of Standards Committees (12/13 October)	May 09	GA	Only 1 member so far to accompany Liz and Peter	Complete
	Whole scale revision of Members' Register of Interests with each member completing a new entry – including gifts and hospitality	May 09	LRJ	Form sent to members both electronically and hard copy.	Complete

1.	Introduce programme of speakers to Standards Committee, e.g. CEX	Ongoing	LRJ/GA	CEX is attending July meeting. Does Committee wish to invite Lord Mayor and Leader to future meetings?	Committee to agree programme of speakers
2.	Review of Development Control Code of Conduct	July 09	AC		Draft ready for July meeting
3.	Training for Members on Regulatory Committees, including annual refresher training	June 09	AC	Independent members to be invited to attend	
	Revise training and investigate possibility of bringing in IDeA trainer from Standards Conference	Nov 09	AC/LRJ		
4.	Investigate why Nottingham have not received any complaints	July 09	PN		
5.	Monitor response to the Corporate Assessment Framework	July 09	PN	Report to Standards Committee	
6.	Training on Hearings	Earliest - Jul 09	LRJ/PN	To be completed alongside existing investigation hearing	
7.	Review of revision of political conventions	July (interim), Sep and Oct	PN	Report to Standards Committee	
8.	Briefing on Local Democracy Bill	Sep 09	LRJ/GA	Prior to the Bill receiving Royal Assent	
9.	Quarterly returns to Standards Board on Complaints against Members	Sep 09	GA	To include Derby, Nottm and Leics	Will bring year end results to September meeting
10.	Delegated decision making to Cabinet members	Sep 09	PN		
11.	Outcome of complaints and investigations	Sep 09	LRJ	Thought needed as to how to publicise the outcome of complaints to members/officers/general public	
12.	Publicising work of Committee and Complaints process	Sep 09	LRJ/GA	Work with County post elections June 09	



13.	Improve Standards website and make links to other related sites	Sep 09	LRJ/GA	Not yet started	
14.	Approach County Council to build a "critical friend" relationship to learn from each other on complaints.	Sep 09	PN	Could be done as part of the joint training with them in the summer.	
15.	Revise Council script "member conduct at meeting"	Oct 09	LRJ	Work needed to bring council script (designed in 2004) in line with Code of Conduct	
16.	Training on Code of Conduct for new members and prospective candidates	Second half of 2010 and beyond	LRJ	Link in with Member Development Forum	
17.	Consider how to give more "teeth" to the constitution's Council procedure rules regarding Members' behaviour and the Lord Mayor's powers to address.	TBC	PN	Agreed at May meeting of Standards Committee	
18.	New Code of Conduct	TBC	LRJ/PN		
19.	Scrutiny of current Officer Code of Conduct	TBC	PN	Agreed at May meeting of Standards Committee	

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