



Leicester
City Council

MEETING OF THE STANDARDS COMMITTEE

DATE: WEDNESDAY, 17 MARCH 2010
TIME: 5.30 PM
PLACE:

Members of the Committee

Councillors Clair, 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 Corporate Governance

Officer contact: Heather Kent
*Democratic Support,
Leicester City Council*
Town Hall, Town Hall Square, Leicester LE1 9BG
(Tel. 0116 229 8816 Fax. 0116 247 1181)

INFORMATION FOR MEMBERS OF THE PUBLIC

ACCESS TO INFORMATION AND MEETINGS

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

You also have the right to see copies of agendas and minutes. Agendas and minutes are available on the Council's website at www.cabinet.leicester.gov.uk or by contacting us as detailed below.

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 Democratic 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 Democratic 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 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 THE PREVIOUS MEETING **Appendix A**

The minutes of the meeting of the Standards Committee held on 13 January 2010 and the Special Meeting of the Standards Committee held on 8 February 2010 are attached and Members are asked to confirm them as a correct record.

4. COMPLAINTS ABOUT COUNCILLORS - **Appendix B**
INFORMATION FOR COUNCILLORS

The Monitoring Officer submits an amended version of the flowchart that details information that would be given to all Members who are subject to complaints, in response to comments made by the Committee in January. Members are asked to note and comment on the amended flowchart information.

5. TERM OF OFFICE FOR INDEPENDENT MEMBERS **Appendix C**
AND CHAIRS

The Monitoring Officer submits a report concerning whether the Independent Members and the Chair of the Standards Committee should have a fixed term of office, and if so how long that should be. Members are asked to discuss and choose an option, as set out in Paragraph 3.6 of the report.

6. STANDARDS FOR BLOGGING - GUIDANCE FOR **Appendix D**
COUNCILLORS

The Monitoring Officer submits a briefing note from Standards for England that provides guidance on Standards for Blogging for Members. Members are recommended to note guidance and make comments as they see fit.

7. STANDARDS FOR ENGLAND - BULLETIN 47 **Appendix E**

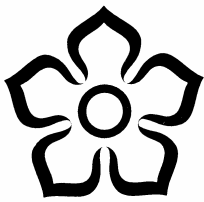
The Monitoring Officer submits the latest Bulletin from Standards for England. Members are recommended to discuss and note the contents of the Bulletin.

**8. STANDARDS COMMITTEE ANNUAL WORK
PROGRAMME 2010**

Appendix F

The Monitoring Officer submits the Annual Work Programme for the Standards Committee. Members are recommended to note the Work Programme and make comments as they see fit.

9. ANY OTHER URGENT BUSINESS



Leicester
City Council

Appendix A

Minutes of the Meeting of the STANDARDS COMMITTEE

Held: WEDNESDAY, 13 JANUARY 2010 at 5:30 pm

P R E S E N T:

Mrs Sheila Brucciani (Independent Member) – Chair

Ms Kate McLeod
Ms Mary Ray

Independent Member
Independent Member

Councillor Draycott
Councillor Shelton

Councillor Scuplak
Councillor Thomas

* * * * *

108. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Corrall and Councillor Keeling.

109. DECLARATIONS OF INTEREST

Councillor Scuplak queried whether she needed to declare that she was Vice Chair of the Licensing Committee in relation to item 4, Code of Practice for Member Involvement in Licensing Matters. This was noted but Councillor Scuplak was advised that there was no need to declare this as an interest.

110. INTRODUCTION OF DIRECTOR OF CORPORATE GOVERNANCE

Members welcomed the Director of Corporate Governance to the meeting and were informed he was due to take over the role of Monitoring Officer with effect from 1 February. Members commented on the excellent contribution Peter Nicholls, the Solicitor and Monitoring Officer had made to the work of the Standards Committee during his time in the role of Monitoring Officer.

111. MINUTES OF PREVIOUS MEETING

Members enquired about the status of an ongoing Standards investigation. The Solicitor and Monitoring Officer stated the report was completed recently with clear recommendations. A Special Meeting of the Standards Committee will be held on 8th February to consider the report.

Minute 101 – Standards Committee First Annual Report 2007-9

The Chair stated that the changes suggested by the Committee had been incorporated in the report, which will be presented at Cabinet and Full Council later this month.

Minute 104 – Mediation and Other Action

It was felt that the wording should be changed to reflect that staff would undertake *training* after observing mediation, not imply staff should undertake a mediation role after only observation without sufficient expertise.

It was also felt that the wording: “it wouldn’t be binding mediation, but not to co-operate could be seen as a breach of the Code of Conduct” be removed as for mediation to work, all parties needed to be willing, and there should be no element of coercion.

Minute 105 – Code of Practice – Member Involvement in Licensing Decision-Making

It was felt that Number 7 should be simplified to state: “Independent Members regularly attending Cabinet meetings, there was discussion around this issue.” It was felt that the detail of the discussion was superfluous and not necessary to record.

112. CODE OF PRACTICE FOR MEMBER INVOLVEMENT IN LICENSING MATTERS

The Solicitor and Monitoring Officer submitted a report presenting the Code of Practice for Member Involvement in Licensing Matters.

Amendments to the wording of the Code were agreed on the following paragraphs:

- 2.2 Relationship to the Member Code of Conduct
the word “apply” be replaced by “comply”
- 3.5 General
“includes trust” be amended to “requires trust”
- 4.2 Role of Ward Councillors
It was noted that ward Councillors now have the right to make representations under legislation and the code would be amended to reflect this.
- 5.1 Members Interests
Amend “as if they were an individual” to make explicit their right to make representations.
- 5.6 Members Interests
“subject to the guidance listed above” be added to the end of the point.
- The Chair suggested the licensing objectives should be defined clearly at the start of the report.

Concern was raised about the following paragraphs in the Code. It was agreed they would remain unchanged after Officers had explained the reasons for it:

- 2 Relationship to the Member Code of Conduct
the first paragraph be depersonalised so it was consistent with the rest of the Code. Officers explained that this was deliberate to give it more immediacy.
- 3.4 General
“Hearings are not defined as formal committees”
- 8.1 City Council Applications
it was felt the wording “no regard to the interests of the Council” was unduly strong and inconsistent with the wording in the Planning Code of Conduct. Officers explained that it was worded so an informed outsider would be aware of the impartiality required.

Discussion then focussed on the Members Notes and Record of Decision form appended to the Code. Concern was raised that the form wouldn’t be used in practice by Members and would be a duplication of effort as the decisions and reasons underpinning them were already recorded at Licensing Hearings by officers.

Officers responded by stating it would be up to the discretion of members whether or not to use the form; it was an option if it was found to be useful. It was also remarked that the form was designed in part to act as a memory aid to assist the Members in structured decision-making. A similar device was often used by judges, and it could help when explaining the decision to the applicant/appellant at hearings. It was felt that any Member chairing a hearing will already have received training and should be clear on the process involved. Members commented that further discussion could take place on the form at the Licensing Committee.

RESOLVED:

that the Code of Practice for Member Involvement in Licensing Matters be amended on the basis of the comments made by the Committee.

113. CODE OF PRACTICE FOR MEMBER INVOLVEMENT IN DEVELOPMENT CONTROL DECISIONS

The Solicitor and Monitoring Officer submitted a report presenting the Code of Practice for Member Involvement in Development Control Decisions.

It was stated that wording regarding “trespass” (defined as members dealing with issues on other member’s wards) had been tightened and would be fed into the constitution in due course.

Some Committee Members strongly felt that the Code needed to explicitly state trespass was not acceptable, rather than it being a matter for the Development Control chair’s discretion: to ensure the relevant ward Councillor had been informed of the issue by the “trespassing” member. Concerns were raised that in practice this was not effective in ensuring ward Councillors were kept informed. It was also commented that as the majority of Development Control

decisions were dealt with at officer level via delegated powers, a mechanism should be in place to inform ward Councillors of any trespass or overlap.

Officers commented that the wording was as prescriptive as possible and that relevant development control officers try to support members, give their representations full consideration and attempt to reach a resolution in consultation with members. It was also remarked that in cases where, for example the site in question was near a ward boundary and the residents most affected by a decision were in a neighbouring ward, then an absolute rule on trespass would not give enough flexibility. It was further requested that officers should have to keep members informed of any trespass in decisions that were taken by officers under delegated powers, in the same way members are expected to keep each other informed.

Concern was raised about the statement in paragraph 5.6 that representations would only be circulated “if the necessary copies are provided or paid for and adequate notice is given”. It was suggested that this does not represent a public centred approach and may discourage members of the public. Officers responded that discretion was used in practice, and this wording was used because of instances of excessively large representations being submitted at short notice.

RESOLVED:

- 1) That the Committee recommended that the Code of Practice for Member Involvement in Development Control Decisions be reviewed after a twelve month period giving particular consideration to the ‘trespass’ issue.
- 2) That the Head of Planning Management and Delivery be requested to ask officers to inform ward Councillors where a Councillor has made a representation or a request for a Committee decision on a planning application which is not in their ward. This is to also apply where representations are made on applications being considered by officers under delegated powers.

114. MEMBER CONDUCT AT MEETINGS

The Solicitor and Monitoring Officer submitted a report that informed Members of the Proposed Protocol – Member Conduct at Meetings.

The Chair noted that the report was an update on the 2004 version to bring it in line with the Standards for England Code of Conduct.

It was commented that the Member Development Working Party was looking at meeting etiquette also and whether the Committee’s discussion had been the prompt for the proposed protocol. Officers responded that this was a separate piece of work but the two would dovetail well.

The following amendments were suggested:

- “avoid abusive language” could be extended to specifically include

racist, ageist, homophobic etc. language. It was agreed that it was better to keep the new protocol more succinct and general.

- Concern was raised that interruption should not be precluded as it was part of healthy debate and the caveat “persistent” interruption should be added.
- It was also remarked that “body language can appear intimidating” should be simplified to: “avoid intimidating body language”

The Chair surmised that the purpose of the protocol was to act as a guide and reminder and was an improvement on the previous version.

RESOLVED:

that the Proposed Protocol Member Conduct at Meetings be agreed for adoption, subject to the minor amendments suggested above.

115. COMPLAINTS AGAINST COUNCILLORS - INFORMATION FOR COUNCILLORS

The Solicitor and Monitoring Officer submitted a report that informed Members of the process for dealing with complaints about a Councillor.

It was commented that the report attempted to simplify the process and would eventually be in the form of a leaflet for members. It could be uploaded on the Council’s website in time for full Council.

The following amendments were suggested:

Flowchart:

- that No Action be added as an option alongside Sanctions
- that duplication in “Code of Conduct related complaint” be removed
- that the order of the 4 referral options be amended.

Do’s and Don’ts:

- that “Do take care to recall events and retain evidence” be added
- that “Don’t contact Members of the Standards Committee” be added
- that “Do inform Whip and Group leader for their information” be added
- that above Do’s and Don’ts it should be stated: you will be offered support from Officers if required.

It was felt that the need to prevent any complaint being too widely discussed and blown out of proportion needed to be balanced against the possibility of the member being complained about feeling isolated and unable to access support.

RESOLVED:

that Complaints Against Councillors – Information For Councillors be redrafted by the report author in collaboration with the Chair to incorporate the changes recommended by the Committee.

116. PETITIONS PROCESS

The Solicitor and Monitoring Officer submitted a report that informed Members

of the process for dealing with petitions.

The Chair felt that the report did not show at what stage in the petitions process that the petitioner receives a response from officers and this should be made clear.

It was commented that the report made limited reference to the role of ward Councillors and gave the appearance they are disenfranchised from the process. It was stated that in practice ward Councillors usually receive regular updates on the progress of petitions.

Concern was expressed that since the decision of the Overview Scrutiny Management Board (OSMB) to no longer consider all petition reports as a matter of course, petitions were getting lost in the system and not being responded to satisfactorily. It was felt that petitions were an important consultation tool and channel for public expression, therefore a system needed to be in place that showed the Council took them seriously and gave ward Councillors a chance to be involved in the response. Further it was not felt that consideration of petitions by Task Group leaders met these requirements.

Officers in response commented that whilst there were initial difficulties following the decision of OSMB, a meeting had taken place with the Chair and Vice Chair, a process was agreed and detailed guidelines were being prepared for officers. Petition responses could still be considered by OSMB but this wouldn't happen as a matter of course. It was also noted that legislative changes were coming forward which required a more customer friendly approach to petition responses, this included an online petitions facility and specific guidelines on responding.

Discussion then focussed on how to take the matter forward. It was felt that the process needed reviewing in the short term and not wait for full government guidance. Doubt was expressed about the legitimacy of Task Group leaders giving approval to petition reports, it was requested that this was looked into. It was also requested that there be engagement with OSMB to express the Committee's concerns that the public should be put at the centre of the petitions process and that the current process has not been an improvement. It was also requested that the petition monitoring report be circulated to all Councillors.

RESOLVED:

- 1) that officers are requested to undertake a further review of the petitions process which seeks to make the process more customer friendly and consider whether there are governance issues;
- 2) the views of Standards Committee regarding petitions are to be forwarded to OSMB for information and comment;
- 3) that the petitions monitoring report be circulated to all Councillors on a regular basis;

- 4) that the Standards Committee receive an update at its next meeting.

117. STANDARDS FOR ENGLAND BULLETIN 46

The Solicitor and Monitoring Officer submitted the latest Bulletin from Standards for England.

The Monitoring Officer and Solicitor stated that the 2009 Annual Assembly 'Bringing Standards into Focus' conference had reflected the top 5 issues faced by the Standards Committee, and the experiences of the Committee had been fed into a conference survey. It was also noted that "The Assessment Made Clear" DVD from the conference was informative, was available to Members and was being circulated.

RESOLVED:

That the Standards Committee notes the bulletin.

118. STANDARDS COMMITTEE ANNUAL WORK PROGRAMME 2010

Members of the Committee considered a work programme for the Committee.

The following comments were made:-

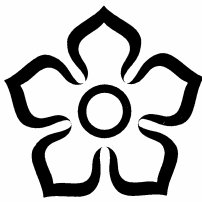
- Training 1: joint training with the Planning Committee had been progressed. Training materials had been created and would be used in May and June when new members get trained on committees.
- Standing Item 2: no comparative data had been received from Nottingham Council but in the future ongoing comparisons were being made with other Local Authorities; Derby Council had been especially cooperative in providing data.
- Speaker at next Meeting: it was suggested the Leader, the Chief Executive or the District Auditor be invited to the next meeting of the Standards Committee.

RESOLVED:

that amendments be made to the work programme based on the comments of the Committee.

119. CLOSE OF MEETING

The meeting closed at 7:03pm.



Leicester
City Council

Minutes of the Meeting of the
STANDARDS COMMITTEE

Held: MONDAY, 8 FEBRUARY 2010 at 5:30 pm

P R E S E N T:

Sheila Brucciani (Independent Member) - Chair

Ms Kate McLeod
Ms Mary Ray

Independent Member
Independent Member

Councillor Corral
Councillor Keeling
Councillor Shelton

Councillor Draycott
Councillor Scuplak
Councillor Thomas

* * * * *

120. APOLOGIES FOR ABSENCE

There were no apologies for absence.

121. DECLARATIONS OF INTEREST

Members were asked to declare any interests that they may have in the business on the agenda and/or declare if Section 106 of the Local Government Finance Act 1992 applied to them. No such declarations were made.

For the avoidance of doubt, with regard to the item, "Complaint Against a Councillor: to Consider the Investigator's Findings," it was noted that the majority of Members had attended the meetings of the Standards Sub-Committee Initial Assessment or Review. As this meeting was a new stage in the process, this would not prevent any Members from considering the matter.

122. PRIVATE SESSION

Members of the Committee considered whether to discuss the item, "Complaint Against a Councillor: to Consider the Investigator's Findings" in private. Members noted the relevant paragraphs from Section 100A(4) of the Local Government Act 1972 and also considered whether it was in the public interest to consider the matter in public or private. They noted that this was the third stage in the complaint, and that the previous stages had been considered in private. They also noted that items should be considered in public, unless there

were clear reasons to keep it private.

Members expressed disappointment that private information from the report was leaked to the local media and felt that this should not have a disproportionate impact on the Committee's processes. Members felt that as the investigator had concluded that there was no finding of fault on the part of the Councillor, it would be in the public interest to consider the matter in private.

RESOLVED:

that the press and public be excluded during consideration of the following reports in accordance with the provisions of Section 100A(4) of the Local Government Act 1972, as amended, because they involve the likely disclosure of 'exempt' information, as defined in the Paragraphs detailed below of Part 1 of Schedule 12A of the Act and taking all the circumstances into account, it is considered that the public interest in maintaining the information as exempt outweighs the public interest in disclosing the information.

Paragraph 7(c)

The deliberations of a Standards Committee or other Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act, 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

Paragraph 1

Information relating to any individual

Paragraph 2

Information which is likely to reveal the identity of an individual

123. COMPLAINT AGAINST A COUNCILLOR: TO CONSIDER THE INVESTIGATOR'S FINDINGS

Mary Ray was unable to take part fully in the discussion and withdrew before the meeting had concluded.

The Monitoring Officer submitted a report that enabled the Committee to consider the findings of an independent investigator regarding a complaint that had been made against a Councillor.

In considering the contents of the investigation Members received detailed advice on process from the Monitoring Officer. The length of time taken for the investigation to conclude was noted and the reasons for this; for example the investigator's need to consult and take into account comments in the light of new decisions of the adjudication panel. Even so, Members agreed that action

needed to be taken to reduce the time scale if at all possible. They felt overall that the investigation was generally objective and persuasive. It was noted that things had moved forwards since the complaint was lodged and the process itself may have contributed to a change in attitudes.

Members also felt that clearer training for Chairs and improved communication would be beneficial in preventing similar issues arising in future. The differences between the local and national Codes of Conduct were also discussed, as were the implications of failing to adhere to the local Code for Council meetings. It was noted that the local Code had been recently redrafted, overseen by the Committee, and it was now more closely aligned to the national Code.

Members noted that, following the decision of this meeting, a public notice was required; however, if it was agreed that there had been no breach of the Code of Conduct, the subject Member had the right to refuse to allow this to be published.

RESOLVED:

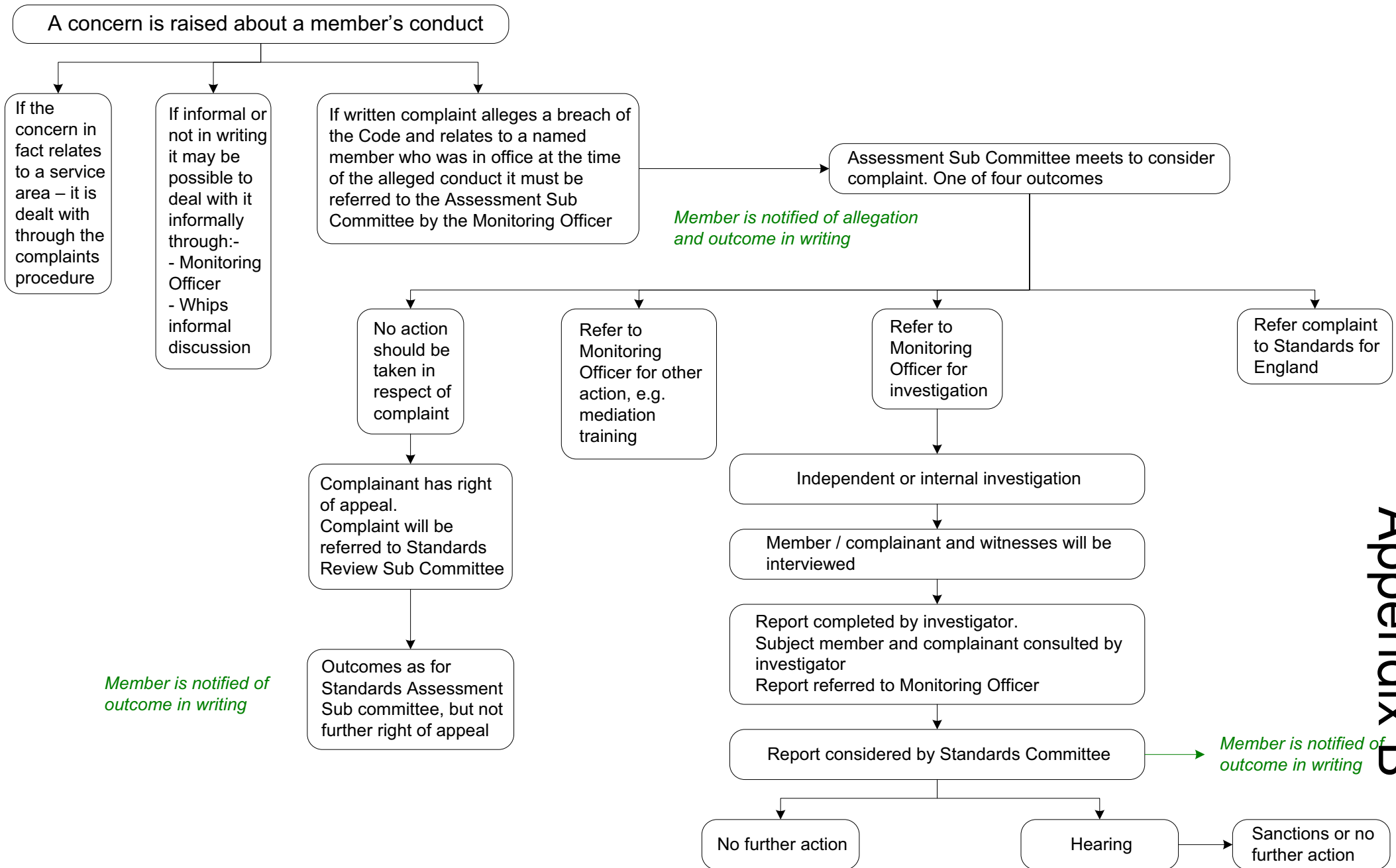
- 1) that the Standards Committee agrees with the investigator's findings, that no breach of the Code of Conduct had been identified, and, therefore, that the matter is now concluded;
- 2) that the Standards Committee instructs the Monitoring Officer to publish a notice in the local newspaper of the Committee's findings and reason for decision, unless the Councillor concerned exercises their right to insist that the notice is not published anywhere;
- 3) that the failure to adhere to the Member Conduct at Meetings guidance be referred to the relevant group whip for appropriate action.

124. CLOSE OF MEETING

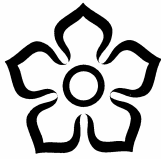
The meeting closed at 6:29pm.

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A Concern is Raised about a Councillor's Conduct – What Happens Next?



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Leicester
City Council

WARDS AFFECTED
All Wards

Standards Committee

17th March 2010

Term of Office for Independent Members

Report of the Monitoring Officer

1. Purpose of Report

To discuss whether the Independent Members and the Chair of the Standards Committee should have a fixed term of office, and if so how long that should be.

2. Recommendations

Members are asked to discuss and choose an option.

3. Report

- 3.1** Under the 2007 Local Government & Public Involvement in Health Act a Standards Committee must consist of a least 25% independent members.
- 3.2** The Act specifies how independent members should be recruited, ie through an interview process, following the publication of vacant positions in a least on local newspaper and in other similar publications or websites.
- 3.3** The appointment of an independent member has to be approved by a majority of the members of council.
- 3.4** The legislation does not set a fixed term of office for an independent member. This is at the discretion of each local authority. The period of time needs to be long enough for the independent member to gain an understanding of the committee, the authority and its workings, but not so long that the independence is lost.
- 3.5** One of the three independent members in Leicester was appointed in May 2007, with the other two being appointed in February 2008.
- 3.6** There are a number of options, including the following, which could be considered for Leicester's independent members:-

- a) **No fixed term of office for independent members.** Standards for England recommend independent members should serve no longer than two four year terms, but this is at the discretion of each authority;
- b) **4 year term of office** similar to councillors. Would need to consider whether this should be at the same time as local elections, however this could mean that the whole membership of Standards changes at one time, with no continuity. Independent members cannot be automatically reappointed and must go through a recruitment process;
- c) **Staggered 4 year term of office**, so that not all independent members finish at one time;
- d) **Chair of Standards fixed term for 4 years** with one of the other independent members as chair in waiting for the last 6 - 12 months (if appointments are staggered).
- e) **Chair of Standards rotating on annual basis** would give opportunity for other independents to play a bigger role in the committee, but could disrupt the continuity of the committee.

3.7 The list above is not exhaustive and members are asked to discuss and agree the best option for Leicester.

4. Legal and Financial Implications

Legal implications are considered within the body of the report.

The Chair of Standards Committee receives a special responsibility allowance of £2,741 per annum and the independent members receive an allowance of £487, through the Members' Allowance Scheme.

5. Report Author

Liz Reid Jones, Head of Democratic Services, liz.reid-jones@leicester.gov.uk
Tel: 39 8899 (internal), 229 8899 (external)

Appendix D

Blogging Quick Guide

Blogging and social networking are effective methods for councillors to interact with constituents and support local democracy. Used effectively, they can engage those who would not normally have access to local councillors and politics.

Standards for England support the use of such media and encourage councillors to get online. You should think about what you say and how you say it, in just the same way as you would when making statements in person or in writing,

You will also need to think about whether you are seen to be, or give the impression that you are acting in your official capacity as a councillor. To make sure you comply with the Code of Conduct (the Code) and to ensure your use of online media is well received we suggest the following general hints.

Do

- set appropriate privacy settings for your blog or networking site – especially if you have a private, non-political blog
- keep an eye out for defamatory or obscene posts from others on your blog or page and remove them as soon as possible to avoid the perception that you condone such views
- be aware that the higher your profile as a councillor, the more likely it is you will be seen as acting in your official capacity when you blog or network
- ensure you use council facilities appropriately; if you use a council provided blog site or social networking area, any posts you make will be viewed as made in your official capacity
- be aware that by publishing information that you could not have accessed without your position as a councillor you will be seen as acting in your official capacity
- make political points, but be careful about being too specific or personal if referring to individuals. An attack on individuals may be seen as disrespectful, whereas general comments about another party or genuine political expression is less likely to be viewed as disrespect.

Don't

- blog in haste.
- post comments that you would not be prepared to make in writing or face to face
- use council facilities for personal or political blogs.

When the Code may apply

Bear in mind the Code when you blog or use social networking sites. You should pay particular attention to the following paragraphs of the Code:

- Disrespect
- Bullying
- Disclosure of confidential information
- Disrepute
- Misuse of authority resources


However, it is difficult to give definitive advice on the application of the Code as each blog and social networking page is different. The content of a blog or other social networking tool and the circumstances surrounding its creation will determine whether or not it might be covered by the Code.

Ethical use of online social media is not limited to what is covered in the Code. We encourage members to respect the **Ten General Principles of Public Life**. While your conduct may not be a breach of the Code it may still be viewed as less than exemplary and attract adverse publicity for your office and authority.

Find out more

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

Published on 25th February 2010.

 Print this page



2010 Annual Assembly of Standards Committees ‘A place for standards’

Following the success of last year’s fully booked Annual Assembly, we are well on the way to finalising the programme for this year’s event, which takes place on 18 and 19 October at the ICC in Birmingham.

We are already working with a panel of standards committee members and monitoring officers to develop a range of sessions focused on sharing notable practice, developing high standards and building confidence in managing the local standards framework.

The cost of attending both days of the Assembly has been held at £430 (plus VAT) for the fourth year running, while a one-day place is £230 (plus VAT).

Online booking is now open on our website. We will also be sending out hard copy booking forms to all authorities from mid-March. Further information about the programme and speakers will be added to the website so keep checking back for the most up-to-date information.

Stakeholder Tracker 2009 – ‘A qualitative assessment of advice and guidance’

Every two years Standards for England (SfE) conducts a ‘stakeholder tracker’ in two parts: a quantitative survey, and a qualitative investigation. This research assesses the levels of satisfaction of members and officers in local government with the performance of SfE and their attitudes to the ethical environment. As some of you may recall, the survey was completed last summer. We are now happy to report that the qualitative section of the research, which provides a more in-depth analysis of some of the issues that emerged from the quantitative research, has been completed and is available on our website. **We would like to thank those of you who participated in the research. It is only through your continued support that we are able to track our progress, and identify areas for improvement.**

BMG research carried out this research by holding a number of focus groups with monitoring officers, standards committee members and parish councillors.

Some of the findings:

- The research found that monitoring officers and standards committee members are very positive about the local standards framework. They feel it has 'bedded in' well, and welcome the chance to take ownership of the process of investigating complaints.
- SfE's monitoring officer helpline received positive feedback, and some stakeholders suggested that the service callers receive has improved over the past 12 months.
- Monitoring officers welcome the development of peer and local/regional networks – however, there is some suggestion that a number of authorities may already have some form of networking in place. They would like SfE to provide content for delivery at networking events.
- The research identified several topics on which stakeholders think SfE could provide further guidance such as more information on other standards committee practices, sanctions and proportionality, mediation, guidance specifically for parish councillors, and more advice on the overlap with Freedom of Information and Data Protection legislation.

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

For further information, please contact:

Tom Bandenburg (Research Assistant) on 0161 817 5427 or email tom.bandenburg@standardsforengland.gov.uk

A REMINDER: Please send us your hearing decision notices

As you may already be aware, authorities are required to send Standards for England (SfE) copies of their hearing decision notices. The legal basis for this can be found in the Standards Committee (England) Regulations 2008 under regulation 20(1)(a). However, not all authorities have complied with this requirement.

Hearing decision notices provide a valuable source of information from which SfE can draw conclusions about how the local standards framework is functioning. We have decided to give greater emphasis to our analysis of the notices and we will share our conclusions with you.

What you need to do

Please send us a copy of the full decision notice for any determinations made by your Standards Committee. At the end of each quarter (from 1 April 2010) we will check whether we have received a decision notice for all the hearings completed that quarter and then contact authorities for any that are missing.

We prefer to receive decision notices as an email attachment in Word or PDF format if possible.

You can send them to authorityreturns@standardsforengland.gov.uk.

If you are unable to send them electronically, please post your decision notices to:

The Monitoring Team, Standards for England, 4th floor, Griffin House

40 Lever Street, Manchester M1 1BB

When writing the decision notices, please ensure that you include all the legal requirements set out in paragraph 20 of the Standards Committee (England) Regulations 2008. We also recommend that you refer to our guidance, which you can find in your local standards framework guide or online at

<http://www.standardsforengland.gov.uk/determinations>

Note: Please do not send us decision notices for any other type of decision such as initial assessments, reviews or consideration meetings. This is not a legal requirement and we will not be using them in our analysis.

What we will do

We will use the notices to help widen our knowledge of how the local standards framework is operating and provide some context to the quarterly returns data. The notices may also highlight areas where we can produce new guidance or improve on what we have already published.

Thank you for your co-operation. We will keep you informed of how the decision notices help us to support the local standards framework.

Adjudication Panel for England becomes known as First-tier Tribunal (Local Government Standards in England)

On the 18th January the functions of the Adjudication Panel for England were transferred to the First-tier Tribunal (Local Government Standards in England) and the Adjudication Panel for England was abolished. The First-tier Tribunal sits in the General Regulatory Chamber with Charity, Gambling, Information, Estate Agents, Claims Management, Consumer Credit and Transport Tribunals.

The role of the First-tier Tribunal is to hear cases referred to it by an Ethical Standards Officer or a Standards Committee following an investigation. The Tribunal will also hear appeals by a subject member against the decision of a Standards Committee.

There have been changes to the powers and procedures of the Tribunal.

Powers and Procedures

The First-tier Tribunal now has additional powers and procedures. It has the power to summon witnesses or require witnesses to produce documents relating to its hearings.

All Tribunal hearings can now be conducted either orally or by written representations with the consent of all parties.

Hearings can be conducted by less than 3 Tribunal members.

The President of the Adjudication Panel for England has been appointed as a Principle Judge of the First-tier Tribunal, legal members are now Judges and lay members are members.

Appeals

Previously any appeal from the Adjudication Panel was heard at the High Court. This process has now changed. Appeals will now be heard by the Upper Tribunal. The Upper Tribunal is an appellate tribunal created by the Tribunals, Courts and Enforcement Act 2007. The Administrative Appeals Chamber is the part of the Upper Tribunal which hears and decides appeals from decisions of the General Regulatory Chamber of the First-tier Tribunal.

Who can appeal to the Upper Tribunal?

Any party may appeal to the Administrative Appeals Chamber of the Upper Tribunal if they can show that the First-tier Tribunal made an error of law.

Additionally, the subject member has the right to appeal findings of fact, if their appeal is against

- (a) a decision that they failed to comply with a code of conduct,
- (b) a decision imposing suspension or another sanction

Appeals by other parties

A further change to the appeals process is that if a subject member is successful at the First-tier Tribunal, it is still possible for an Ethical Standards Officer or Standards Committee to appeal on a point of law to the Upper Tribunal. The First-tier Tribunal will notify the subject member if any of these parties wish to appeal.

Costs

The First-tier Tribunal now has the power to make an order for costs if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings. It may make an order for costs following an application or on its own initiative.

This will mean that the Tribunal can award costs against a standards committee, Ethical Standards Officer or subject member if they have acted unreasonably in the conduct of their investigations or hearings. The First-tier Tribunal may also make an award for wasted costs incurred by any legal or other representative where the Tribunal considers that they have acted negligently, improperly or unreasonably in bringing, defending or conducting proceedings.

For more information and detailed guidance please see www.adjudicationpanel.tribunals.gov.uk

Our Risk Based Approach

One of the best practice requirements of a regulator is that they take a risk -based approach to their work: that is they are able to assess risks in their area of regulation and apply their own resources accordingly to keep risks low.

For Standards for England there are three types of risk which concern us.

- Systemic risk – risk which could lead to a widespread failing in the work of the framework or in standards across all authorities
- Sectoral risk – risk which could lead to a failing in standards in a number of similar authorities
- Entity risk – risk of a serious standards failure affecting one of the authorities covered by the local standards framework

Assessing entity, systemic or sectoral risks to standards or the success of the framework allows us to target our effort at those activities, situations or authorities that pose the biggest risk helping ensure we provide value for money.

The Success of the local standards framework relies in part on our ability to see potential pitfalls or risks to standards in advance. For example, the emergence of new technologies such as internet social networking, blogs and Twitter, have presented their own unique challenges to standards. During 2009-10 we were able to produce guidance, place articles in the local government press and give a presentation at a national members' conference on this subject.

Spotting such challenges allows us to provide early advice and guidance to the standards community to help prevent problems arising. We will be developing our approach to systemic and sectoral risk, closely linked to our research programme, to help us identify trends or potential problems, and so offer appropriate advice at the earliest opportunity.

We work closely with authorities where challenging standards issues emerge. Based on our increasing experience supporting these authorities we are developing our plans for managing entity risk.

We intend to prioritise the way we interact with authorities on the basis of our risk assessment of the likelihood and impact of any failure of standards in that authority. Working through our relationship managers we will take a differential approach based on this assessment to satisfy ourselves that authorities are working to minimise risks. We envisage working with 30-40 authorities at our highest level of contact and a further 100-120 at an intermediate level, at any one time.

Typically authorities at the lowest level of risk will be in contact with us only as they go about their routine business in operating the standards framework and sending back the required monitoring data, whereas authorities at the intermediate level might be contacted by relationship managers on a six monthly basis, and those at the highest level contacted or visited more frequently as deemed appropriate.

We will be testing our planned approach and consulting with the regulated community about it over the next six months.

Social networking: an effective medium of communication but not without risk

When it comes to reaching certain groups quickly, cheaply and maintaining control over your message, many councillors find online methods hard to beat.

At the recent Cllr' 10 event, Standards for England and the IDeA ran an interactive session which looked at how councillors can use social networking effectively and ethically to engage with their local communities.

This article highlights some of the key messages from the session for councillors.

- If you use blogs, Facebook or Twitter to help you to carry out your political work, rather than in your private capacity, your obligation to meet certain standards of conduct still applies. You can still be involved in robust political debate and state your opinions strongly – the Code does not exist to gag you or fellow councillors or stop you expressing political views. It does, however, prohibit treating others with disrespect, bullying and bringing one's office or authority into disrepute. It is important if you are blogging or tweeting personally and not in your role as councillor, that you do not act, claim to act, or give the impression that you are acting as a representative of your Authority. It is worth noting that web links to official council websites may give or reinforce the impression that you are representing the council.

- You may use a blog to draw attention to a particular local issue and call the council to account, as you would in a public meeting. However, blog entries ridiculing or attacking particular officers, or making serious accusations about their personal competence or integrity, could amount to disrespect, even bullying, in some circumstances.
- It is worth considering that while the immediacy of social media can be a great benefit, it also has a downside. For example, it is possible for you to Tweet on a matter seconds after leaving the council chamber – long before your opponents have issued press statements. This can result in broadcasting spontaneous remarks that may quickly seem unwise. By the time you have reconsidered and deleted them, they may have been seen by thousands, Facebook-shared, re-Tweeted, linked to, and committed to local headlines. That is fine, if you have got this message across just how you wanted to; less so if your post was an outburst in the heat of the moment. Such remarks are easily withdrawn, apologised for and forgotten when made in person, but posting them on the internet means that they have been published, and in a way that cannot be contained.
- It is important to note that good ethical standards are not limited to the Code of Conduct. While you may not be investigated for using online media, your conduct can still attract adverse publicity, even where the Code does not apply. For example, a regional newspaper recently called a councillor's blog post against a rival party a "toilet-mouthed tirade" saying:

"A [Code] breach it may not have been; childish, crude and demeaning to all who vote or follow politics it certainly was."

It is clear that social networking sites can enhance political debate and add positively to local politics when used correctly. [Click here](#) to see our online guide to blogging.

New Online Guides on Our Website

The Guidance and Information team has produced several new online guides at the end of 2009. They are now available on our website. Here are the titles and links to the guides:

- [Charitable Trustees and declarations of interest under the Code](#)
- [Freemasons and the Code](#)
- [Independent members](#)
- [Notifications to parish and town councils concerning complaints about their members and the Standards](#)
- [Role and appointment of parish and town council reps to the standards committee](#)
- [Blogging quick guide](#)

We hope you find these new pieces of guidance helpful. Please e-mail any feedback you have on our guidance to enquiries@standardsforengland.gov.uk

Standards Committees can take a lead from ‘notable practice’

Research into ‘notable practice’, was carried out jointly by Hull University and the University of Teesside and was finalised in October 2009. It is called ‘notable practice’ to highlight the fact that the tips for success are examples of where particular approaches have worked in certain authorities, rather than ‘set-in-stone’ rules about what should be done.

Bristol City Council standards committee was identified as being particularly effective at facilitating organisational learning, sharing learning with the local government community and acting as hub for other authorities and independent members in the South West. The focus of the case study in South Cambridgeshire was on the standards committee’s proactive approach to the recruitment and retention of independent members.

The research identified nine examples of notable practice in different authorities. Below is the list of the notable practice examples and the case study authorities.

Notable practice	Case study authority
Organisational learning	Bristol City Council
Working with town and parish councils	Taunton Deane Borough Council
Member development	Surrey Police Authority
Working with partnerships	Newark and Sherwood District Council
Recruitment and retention	South Cambridgeshire District Council
Training and development	Herefordshire County Council
Joint standards and audit committees	Runnymede Borough Council
High pressure investigations	Greater London Author
Embedding standards	Newcastle City Coun

Standards committees can now access these case studies, examine details of the notable practice, and benefit from key learning points. The research, 'Assessing the Impact of Standards Committees 2009', can be found at

www.standardsforengland.gov.uk/Resources/Research/2009reports/

Further information

For further information on this paper or any other work undertaken by the Research Team, please contact **Hannah Pearson (Research and Projects Adviser)**, email: hannah.pearson@standardsforengland.gov.uk , ext: 5417

Impartial and Objective Investigators

Standards committees must ensure that they appoint investigators who have the necessary impartiality to conduct investigations with no perception of bias. This principle of impartiality should be applied to external and internal investigators alike. It is important that any external investigators are and appear to be impartial; a characteristic which should form part of any selection criteria applied when choosing one.

One of the key benefits of reciprocal arrangements with other authorities is that they enable authorities to pass investigations involving their own employees to another council. It is the monitoring officer's responsibility to ensure they select an impartial investigator.

Have your say

Has your authority or standards committee developed an innovative way of promoting ethical behaviour or delivering the standards framework? Why not share your ideas with over 1,000 other council officers and standards committee members on the Standards Forum?

You can use the Forum to discuss anything you find topical in this Bulletin with fellow council officers or standards committee members. It provides a place to network, ask questions, share good practice and make recommendations.

There are currently over 100 posts on more than 40 different topics. Popular topics include:

- Dealing with vexatious complaints
- Developing protocols for informing members
- Promoting ethical behaviour

To have your say, visit:

www.standardsforengland.gov.uk/resources/TheStandardsForum/

If you are a member of a standards committee, a monitoring officer or a relevant officer and you are not currently registered for the forum or have any questions please email: forum@standardsforengland.gov.uk

Delay on the New Code of Conduct

As you may be aware a new Code of Conduct for Members will not be laid during this Parliamentary session. Communities and Local Government have notified us that the Government is concentrating on financial instruments and so there will not be Parliamentary time available for the Code.

In practice this means that a new Code will not now be laid until after a general election.

Standards Committee 2010 Work Programme – March 2010

	Work area	Timescales	Lead	Description	Progress
Standing Items					
1.	Programme of speakers to Standards Committee, e.g. CEX	Ongoing	LRJ	To explore & develop the role key people play in the ethical governance of the council	
2.	Quarterly returns to Standards Board on Complaints against Members To include Derby, Nottm and Leics on a six monthly basis	March 10	LRJ	Report to compare Leicester with other Local Authorities in terms of numbers of cases and outcomes January – First half of 2009/10.	Information not on SfE website (Jan 10) Will report to March Committee
Special Reports					
1.	Review of revision of political conventions	March 10	PN	Report to Standards Committee	Monitoring Officer to confirm report date
2.	Review of complaints process to date	Jan 10 March 10	LRJ	A guide for members who are subject to complaint on what they can expect from the process. Also to include a point of contact for advice that is no the MO reported to January committee. Revised version to March. Will be uploaded on website	
3.	New Code of Conduct	TBC	LRJ/PN	Awaiting national agreement and guidance on new code	

4.	Scrutiny of current Officer Code of Conduct	TBC	PN	Agreed at May meeting of Standards Committee	
5.	Audit Commission	TBC	PN/LRJ	AC requested to attend Standards Committee six months in advance of next assessment to allow for challenge of previous findings but also what they will especially be looking for in next assessment	
6.	Officer support to Standards Committee	Jan 10	LRJ	Review to be undertaken of support required by Standards Committee concerning, in particular, capacity.	
Communications					
1.	Publicising work of Committee and Complaints process Chair to write formally to Leics Chair regarding relationship	Mar 10 Mar 10	LRJ	Proposals for revisions to website. Website to be updated by end April 10	
2.	Standards and Ward Meetings	TBC	LRJ	Proposal to publicise work of committee and possibly annual report through ward meetings (making Members responsible for explaining to their own constituents what their role is regarding Code.	
3.	Improve Standards website and make links to other related sites	TBC	LRJ/GA	Not yet started	
4.	Establish regular meetings between Chair, Monitoring Officer and Leader	Dec 09	PN/SB	To be programmed in for new municipal year - May 10 onwards	
5.	Independent Members to attend Cabinet meetings regularly to address different topics	Jan 10	SB/KM/ MR		

Training					
1.	Revise training for Planning & Development Control	June 10	AC/LRJ AC/LRJ	New training session planned for June 10 for new membership following Annual Council	
2.	Training on Code of Conduct for new members and prospective candidates	Second half of 2010 and beyond	LRJ	Link in with Member Development Forum	
3.	Training on Hearings	TBC To coincide with first investigation hearing	LRJ/PN	Believed to be best served by using a live case at the point of case reaching a hearing	
4.	Sessions for members on declarations of interests and on constitutional matters relating to Council	May 10	MO/LRJ	Requested following special council meeting in February 2010	
Completed					
	Delegated decision making to Cabinet members	Nov 09	PN	A report which will outline amendments to the delegated authority that will reside with Cabinet Leads	Complete
	District Audit Report on Ethical Governance	Sep 09	PN	July meeting requested this item brought to next meeting	Complete
	Briefing on Local Democracy Bill	Sep 09	LRJ/GA	Local Democracy Bill is going through parliament and will have some issues that it is useful for standards committee to have an awareness of	Complete
	Investigate why Nottingham have not received any complaints	Jul 09	GA	Explained within the yearly statistical report for Standards Committee on 16 th September	Complete

Develop flowchart/list of questions for members on Assessment and Review Sub-committees	Feb 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 th Feb 09			Complete
Definition and guidance on "hearsay"	Feb 09	PN	Report to Standards Committee	Complete
Revision of guidance	Mar 09	PN		Complete
Training on Standards Complaints Process including ethical governance	20 Mar 09	LRJ/PN/ GA	To review in light of any changes to membership after May	Complete
Ensure effective interface with the Delivering Excellence programme Invite speaker for the DE team to Standards Committee	Ongoing Mar 09	PN PN	Invite sent for March Standards Committee. Neil Sartorio to attend.	Complete
Indemnification arrangements	May 09	Oral update PN		Complete
Make links between Audit, Standards and Scrutiny committees	May 09	PN/CP/L RJ	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
Corporate Governance Annual Report	Jul 09	PN		Complete

	Report on granting dispensations to Members	Jul 09	PN		Complete
	Report on mediation	Nov 09	PN	The Committee asked for further details as to what could be expected in the circumstances where an assessment sub-committee refer to MO for further action	
	Standards Annual Report to Council	Sep 09 – For Discussion Nov draft Jan Cabinet & Council	LRJ	Annual Report to Cabinet and Council January 2010	Complete
	Code of Practice – Member involvement in Licensing Decision Making	July 09 Jan 10	AC	Draft code of conduct reported to Cabinet in January 2010	Complete
	Revise Council script “member conduct at meeting”	Jan 10	PN/LRJ	Reported to Standards in January. Now included as part of Council script.	Complete
	Identify Cabinet Champion for Standards	Jan 10	SB/LRJ	Leader has been identified as lead on Standards	Complete
	Training for Members on Regulatory Committees, including annual refresher training	Jun 09	AC	Independent members to be invited to attend.	Complete

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