

Swindon Borough Council

Standards Committee

Wednesday, 31 May 2006

Committee Room 6, Civic Offices, Swindon
(Anticipated meeting room)

At 10.30 a.m.

Councillors

Melanie Duff
Conservative)

Maurice Fanning
(Labour)

Martin Wiltshire
(Liberal Democrat)

Independent Members

Mr Keith Carby (Chair)
Mr Trevor Davies (Vice-Chair)
Mr Paul Morris

Parish Representative

Mr Mike Compton

Committee Officer: Steve Jones (01793 463602)
email: sjones@swindon.gov.uk

Swindon Borough Council can be contacted at the Civic Offices, Euclid Street, Swindon, SN1 2JH (Telephone 01793 463000)

AGENDA

1. Apologies for Absence

2. Declarations of Interest

Members are requested at the start of the meeting to declare any known interests in any matter to be considered, and are reminded that any such interest should also be declared at the start of an item or during any discussion of the matter concerned.

3. Minutes (Pages 1 - 2)

4. Public Question Time

(See explanatory note below. Please phone the Committee Clerk whose name and number appears at the top of this agenda if you need further guidance.)

5. Hearing of Complaint in Respect of Councillor Lister (DLDS-R) (Pages 3 - 30)

22 May 2006 (being date of agenda despatch)

Key:

DLDS- R Director of Law and Democratic Services

Public Question Time - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

Access Arrangements - The venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Officer, whose name appears at the top of this agenda, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

Standards Committee - Terms of Reference

The Standards Committee has the following roles and functions in accordance with Article 9 of the Council's Constitution:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommend training on any aspects of conduct and behaviour for Councillors and officers where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;
- (h) determining any matters which may be referred to it by the Monitoring Officer or the Standards Board for England;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, from requests relating to interests set out in the Members Code of Conduct;
- (k) To also exercise (a) to (j) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) ensure the Council's complaints procedure operates effectively in relation to standards of conduct and behaviour of staff and in particular
 - receive annual reports on its operation
 - receive regular monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
 - adjudicate upon all complaints which remain unresolved
 - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour
 - approve and publish an annual report upon the operation of the system;
- (m) report to the Council when it considers:-
 - standards of conduct and behaviour in a particular area need reviewing, and
 - the level of commitment necessary to resolve these difficulties should be greater;
- (n) approve and monitor the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (o) recommend to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (p) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member;
- (q) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

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STANDARDS COMMITTEE

MONDAY, 20 MARCH 2006

PRESENT:- Mr Keith Carby (Chair), Mr Trevor Davies (Vice-Chair), Mr Mike Compton, Councillor Melanie Duff, Councillor Maurice Fanning and Councillor Mike Every.

Apologies for absence were received from Mr Paul Morris.

30. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

31. Minutes

Resolved – That the minutes of the meeting held on 30th January 2006, be confirmed and signed as a correct record.

32. Public Question Time

No public questions were received during the meeting.

33. Exempt Items - Exclusion of Press and Public

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 8 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 37 refers.)

34. Ethical Framework Update

The Committee received a report from the Director of Law and Democratic Services providing an update on the Ethical Framework. The Committee noted in particular the copy of the decision of the Adjudication Panel for England in respect of Mr Ken Livingstone, Mayor of London, and discussed how the written decision demonstrated the stages of a local investigation hearing.

Resolved – That the Ethical Framework report be noted.

35. Employee Code of Conduct

The Director of Human Resources and Director of Law and Democratic Services presented a draft Code of Conduct for Swindon Borough Council employees for comment. The Code would be subject to consultation with staff representatives and interested parties, prior to coming back to the Standards Committee for approval.

Resolved – (1) That the Committee commends the draft Code of Conduct for consultation, subject to the Director of Human Resources making the following amendments: -

- Clarification of the wording of paragraph 2.6 (Alcohol and Drugs) to make the clear the distinctions between the use of medication (whether or not prescribed) and of substance misuse.
- Clarification of the wording of paragraph 3.4 (Criminal Charges and convictions) to make it clear to employees what should be declared, and if both convictions and contraventions, including bind-overs.

(2) That the Director of Human Resources investigate the provision of a room in the council offices for employees to take medication or rest when feeling unwell.

36.

Whistleblowing

The Committee considered a report from the Head of Internal Audit and Director of Law and Democratic Services providing a summary of the cases received under the Council's Whistleblowing policy, details of the action taken and the subsequent results and current status of the whistleblower.

Resolved – (1) That the contents of the report be noted;

(2) That the Standards Committee agrees that it can place reliance on the current arrangements for Whistleblowing as part of the Council's wider assurance framework;

(3) That the Committee agrees that no whistleblower should be disadvantaged in their employment as a result of making an allegation. To this end the Head of Internal Audit be requested to write to Members of the Committee in respect of case number 2, to provide details to confirm that the resulting redeployment was not to the disadvantage of the officer concerned; and

(4) That the Director of Law and Democratic Services and Head of Internal Audit consider if any trend in the reporting of cases can be found, such as links to promotions of the whistleblowing policy, and any patterns be reported back to the Committee.

37.

Complaints and Investigations Update

The Committee considered a report of the Director of Law and Corporate Governance on various complaints and investigations, including complaints to the Standards Board for England, and breaches of the Member/ Officer Protocol.

Resolved – (1) That the report be noted; and

(2) That a training session be set up on the morning of the next hearing, to further prepare the Members of the Committee to take part in the hearing process.

Hearing of Complaint in Respect of Councillor Lister

Standards Committee

Date: 31st May 2006

Author: Monitoring Officer (Director of Law and Democratic Services)

Parish / Wards Affected: None

Purpose

- To hear a complaint in respect of Councillor Dr Charles Owen Lister.

Recommendation

Standards Committee is requested to: -

- Conduct a hearing into the allegation that Councillor Lister failed to comply with the Council's Code of Conduct, which was referred by the Standards Board for England for local investigation and determination.
- Resolve whether to exclude the press and public during all or part of the hearing

1. Reasons

- 1.1 To conduct the Hearing of the Complaint referred by the Standards Board for England for local investigation and determination in accordance with Statutory Guidance and the Council's adopted Hearings Procedure.

2. Detail

The Complaint

- 2.1 On 27 September 2005, at the request of the Standards Committee, the Monitoring Officer referred to the Standards Board for England a complaint that Councillor Lister had made inappropriate remarks at a meeting of the Children Act Task Group on 8th September 2005. It was alleged that these remarks could be reasonably regarded as bringing his office or the authority into disrepute, in breach of paragraph 4 of the Member's Code of Conduct (attached at Appendix 1).

The Investigating Officer's Report

- 2.2 The Standards Board for England decided that this complaint should be investigated and referred it to the Monitoring Officer to arrange a local investigation. Peter Keith-Lucas of Bevan Brittan, Solicitors of Bristol, was appointed as the Investigating Officer. The core of the complaint related to the manner in which Councillor Lister addressed the Task Group on 8th September 2005 and it is alleged that he made three separate comments concerning (i) the provision of expensive out-of-borough placements for looked after children with severe emotional and behavioural difficulties; (ii) the provision by Swindon Borough Council of an allocated school place for every child irrespective of the nature or

Further information on the subject of this report can be obtained from Stephen Taylor, on 01793 463602 or Email staylor@swindon.gov.uk.

Hearing of Complaint in Respect of Councillor Lister

Standards Committee

Date: 31st May 2006

severity of any disability from which that child might suffer; and (iii) the resuscitation and treatment of premature babies or babies born with severe health problems who survived in a severely disabled state.

- 2.3 The Investigating Officer concluded that the first two grounds had been substantiated and that the Code of Conduct had been breached, but that there was insufficient evidence to substantiate the third allegation. A copy of the Investigating Officer's report is attached at Appendix 2.

The Key Issues

- 2.4 The Investigating Officer's report sets out the key issues and details of the comments which were the subject of the complaint. In his response, Councillor Lister has indicated that he accepts that the comments were made but contends that they were misunderstood and taken out of context. A copy of Councillor Lister's statement dated 16th February is attached to his response at Appendix 3.
- 2.5 Although Councillor Lister has indicated that he does not wish to call any witnesses at this stage, it is understood that he is reviewing the position and may seek to have evidence heard without the press and public being present.
- 2.6 In that event, the Standards Committee will need to consider excluding the press and public for that part of the hearing. The test to be applied will be whether in all the circumstances of the case, the public interest in excluding the press and public outweighs the public interest in being able to hear the witness give evidence in public.

The Procedure for the Hearing

- 2.7 A copy of the procedure which the Standards Committee has adopted for the Determination of Complaints referred by the Ethical Standards Officer, together with the 'Practical Arrangements' for use at the hearing are attached at Appendix 4. In this instance, Mr. Keith-Lucas, the Investigating Officer, will be present and will therefore present his report.
- 2.8 Councillor Lister has indicated that he will be present and will present his own case.

Alternative Options

- The statutory procedure sets out the way in which the Investigation and Hearing should be conducted.

Hearing of Complaint in Respect of Councillor Lister

Standards Committee

Date: 31st May 2006

Risk Management

Financial and Procurement Implications

- There are no significant financial or procurement implications.

Legal / Human Rights Implications

- Complaints to the Standards Board are dealt with in accordance with the statutory process. Any action taken in relation to complaints is considered a proportionate interference with the rights of those complained against.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

- Monitoring and delivering probity in the Council underpins the Council's plans and policies and to the delivery of the 2010 objectives.

Consultees

- Chief Executive
- Director of Finance
- Group Director, Resources

Background Papers and Appendices

- Appendix 1 – Swindon Borough Council, Members' Code of Conduct
- Appendix 2 - Investigating Officer's Report (Hard Copy only).
- Appendix 3 – Statement of Councillor Lister dated 16th February 2006 (Hard Copy only).
- Appendix 4– Standards Committee Procedure for Determination of Complaints and 'Practical Arrangements' for the Hearing.

Further information on the subject of this report can be obtained from Stephen Taylor, on 01793 463602 or Email staylor@swindon.gov.uk.

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SWINDON BOROUGH COUNCIL

CODE OF CONDUCT TO BE OBSERVED BY MEMBERS OF THE COUNCIL

**Adopted by the Authority as from 1st May 2002
(Reviewed 18 April 2005)**

(References within this Code of Conduct to “he” should be understood as referring to “he / she,” him” to “him / her” and “his” to “his/hers”)

PART 1

GENERAL PROVISIONS

Scope

1 (1) A Member must observe the Authority's code of conduct whenever he:

- (a) conducts the business of the Authority;
- (b) conducts the business of the office to which he has been elected or appointed; or
- (c) acts as a representative of the Authority,

and references to a Member's official capacity shall be construed accordingly.

(2) An Authority's code of conduct shall not, apart from paragraphs 4 and 5(a) below, have effect in relation to the activities of a Member undertaken other than in an official capacity.

(3) Where a Member acts as a representative of the Authority:

- (a) on another relevant Authority, he must, when acting for that other Authority, comply with that other Authority's code of conduct, or
- (b) on any other body, he must, when acting for that other body, comply with this Authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

(4) In this code, “Member” includes a co-opted Member of an Authority.

General Obligations

2 A Member must:

- (a) promote equality by not discriminating unlawfully against any person;
- (b) treat others with respect; and
- (c) not do anything which comprises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Authority.

3 A Member must not:

- (a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; nor
- (b) prevent another person from gaining access to information to which that person is entitled by law.

4 A Member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or the Authority into disrepute.

5 A Member:

- (a) must not in his official capacity, or any other circumstance, use his position as a Member improperly to confer on or secure for himself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of the Authority:
 - (i) act in accordance with the Authority's requirements; and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Authority or of the office to which the Member has been elected or appointed.

6 (1) A Member must when reaching decisions:

- (a) have regard to any relevant advice provided to him by:

- (i) the Authority's Director of Finance acting in pursuance of his duties under section 114 of the Local Government Finance Act 1988; and
 - (ii) the Authority's Monitoring Officer acting in pursuance of his duties under section 5(2) of the Local Government and Housing Act 1989; and
 - (b) give the reasons for those decisions in accordance with the Authority's and any statutory requirements in relation to the taking of an executive decision.
- (2) In sub-paragraph (1)(b) above and in paragraph 9(2) below, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.
- 7 A Member must, if he becomes aware of any conduct by another Member which he reasonably believes involves a failure to comply with the Authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

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**Swindon Borough Council
Procedure for Determination of Complaints
Referred by the Ethical Standards Officer**

**Local Government Act 2000
The Local Authorities (Code of Conduct)
(Local Determination) Regulations 2003**

Adopted by the Standards Committee: 17 November 2003

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Procedure for Determination of Complaints Referred by the Ethical Standards Officer

Under the provisions of the Local Government Act 2000 Ethical Standards Officers may carry out investigations into allegations that a Member of the Council has failed to comply with the Code of Conduct. Where the Ethical Standards Officer carries out the investigation, they may refer investigation reports to the Monitoring Officer for the Standards Committee to decide whether there has been a failure to comply with the Code and if there has been, what the penalty should be. The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 provide a framework for what happens when an Ethical Standards Officer refers a report. The Regulations require the Standards Committee to conduct a hearing using such procedures as it considers appropriate having regard to any guidance issued by the Standards Board for England.

1. INTERPRETATION

- 1.1 'Member' means the elected or co-opted Member of the Council who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.
- 1.2 'Investigator' means the Ethical Standards Officer who referred the report to the Council, and includes his or her nominated representative.
- 1.3 'Legal Advisor' means the Officer responsible for providing legal advice to the Standards Committee. This will usually be the Monitoring Officer, unless he/she has a conflict of interest in which case another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council, who is also legally qualified.
- 1.4 'Chair' means the member of the Standards Committee appointed as Chair for each individual hearing.
- 1.5 'Monitoring Officer' means the Officer appointed by the Council to be the Monitoring Officer under Section 5 of the Local Government and Housing Act 1989. Where the context refers to administrative acts being carried out it shall be permissible for those to be done by a member of the Monitoring Officer's staff.

2. RIGHT TO REPRESENTATION

- 2.1 The Member may be represented or accompanied during the meeting by a solicitor, barrister, or (with the permission of the Standards Committee) another person.

3. LEGAL ADVICE

- 3.1 The Standards Committee may take legal advice from its Legal Advisor at any time during the hearing or while it is considering the outcome. The substance of any legal advice given to the Standards Committee should be shared with the Member and the Investigator if they are present at the hearing.

4. TIMESCALE

- 4.1 The Regulations require a hearing to be held within 3 months of receipt of the Ethical Standards Officer's report by the Monitoring Officer. All hearings will be arranged in the shortest timescale possible, but may not be held until at least 14 days after the Monitoring Officer has sent the Investigator's report to the Member, unless the Member agrees otherwise.

5. PRE-HEARING

- 5.1 The following pre-hearing process to deal with procedural matters will normally be carried out in writing, although exceptionally, a face-to-face meeting between the Chair, the Member, the Legal Advisor, and the Investigator, and their representatives may be necessary.
- 5.2 As soon as reasonably practicable, and wherever possible within 3 working days after receiving a copy of the Investigator's Report from the Ethical Standards Officer, the Monitoring Officer shall send a copy of the Investigator's Report to the Member.
- 5.3 The Monitoring Officer (or an Officer on his / her behalf) in consultation with the Chair of the Committee, will also write to the Member, enclosing a copy of this Procedure, to propose a date, time and place for the hearing and to explain the Member's rights. They will ask for a written response from the Member, within a set time of 10 working days, to find out whether or not he or she:
- disagrees with any of the findings of fact in the Investigator's Report, and if so, which ones and the reasons for any disagreements;
 - wants to be represented at the hearing by a solicitor, barrister or any other person (the latter will require the express permission of the Standards Committee which is not to be unreasonably withheld);
 - wants to give evidence to the Standards Committee, either orally or in writing;
 - wants to call relevant witnesses to give evidence or submit written evidence on any disagreements as to the findings of fact or mitigation to the Standards Committee;
 - wants any part of the hearing to be held in private;

- wants any part of the Investigator's Report or other relevant documents to be withheld from the public; and
- can come to the hearing.

NOTE: The Member is encouraged to use the forms attached to this part of the Procedure to identify any findings of fact that he or she disagrees with (Form A) and outline any further evidence that he or she believes the Standards Committee should consider (Form B).

The Member is encouraged to give advance consideration to any representations to be taken into account if he or she is found to have failed to follow the Code of Conduct (Form C).

The Member will be asked to give information about his or her requirements for representation and witness attendance at the hearing (Forms D and E).

- 5.4 The Monitoring Officer will ask the Investigator to comment on the Member's response, within a set time of 10 working days from the date of receipt, to say whether or not he or she:
 - wants to be represented at any hearing (and if so to indicate their availability to attend);
 - wants to call relevant witnesses to give evidence to the Standards Committee;
 - wants any part of the hearing to be held in private; and
 - wants any part of the Investigator's Report or other relevant documents to be withheld from the public.
- 5.5 For the avoidance of doubt, should the Member and/or the Investigator fail to respond within the time set for a response they will, for the purpose of this procedure, be deemed to have agreed to the findings of fact or the Member's response as the case may be.
- 5.6 Those members of the Standards Committee who will be present for the hearing will then meet within 10 working days to consider any responses from the Member concerned and the Investigator, and to decide whether any other witnesses should be present who they feel may help in determining the case, including the person who made the original allegation. However, no witnesses can be ordered to appear or give evidence. They should then resolve any issues or disagreements about how the hearing should be conducted, which have been raised but not resolved during the pre-hearing process above.

NOTE: The Monitoring Officer will produce a pre-hearing process summary to include information listed in Form F and will include this with the letter to everyone involved.

5.7 When the Standards Committee has considered any responses as set out above, the Monitoring Officer, in consultation with the Chair, should then write to everyone involved within 5 working days of the pre-hearing and at least 10 working days before the hearing, to:-

- set the date, time and place for the hearing;
- summarise the allegation;
- outline the main facts of the case that are agreed;
- outline the main facts which are not agreed;
- state whether the Member or the Investigator will go to or be represented at the hearing;
- list those witnesses, if any, who will be asked to give evidence; and
- outline the proposed procedure for the hearing.

6. PROCEDURE FOR THE HEARING - SETTING THE SCENE

6.1 After the members of the Standards Committee and everyone involved have been formally introduced, the Chair should explain how the Standards Committee is going to run the hearing.

7. ABSENCE OF THE MEMBER

7.1 If the Member is not present at the time and place fixed for the hearing and the Standards Committee is satisfied that he or she has been given notice of the hearing, the Standards Committee may, unless it is satisfied that there is sufficient reason for the Member's absence, consider the allegation and make a determination in the absence of the Member concerned; or adjourn the hearing to another date.

8. MAKING FINDINGS OF FACT

8.1 After dealing with any preliminary issues, the Standards Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the Investigator's report.

8.2 If there is no disagreement about the facts, the Standards Committee will move on to the next stage of the hearing set out at section 9 below.

8.3 If there is a disagreement, the Investigator, if present, should be invited to make any necessary representations to support the relevant findings of

fact in the report. With the Standards Committee's permission, the Investigator may call any necessary supporting witnesses to give evidence. The Standards Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigator.

8.4 The Member should then have the opportunity to make representations to support his or her version of the facts and, with the Standards Committee's permission, to call any necessary witnesses to give evidence.

8.5 At any time, the Standards Committee may question any of the people involved or any of the witnesses, and may allow the Investigator to challenge any evidence put forward by witnesses called by the Member.

8.6 If the Member disagrees with any relevant fact in the Investigator's Report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. After considering the Member's explanation for not raising the issue at an earlier stage, the Standards Committee may, if the Investigator is present:

- continue with the hearing, relying on the information in the Investigator's Report;
- allow the Member to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary; or
- adjourn the hearing to arrange for appropriate witnesses to be present.

8.7 Should the circumstances mentioned in paragraph 8.6 arise, and the Investigator is not present, then the Standards Committee will consider also whether or not it would be in the public interest to continue in his or her absence. If the Standards Committee decides that it is not in the public interest to continue, it shall adjourn the hearing to allow the Investigator to attend or to make further representations.

8.8 The Standards Committee will usually move to another room to consider the representations and evidence in private.

8.9 On their return, the Chair will announce the Standards Committee's findings of fact.

9. DID THE MEMBER FAIL TO COMPLY WITH THE CODE?

9.1 The Standards Committee will then consider whether or not, based on the facts either as agreed at section 8.2 or based on its findings following sections 8.3 to 8.8, it has found the Member has failed to comply with the Code of Conduct.

- 9.2 The Standards Committee will consider any oral or written representations from the Member as to why they should not decide that he or she has failed to comply with the Code of Conduct.
- 9.3 The Standards Committee will consider any verbal or written representations from the Investigator.
- 9.4 The Standards Committee may, at any time, question anyone involved on any point they raise in their representations.
- 9.5 The Member will, if present, be invited to make any final relevant points.
- 9.6 The Standards Committee will then move to another room to consider the representations. An Officer shall accompany the Standards Committee for administrative/minuting purposes.
- 9.7 The Committee may make one of the following findings:-
- the Member has not failed to comply with the Council's Code of Conduct; or
 - the Member has failed to comply with the Council's Code of Conduct.
- 9.8 On their return, the Chair will announce the Standards Committee's decision as to whether or not the Member has failed to comply with the Code of Conduct.
- 10. IF THE MEMBER HAS NOT FAILED TO COMPLY WITH THE CODE OF CONDUCT**
- 10.1 If the Standards Committee decides that the Member has not failed to comply with the Code of Conduct, the Standards Committee will consider having regard to any oral or written representations from the Investigator whether it should make any recommendations to the Council with a view to promoting high standards of conduct among Members.
- 11. IF THE MEMBER HAS FAILED TO COMPLY WITH THE CODE OF CONDUCT**
- 11.1 If the Standards Committee decides that the Member has failed to comply with the Code of Conduct, it will consider any verbal or written representations from the Investigator and the Member as to:
- whether or not the Standards Committee should set a penalty; and
 - what form any penalty should take.
- 11.2 The Standards Committee may question the Investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

11.3 The Committee will then move to another room to consider whether or not to impose a penalty on the Member and, if so, what the penalty should be. An Officer shall accompany the Standards Committee for administrative/minuting purposes.

11.4 On their return, the Chairman will announce the Standards Committee's decision in accordance with the penalties available under the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, namely any one or a combination of the following:-

- censure the Member (this is the only form of penalty available when dealing with a person who is no longer a member of the Council);
- restrict the Member's access to the Council's resources for up to 3 months, which could include limiting their access to the Council offices;
- suspend or partly suspend the Member for up to 3 months;
- suspend or partly suspend the Member for up to 3 months on the condition that the suspension or partial suspension will end if the Member apologises in writing, receives any training or takes part in any conciliation that the Standards Committee orders.

12. THE WRITTEN DECISION

12.1 The Standards Committee will announce its decision on the day and provide a short written decision either on that day, or the following working day. It will also issue a full written decision as soon as reasonably practicable after the meeting.

FORM A

Please enter the number of any paragraph where you disagree with the findings of fact in the Ethical Standards Officer's (ESO) report, and give your reasons and your suggested alternative.

Member's response to the evidence set out in the ESO's report

Paragraph number from the ESO's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Please attach separate sheets if necessary.

FORM B

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

Other evidence relevant to the allegation

Paragraph number	Details of the evidence
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

FORM C

Please set out below, using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that a member has failed to follow the Code of Conduct.

Representations to be taken into account if a member is found to have failed to comply with the Code of Conduct Please note that no such finding has yet been made.

Paragraph number	Factors for the Standards Committee to take into account when deciding whether or not to order any censure, restriction of resources or allowances, suspension or partial suspension
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

FORM D

Arrangements for the Standards Committee hearing

Please tick the relevant boxes

<p>1 The proposed date for the Standards Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>If 'No', please explain why.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Reason:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>2 Are you going to present your own case?</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	
<p>3 If you are not presenting your own case, will a representative present it for you?</p> <p>If 'Yes', please state the name of your representative.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Name:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>4 Is your representative a practising solicitor or barrister?</p> <p>If 'Yes', please give his or her legal qualifications. Then go to question 6.</p> <p>If 'No', please go to question 5.</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Qualifications:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>5 Does your representative have any connection with the case?</p> <p>If 'Yes', please give details</p>	<p>YES <input type="checkbox"/></p> <p>NO <input type="checkbox"/></p>	<p>Details:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

<p>6 Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p>YES</p> <p><input type="checkbox"/></p> <p>NO</p> <p><input type="checkbox"/></p>	
<p>7 Do you, your representative or your witnesses have any access difficulties (for example, is wheelchair access needed)?</p> <p>If 'Yes', please give details.</p>	<p>YES</p> <p><input type="checkbox"/></p> <p>NO</p> <p><input type="checkbox"/></p>	<p>Details:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>8 Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)?</p> <p>If 'Yes', please give details.</p>	<p>YES</p> <p><input type="checkbox"/></p> <p>NO</p> <p><input type="checkbox"/></p>	<p>Details:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>9 Do you want any part of the hearing to be held in private?</p> <p>If 'Yes', please give reasons.</p>	<p>YES</p> <p><input type="checkbox"/></p> <p>NO</p> <p><input type="checkbox"/></p>	<p>Reasons:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>10 Do you want any part of the relevant documents to be withheld from public inspection?</p> <p>If 'Yes', please give reasons.</p>	<p>YES</p> <p><input type="checkbox"/></p> <p>NO</p> <p><input type="checkbox"/></p>	<p>Reasons:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

Please attach separate sheets if necessary.

FORM E

Details of proposed witnesses to be called

Name of witness or witnesses	<div>1</div> <div>2</div> <div>3</div>	<div>.....</div> <div>.....</div> <div>.....</div> <div>.....</div> <div>.....</div> <div>.....</div>
<div> WITNESS 1 </div> <div> A Will the witness give evidence about the allegation? </div> <div> If 'Yes', please provide an outline of the evidence the witness will give. </div> <div> B Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct has not been followed? </div> <div> If 'Yes', please provide an outline of the evidence the witness will give. </div>	<div> YES <input type="checkbox"/> </div> <div> NO <input type="checkbox"/> </div> <div> YES <input type="checkbox"/> </div> <div> NO <input type="checkbox"/> </div>	<div> Outline of evidence: </div> <div> </div> <div> </div> <div> </div> <div> </div> <div> Outline of evidence: </div> <div> </div> <div> </div> <div> </div> <div> </div>

FORM F

Checklist for the pre-hearing process summary

After the Standards Committee has received responses from the member about whom the allegation has been made and from the Ethical Standards Officer, it should prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:-

- the name of the authority;
- the name of the member about whom the allegation has been made;
- the name of the person who made the original allegation (unless there are good reasons to keep his or her identity confidential);
- case reference numbers of the Council and the Standards Board for England;
- the name of the Standards Committee member who will chair the hearing;
- the name of the Monitoring Officer;
- the name of the Ethical Standards Officer who referred the matter;
- the name of the clerk of the hearing or other administrative officer;
- the date the pre-hearing process summary was produced;
- the date, time and place of the hearing;
- a summary of the allegation;
- the relevant section or sections of the Code of Conduct;
- the findings of fact in the Ethical Standards Officer's report that are agreed;
- the findings of fact in the Ethical Standards Officer's report that are not agreed;
- whether or not the member or the Ethical Standards Officer will attend or be represented;
- the names of any witnesses who will be asked to give evidence; and
- an outline of the proposed procedure for the hearing.

Standards Committee

Practical arrangements for the hearing at the Standards Committee

Interpretation:

“Member” means the Member of the authority who is the subject of the allegation(s) being considered by the Standards Committee, unless stated otherwise. It also includes the Member’s nominated representative

“Investigator” means either the Ethical Standards Officer (ESO) who referred the report to this Council, or the Investigating Officer, and includes his or her nominated representative

1. The elected Chairman will introduce all those present and explain how the committee is going to run the hearing

Making Findings of Fact

2. The Investigator will present his case in the presence of the Member and may call witnesses to support the relevant findings of fact in the report.
3. The Member, will have the opportunity to ask questions of any witnesses he may call
4. The committee may ask questions of the Investigator and witnesses
5. The Member will present his case in the presence of the Investigator and call such witnesses as he wishes to support his version of the facts
6. The Investigator will have the opportunity to ask questions of the Member and his witnesses
7. The committee may ask questions of the Member and his witnesses
8. The committee will then retire to consider the representations and evidence in private
9. Upon the committee’s return, the Chairman will announce the committee’s findings of fact

Post Finding of Fact Procedure 1.

Based on the facts found has there been a failure to follow the Code of Conduct?

10. The Member will be invited to give relevant reasons why the committee should not decide that he has failed to follow the Code
11. The committee will consider any verbal or written representations from the Investigator
12. The committee may, at any time, question anyone involved on any point they raise in their representations
13. The Member will be invited to make any final relevant points.
14. The committee will then retire to consider the representations
15. Upon the committee's return, the Chairman will announce the committee's decision as to whether or not the Member has failed to follow the Code of Conduct

Post Finding of Fact procedure 2 – recommendations and/or penalty

16. If the committee decide that the member **has not** failed to follow the Code of Conduct, then it can move on to consider whether it should make any recommendations to the Council, Parish or Town Council as appropriate. The committee will at this stage consider any further verbal or written representations from the Investigator on whether or not the committee should make any recommendations to the authority, with a view to promoting high standards of conduct among members.
17. If the committee decide that the member **has** failed to follow the Code of Conduct, then it will consider any verbal or written representations from the Investigator and the Member as to:
 - Whether or not the committee should set a penalty; and
 - What form any penalty should take (*see appendix A attached*)
18. The committee may question the Investigator and Member, and take legal advice if appropriate
19. The committee will then retire to consider whether or not to impose a penalty on the Member, and if so, what the penalty should be
20. The committee will return and the Chairman will announce the committee's decision and will provide a short written decision on the day.

Post hearing procedure

21. A full written decision will be issued within 14 days of the end of the hearing which will include full reasons for its decision.
22. The committee will arrange to publish a summary of its findings, decision as to whether there is a breach of the code and where appropriate the penalty set in one or more newspapers (independent of the authorities concerned). If the finding is that the Member has not broken the Code, then that Member can ask the committee not to have the information published.

Appeal

A Member who is the subject of a Standards Committee finding has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal against that finding

(Appendix A – List of penalties)

Standards Committee

The Local Authority (Code of Conduct)(Local Determination)(Amendment) Regulations 2004

Penalties

Under these regulations, the standards committee can impose one, or any combination, of the following:

- censure the member;
- restrict the member's access to the premises and resources of the relevant authority for up to three months, ensuring that any restrictions are proportionate to the nature of the breach and do not unduly restrict the member's ability to perform his or her duties as a member;
- order the member to submit a written apology in a form satisfactory to the standards committee;
- order the member to undertake training specified by the standards Committee;
- order the member to participate in a conciliation process* specified by the standards committee;
- suspend, or partially suspend, the member for up to three months;
- suspend, or partially suspend, the member for up to three months, or until such time as the member submits a written apology that is accepted by the standards committee;
- suspend, or partially suspend, the member for up to three months, or until such time as the member undertakes any training or conciliation ordered by the standards committee.

** Any conciliation process should have an agreed timeframe for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the member concerned, and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.*