

A meeting of the **STANDARDS COMMITTEE** will be held in the **CABINET ROOM, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **THURSDAY, 10 MARCH 2005** at **4:00 PM** and you are requested to attend for the transaction of the following business:-

FOR INFORMATION ONLY

**Contact
(01480)**

APOLOGIES

1. MINUTES (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting held on 9th December 2004.

**C Deller
388007**

2. A CODE FOR THE FUTURE - CONSULTATION PAPER ON THE REVIEW OF THE CODE OF CONDUCT FOR MEMBERS (Pages 5 - 14)

To consider a report by the Director of Central Services and Monitoring Officer requesting the Committee's views in response to a Consultation Paper on the review of the Members' Code of Conduct.

**C Deller
388007**

3. PREJUDICIAL INTERESTS - APPLICATION FOR DISPENSATION (Pages 15 - 16)

To consider a report by the Director of Central Services and Monitoring Officer regarding an application received for dispensation from Alconbury Parish Council.

**C Deller
388007**

4. MODEL CODE OF CONDUCT - STANDARDS BOARD NOTIFICATIONS (Pages 17 - 20)

To consider a report by the Director of Central Services and Monitoring Officer regarding notifications received from the Standards Board for England on decisions made in respect of allegations of misconduct by a District Councillor and by Members serving on Oldhurst and Bluntisham Parish Councils.

**C Deller
388007**

5. CURRENT ISSUES (Pages 21 - 22)

To consider a report by the Democratic Services Manager regarding issues of interest to the Committee.

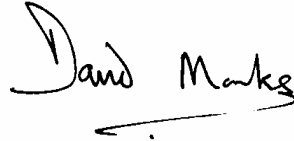
**C Deller
388007**

6. PROGRAMME OF MEETINGS

To note the programme of meetings for the Standards Committee in 2005/06 – 7th July, 8th September and 8th December 2005 and 9th March 2006.

**C Deller
388007**

Dated this 2nd day of March 2005.

A handwritten signature in black ink that reads "David Marks". The signature is written in a cursive style with a long horizontal stroke at the end.

Chief Executive

Please contact Ms C Deller, Democratic Services Manager, Tel No 01480 388007 or if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee.

Agenda and enclosures can be viewed on the District Council's website – www.huntingdonshire.gov.uk (*under Councils and Democracy*).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Democratic Services Manager and we will try to accommodate your needs.

Emergency Procedure

In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit and to make their way to the base of the flagpole in the car park at the front of Pathfinder House.

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held in Meeting Room 1, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Thursday, 9th December 2004.

PRESENT: Councillor A Hansard – Vice-Chairman.
Councillors Mrs B E Boddington,
Mrs K P Gregory and J Taylor.
Messrs D L Hall, D Pattison and G Watkins.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillor I R Muir and Mr D H Bristow.

18. MINUTES

The Minutes of the meeting of the Committee held on 16th September 2004 were approved as correct record and signed by the Chairman.

19. LOCAL INVESTIGATION REGULATIONS

Further to Minute No. 24 of the meeting held on 24th March 2004, the Committee considered a report by the Director of Central Services and Monitoring Officer (a copy of which is appended in the Minute Book) regarding the coming into force on 4th November 2004 of the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 and the Standards Board for England (Functions) Order 2004. Members also received a copy of Statutory Guidance on the Regulations for Monitoring Officers and Standards Committees.

Members noted that the Regulations would enable local authority Monitoring Officers to carry out investigations into alleged breaches by Members of their Code of Conduct which had been referred to them by a Ethical Standards Officer prior to his or her having carried out or concluded an investigation. The Regulations also provided for local authority Standards Committees to make determinations following Monitoring Officer reports on the investigation of such breaches.

Their attention having been drawn to the potential for a defamation claim from a Councillor or any other person mentioned in a report by an Investigation Officer, the Committee concurred with the suggestion that the Council's insurers should be requested to indemnify against the legal cost which might accrue from the defence of any such claim and any damages which might be awarded.

As the Regulations now were in place, the Committee

RESOLVED

- (a) that the coming into force of the Local Authorities

(Code of Conduct) (Local Determination) (Amendment) Regulations 2004 and the publication of guidance on local investigations by the Standards Board for England be noted together with advice which urged Standards Committees to take into account the guidance issued by the Board, to become familiar with the Regulations and to have effective procedures in place for conducting local investigations and determinations; and

- (b) that, in the event of the reference by an Ethical Standards Officer of a case of misconduct by a Councillor, the Director of Central Services and Monitoring Officer be authorised, after consultation with the Chairman of the Committee, to arrange for the local investigation of the allegations and to negotiate the terms of an indemnity with the Council's insurers against the risk involved from any potential claim for defamation against an Investigating Officer.

20. MODEL CODE OF CONDUCT - STANDARDS BOARD NOTIFICATIONS

By reference to a report by the Director of Central Services and Monitoring Officer (a copy of which is appended in the Minute Book) the Committee noted that the Standards Board for England had decided not to take any further action in relation to allegations in respect of current and former Councillors serving on Southoe and Midloe Parish and Ramsey Town/Huntingdonshire District Councils.

Following concern nationally at the time being taken by the Standards Board to process cases, the Committee were acquainted with details of a new referral process intended to focus on serious allegations of misconduct with the potential to damage the reputation of local government. Members noted that, in future, and in order for an allegation to be considered for investigation it would be required to comply with four basic rules and subsequently satisfy a clear criteria to be referred for investigation. It was the intention that this more rigorous approach would exclude vexatious or relatively minor allegations.

21. PREJUDICIAL INTERESTS: APPLICATION FOR DISPENSATION

The Committee were acquainted, via a report by the Director of Central Services and Monitoring Officer (a copy of which is appended in the Minute Book) with an application received from Colne Parish Council for dispensation to allow nine of their members to speak and vote on matters relating to the village hall and playing field should they arise at meetings of the Parish Council.

Having regard to the advice received from the Monitoring Officer, the Committee

RESOLVED

- (a) that dispensation to speak and vote be granted to nine Members of Colne Parish Council for the period ending

30th April 2007; and

- (b) that the Parish Council be advised to contact the Charity Commission for assistance in reviewing the suitability of their trustee arrangements to overcome continuing conflicts of interest.

22. STANDARDS - CURRENT ISSUES

Members received and noted a report by the Democratic Services Manager (a copy of which is appended in the Minute Book) regarding several issues of interest to the Committee.

In commenting on the disappointing attendance at training sessions offered to newly elected parish councillors and co-opted Members on the ethical framework and code of conduct during September, the Committee suggested that it might be of increased benefit if the Monitoring Officer offered to attend Parish Council meetings and particularly those where a number of vexatious complaints had been received or arranged training sessions in locations away from Pathfinder House to which Parishes local to the venue could be invited. It was also suggested that CALC might be able to suggest ways to make the training activity a more attractive proposition.

In particular, the Committee noted the Council's decision to approve the payment of an co-optee's allowance to the current Chairman equivalent to the amount which would be paid were an elected Member Chairman of the Committee, the potential for a special meeting to participate in consultation on the review of the Code of Conduct and the commencement in the new year of a Select Committee enquiry into the role and effectiveness of the Standards Board for England.

23. NEXT MEETING

Members were reminded that the next meeting of the Committee would take place on Thursday 10th March 2005 at 4 pm.

Chairman

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**CODE FOR THE FUTURE – CONSULTATION PAPER
ON THE REVIEW OF THE CODE OF CONDUCT FOR MEMBERS
(Report by the Director of Central Services & Monitoring Officer)**

1. INTRODUCTION

1.1 The Code of Conduct was introduced in November 2001 and came into force for all authorities in May 2002. Following three years' experience of working with the Code, the Standards Board for England announced their intention to commence the consultation process to review the Members' Code of Conduct at the third annual assembly of Standards Committees in Birmingham last September. In his speech to the Assembly the Rt Hon Nick Raynsford MP stressed that the Government did not want to dilute the basic underlying principles of the Code of Conduct but rather seek to discover what may be learned from practical experience of working with it.

1.2 Following a series of workshops and meetings in the interim, the Standards Board have identified the following key areas for review and shaped these areas into 29 questions –

- ◆ public interest defence in relation to disclosure of confidential information;
- ◆ the duty for Members to report misconduct by colleagues;
- ◆ the line between public and private conduct;
- ◆ personal and prejudicial interests;
- ◆ registering interests.

1.3 The deadline for responses to the consultation is 17th June 2005. Following the consultation, the Standards Board for England will make a number of recommendations to the Office of the Deputy Prime Minister for consideration with a view to any changes to the codes being agreed by the end of 2005. The Board intend to publish a summary of responses received.

1.4 Further consideration will be given to the 10th Report of the Committee on Standards in Public Life and to the outcome of the House of Commons Select Committee Inquiry into the Role and Effectiveness of the Standards Board for England as part of the consultation exercise.

2. CONSULTATION

2.1 The purpose of the consultation is to review the effectiveness of the Code of Conduct and to explore ways in which it can be simplified, clarified and improved. The Standards Board for England have indicated that they would welcome opinions on sections of the Code not covered by the Consultation and issues not raised.

- 2.2 The Board have invited responses to the consultation paper by way of 29 questions. The questions are set out in a leaflet enclosed with Members' copies of the Agenda. For ease of presentation, suggested responses had been drafted sequentially for Members of the Committee to consider. There may also be other issues on which Members may wish to express views.

3. THE QUESTIONS

3.1 The General Principles –

Question 1 – Should the ten General Principles be incorporated as a preamble to the Code of Conduct?

Question 2 – Are there any other principles which should be included in the Code of Conduct?

Comment – the Code of Conduct is founded on ten general principles set out in the Relevant Authorities (General Principles) Order 2001 derived from recommendations by the Committee on Standards in Public Life. The ten general principles underpin and steer the provisions of the Code of Conduct and are fundamental to its interpretation. The Local Government Act 2000 requires the Code of Conduct to be consistent with the general principles but it does not currently incorporate them. They are:-

Selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership.

Suggested Response – Yes – the General Principles should be included as a preamble to a revised Code of Conduct. The principles represent the standard to which a Member should aspire and would help to provide a context for the rules of the Code itself. Indeed in any training activity undertaken by the Monitoring Officer, the presentation commences with an explanation of the general principles as an introduction to the Code. As the general principles have, to date, been integral to the interpretation of the Code it is strongly suggested that they should formally be incorporated within it. The general principles are wide ranging, so in our view there is no requirement for the addition of any extra ones!

3.2 Disrespect and Freedom of Speech

Question 3 – Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?

Question 4 – Should the Code of Conduct include specific provision on bullying ? If so, is the ACAS definition of bullying quoted in the full consultation paper appropriate for this?

Summary – Paragraph 2 (b) of the Code of Conduct states that a –

“A Member must –

(b) treat others with respect”;

This applies to Members only when they are carrying out the duties of the office to which they have been elected or appointed or when representing their authority in their official capacity. The Standards Board have decided to focus on paragraph 2 (b) because of difficulty in interpreting the general requirement and the subjectiveness of the term “respect” the understanding of which often varies widely between individuals and between ethnic, local and regional cultures.

Suggested response – No, making the definition of “disrespect” more specific may mean that it could become more inflexible and would not reflect the variety of views on what is “respectful”. Practical experience of interpretation of the Code would help clarify the term and the context of its use. It is also arguable that Members are elected to comment on matters of public concern provided any comments made do not breach discrimination legislation or become overly personal. It is an important feature of local democracy that Members continue to be entitled to express their views albeit within a legislative and code of conduct framework.

- 3.2.1 Summary - Bullying – The Board have received a number of complaints alleging bullying by Members of Officers and fellow Members. The Code of Conduct does not contain a specific provision to address bullying. To date, the Board have dealt with complaints alleging bullying under paragraphs 2(b), 2(c) and 4 of the Code of Conduct which cover the need to treat people with respect, not to seek to compromise impartiality and not to bring the Authority into disrepute.

Suggested response – Yes, the proposal to incorporate a definition of bullying into a revised Code should be welcomed to assist Ethical Standards Officers and Monitoring Officers in identifying bullying behaviour and to send a clear message to Members that behaviour of this nature will not be tolerated.

3.3 Confidential Information

Question 5 – Should the Code of Conduct contain an explicit public interest defence for Members who believed they have acted in the public interest by disclosing confidential information?

Question 6 – Do you think the Code of Conduct should cover only information which is in law “exempt” or “confidential”, to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?

Summary – Paragraph 3 (a) prohibits Members from disclosing information given to them in confidence or that which is acquired and which the Member believes to be of a confidential nature.

Suggested response – Yes, in the light of the new Freedom of Information requirements, the Committee might consider that it is sufficient to state that a Member should not disclose information which was lawfully confidential or exempt under existing legislation. This would mean that it would not be a breach of the Code of Conduct if it was demonstrated that the decision to treat a matter as exempt or confidential was unlawful.

- 3.3.1 Summary - Regarding the public interest defence, the Board believe that the intention behind the Code of Conduct is to protect information that is properly confidential, not information that it is convenient or expedient not to release into the public domain or publicise. Members have a duty to ensure good governance of the authority and to protect as confidential only information that is properly confidential. The Board acknowledge the call for greater openness and access to information, reflected in the Freedom of Information Act 2000.

Suggested response – Yes, under the Freedom of Information Rules a local authority must seek to balance the need to maintain confidentiality where appropriate and the public interest in disclosing information. When applying the Freedom of Information Rules, the presumption should be towards the public interest. If the public interest has not been considered properly, the decision to treat a matter as confidential may not be lawful. In the circumstances, the Committee may take the view that the Code of Conduct should contain an explicit public interest defence for Members who believed they have acted in the public interest by disclosing confidential information. However, the question arises as to the need to clarify what is the “public interest”. In that the principles encourage honesty and integrity, Members should not be constrained by the Code when they believed they should have disclosed information for public interest reasons.

3.4 **Disrepute and private conduct –**

Question 7 – Should the provision relating to disrepute be limited to activities undertaken in a Members’ official capacity or should it continue to apply to certain activities in a Members’ private life?

Question 8 – If the latter, should it continue to be a broad provision, or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?

Summary – paragraph 4 of the Code of Conduct states that, ‘A Member must not in his official capacity, or in any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or Authority into disrepute’. This provision applies to Members both when on Council business and in their private lives. Allegations of disrepute which have arisen in the public domain, such as while a Member is on Council business, have been far more straightforward to deal with than those which have arisen in Members’ private lives.

Suggested response – the Report of the Committee in Standards in Public Lives Tenth Inquiry, published in January 2005, recommends that the Code of Conduct should not cover matters which are wholly unrelated to an individual’s official capacity. The Committee may wish to consider to what degree the actions of Members in their private lives should be scrutinised and subjected to discipline under the Code. Members’ private conduct may only be of concern if it is likely to compromise the reputation of the authority. Perhaps this provision should continue to link a Member’s conduct in their private life to its relevance to the performance of their public office. However, is there a type of conduct, within the wider area of private conduct that should be covered by this provision of the Code? The general principles

require Members to uphold the law and to act in accordance with the trust that the public is entitled to place in them. Do those cases of unlawful behaviour sanctioned by the courts or the police, such as criminal convictions, police cautions and regulatory infringement undermine the public's confidence in the Members ability or fitness to carry out their official duties. If the answer "yes" there has to be a distinction in those cases where the offence has not been proven.

3.5 **Misuse of Resources**

Question 9 – We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols and misuse of resources for inappropriate political purposes. Do you agree?

Question 10 – If so, how could we define inappropriate political purposes?

Question 11 – Is the Code of Conduct right not to distinguish between physical and electronic resources?

Summary – the Code provides that Members must, when using the authority's resources themselves, or authorising others to use them, abide by the authority's requirements, such as its resource protocols. Members must also ensure that the resources are not used for political purposes other than those purposes necessary for Members carrying out the duties of their office. Resources includes land, premises and any equipment such as computers, photocopiers and fax machines. The time, skills and help of anyone employed by the authority are also resources.

Suggested Response – Yes – the Code in this respect is clear enough. It should remain absolute and not allow a lower threshold for some resource use. However, local protocols rather than the Code of Conduct should set out specific requirements for Members' use as practice varies between authorities. It is considered that it is not necessary to distinguish between physical and electronic resources because all resources should be treated similarly. A breach of the Code would occur when there has been a breach of the Authority's own rules in that respect.

NB: The Board is considering the issue of a model protocol for resources. In the interests of clarity and consistency across the legislative framework, reference in the Code to the restrictions under the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity and to the misuse of resources, and particularly Officer time, for inappropriate political purposes would be welcomed.

3.6 **Duty to Report Breaches**

Question 12 – Should the provision of the Code of Conduct that requires Members to report breaches of the Code by fellow Members be retained in full, removed altogether, or somehow narrowed?

Question 13 – If you believe the provision should be narrowed, how would you define it ? For example should it apply only to

misconduct in a Members' public capacity, or only to significant breaches of the Code?

Question 14 – Should there need to be a further provision about making false, malicious or politically motivated allegations?

Question 15 – Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?

Summary – The Code of Conduct requires Members who have a reasonable belief that a fellow Member has breached the Code of Conduct to make a complaint to the Board.

This requirement has resulted in complaints being made which might otherwise not have been reported. However, the Board have also received a number of complaints which it believes were politically motivated and malicious, rather than reflecting legitimate concerns about potential breaches of the Code.

Suggested Response – The spirit of this part of the Code should be retained as it gives effect to the principles of openness and accountability. It is in the public interest that misconduct and corruption are reported when there are proven grounds for doing so. However, the Code should acknowledge the seriousness or significance of some breaches in comparison with others and the text proposed by the Board would address this point using the words “knows or is informed” rather than “becomes aware”.

A Member must, if he knows or is informed of any breach of the Code of Conduct by another Member which he or she:-

- (a) reasonably believes to be serious or significant, or –*
- (b) on the basis of the facts known to them at the time, should reasonably have concluded to be serious or significant;*

make written allegation to that effect to the Standards Board for England as soon as it is practicable for him or her to do so.

Members should be released from the duty to report potential breaches of the Code arising from acts in a Members' private life. This would not prevent a Member making an allegation for breach of the Code in their private life under the paragraph relating to disrepute. To ensure consistency of standards across the country and to avoid potential conflicts of interest, it is essential that all cases continue to be referred to an independent body ie. the Board for investigation in the first instance.

It is not in the interests of Members, the public or the Board to spend resources on receiving and considering false malicious allegations. The Committee may not wish to support the suggestion that there should be provision in the Code to deter Members from making false malicious allegations. The provision could act as a deterrent for Members making complaints where they do have legitimate concerns in case subsequent investigation of the complaint finds the Members concerns to be unfounded. A preamble to the Code of Conduct

giving advice as to the legitimate use of this part of the Code would be preferable. In terms of protection for whistleblowers, the Code does not seek to prevent serious concerns from being raised and if a Member does seek to intimidate a complainant these matters can be dealt with through other provisions of the Code such as disrepute and disrespect.

3.7 **Personal Interests**

Question 16 – Do you think the term “friend” requires further definition in the Code of Conduct?

Question 17 – Should the personal interest test be narrowed so that Members do not have to declare interests shared by a substantial number of other inhabitants in an authorities area?

Question 18 – Should a new category of “public service interest” be created, relating to service on other public bodies and which is subject to different rules of conduct?

Question 19 – If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?

Question 20 – Do you think paragraph 10 (2) (a – c), which provides limited exemption from the prejudicial interest rules for some Members in certain circumstances, should be removed from the Code of Conduct?

Question 21 – Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?

Summary – Paragraph 8 of the Code of Conduct requires Members with a personal interest in a matter to disclose the existence and nature of that interest at the start of a meeting or when the interest becomes apparent. The existence of a personal interest does not of itself prevent a Member from remaining in the meeting and voting. Members are not required to leave the meeting and refrain from voting unless their interest is also prejudicial. There are certain prejudicial interests which the Code allows to be redefined as personal in specific circumstances. A personal interest may arise not only from the business interests, employment and shareholdings of the Member above a certain threshold but also the impact of any matter on their wellbeing and that of their relatives, friends and any employers.

Suggested response – the Committee would welcome a definition of the terms “friend” and “wellbeing” in guidance issued by the Board, particularly given High Court endorsement of the definition of “wellbeing”, and believe that it is not appropriate that the Code itself should contain an interpretation of the meaning of these terms. To enhance the integrity of the Code and to improve its practical application, it would be less cumbersome if Members were not required to declare interests which are shared by a substantial number of other inhabitants in an Authority’s area. The question of public service interests relating to service on other public bodies has caused some confusion among parishes in Huntingdonshire since the

inception of the Code, particularly as it is common for Members, in smaller communities, to be involved with other community bodies, either as a representative of the authority or in their own right. The Board believe that the prevalence of Member involvement with public bodies is such that the current requirements of the Code place an onerous and ongoing responsibility on Members to declare their membership of other public bodies, particularly as many interests that arise from service on other public bodies will not be significant. There should be no objection, in principle, to an individual serving on a number of public bodies and the fact that an issue being considered by one body may involve another body with which the Member is concerned should not necessarily indicate that the Members judgement of the public interest will be prejudiced. In these circumstances, the Committee support the proposed new approach to Members who serve on other public bodies and the introduction of a new category of “public service interest” which would be subject to the prejudicial interest test. Where a public service interest is not prejudicial, there will be no need to declare it at the meeting provided that it was properly recorded in the Members’ register of interests. Where a public service interest was prejudicial, it would need to be declared and the Member concerned would not be able to vote on the issue under discussion. However, Members with prejudicial public service interests would be able to remain in the room and participate in debate but withdraw before any vote was taken.

Similarly, there is a third category of interest which covers memberships of charities and lobby groups. As the Code of Conduct does not currently distinguish sufficiently between the types of personal interests that can arise the Committee may wish to endorse the view that public service interests and interests arising from membership of charities and lobby groups should only be prejudicial –

- ◆ where the matter has a direct impact on the body concerned (for example a grant of money);
- ◆ where the Member is involved in regulatory matters in a decision making capacity, for example, planning and licensing where it is generally accepted that particularly high standards of probity and transparency are required.

Where prejudicial interests arise from membership of charities and lobby groups, Members should be able to remain in the room and participate in debate but withdraw before any vote is taken.

3.8 Prejudicial Interests

Question 22 – Should Members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?

Question 23 – Do you think Members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote?

Summary - For an interest to be prejudicial, it must be likely to prejudice the Members judgement. The interest must be likely to harm or impair the Members ability to judge the public interest. Members who have a prejudicial interest in a matter to be discussed

must declare the nature and existence of the interests, leave the room and not be involved in nor seek to influence improperly, the decision.

Suggested response – the Code attempts to protect transparency by preventing Members from using their position to exert influence over decision making. All Councillors have influence by virtue of their role and this influence would be brought to bear upon decisions if Members address a meeting in their personal capacity or were to remain in the meeting during the vote. Whilst a Member may influence the decision, the Code must continue to ensure that that influence is not improper. If a Member has a prejudicial interest he/she should not participate in the meeting. The Committee may agree that there are sufficient avenues available for Members to communicate their constituents views to meetings in the event that they had a prejudicial interest in the matter under discussion.

In the event that a Member declares a prejudicial interest at a meeting, the Committee may wish to comment that as that Member is required to withdraw from the meeting, should there be a necessity for that person to declare the nature of their interest and in sufficient detail to identify that interest.

3.9 **Registration of Interests**

Question 24 – Should Members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?

Question 25 – Should Members be required to register membership of private clubs and organisations? And if so, should it be limited to organisations within or near an authority's area?

Summary – The Code requires Members to include in the Register of Members' interests information about their employment and employer, including their personal and business address details. Issues around public access to this information have arisen where Members are employed in areas of sensitive employment, such as certain scientific research and the Special Armed Forces. Public access to information about Members employment, may, given the security issues surrounding these areas of work, threaten the security and/or safety of the Member and their family.

Suggested response – The Committee support the inclusion of an extra provision in the Code to provide Members with a dispensation from publicly registering sensitive information about their employment. Instead this information could be provided to the Monitoring Officer and would not be available to the public. This confirms the practice adopted locally by the Monitoring Officer. In respect of a requirement to register membership of private clubs and organisations, the Committee may wish to endorse the approach proposed by the Board that, for the sake of clarity and transparency, there should be an explicit requirement to register membership of private clubs and organisations regardless of their location, contrary to the view of the Board that the requirement only should apply to those within the authority's area given the relationships and interests that can be fostered by and between Members through Members

clubs and which can result in a significant body of influence in local government decision-making.

3.10 **Gifts and Hospitality**

Question 26 – Should the Code of Conduct require that the Register of Gifts and Hospitality be made publicly available?

Question 27 – Should Members also need to declare offers of gifts and hospitality that are declined?

Question 28 – Should Members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?

Question 29 – Is £25 an appropriate threshold for the declaration of gifts and hospitality?

Summary – A Member has to declare only those gifts or hospitality received in his or her capacity as a Member over the value of £25.

Suggested Response – The Code should continue to require the register of gifts and hospitality to be made publicly available. Contrary to the view of the Board, the Committee do not believe it necessary to declare offers of gifts and hospitality that have been declined. In those circumstances where gifts come from the same source over a period of time and the cumulative value of the gifts is over £25, and whilst supporting the Board's view that these gifts ought to be registered, the Committee might wish to comment that placing a duty on the Monitoring Officer to maintain a comprehensive record of such gifts would be onerous and difficult. The Code should continue to recognise one off gifts only. The Committee support the £25 limit as still being appropriate.

4. **RECOMMENDATION**

4.1 In the light of the foregoing summary of the Board's consultation paper, the Committee is

RECOMMENDED

to approve the suggested responses to the consultation paper on behalf of the District Council.

BACKGROUND INFORMATION

Standards Board for England Consultation Paper on the Review of the Code of Conduct for Members – January 2005.

Contact Officer: Christine Deller - Democratic Services Manager, (01480) 388007.

STANDARDS COMMITTEE

10TH MARCH 2005

**PREJUDICIAL INTERESTS: APPLICATION FOR DISPENSATION
(Report by the Director of Central Services and Monitoring Officer)**

1. INTRODUCTION

- 1.1 An application has been received from Alconbury Parish Council requesting the Standards Committee to grant dispensations to enable six of their Councillors to speak and vote on matters associated with the Flood Alleviation Scheme proposed in Alconbury.

2. LEGISLATIVE BACKGROUND

- 2.1 The Committee are reminded that the circumstances in which a Standards Committee may grant dispensations to Town/Parish/District Councillors are prescribed in the Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002. These are restricted to cases where the transaction of business of the Authority would otherwise be impeded because –

- (i) the number of Members of the Authority that are prohibited from participating exceeds 50% of those Members that are entitled or required to so participate; or
- (ii) the Authority is not able to comply with any duty which applies to it under Section 15 (4) of the Local Government and Housing Act 1989.

- 2.2 The reference in the foregoing paragraph to the duty under the 1989 Act relates to the requirement for principal Councils ie. not Town/Parish Councils, to allocate seats on Committees, etc proportionately according to the representation of political groups in full Council.

- 2.3 Having regard to the circumstances of an application, Standards Committees are required to consider whether it is appropriate to grant dispensations and their extent, ie whether it is appropriate that the dispensation allows Members to either speak and not vote or to fully participate and vote. The dispensations cannot apply for a period longer than four years.

- 2.4 Where dispensations are granted, Standards Committees must ensure that their nature and duration are recorded.

3. APPLICATION RECEIVED

- 3.1 The Environment Agency has published a 'Preferred Option Consultation' in respect of the Alconbury Flood Alleviation Scheme on which stakeholders, including the Parish Council, have been consulted. The scheme will provide flood defences in the form of earth banks and flood walls through the village centre to protect

properties from flooding. It is anticipated that a planning application for the scheme will ultimately be submitted by the Environment Agency to the District Council as local planning authority for determination. Alconbury Parish Council would be a consultee in that process.

- 3.2 Currently, there are ten Members (1 vacancy) serving on Alconbury Parish Council. Of these six Councillors have been affected by flooding in the past and therefore might be seen to benefit from any future Flood Alleviation Scheme. It is considered that those six Councillors have both a personal interest under the Parish Councils Code of Conduct by virtue of their home address and a prejudicial interest because of the improvements the scheme should bring to the safety and security of their properties.
- 3.3 Because the number of Members of the Parish Council that would be prohibited from participating in meetings when the scheme was being discussed exceeds 50% of those entitled or required to participate, the Parish Council have requested the Standards Committee to grant dispensations to allow those six Members to continue to fully participate in the meeting and to speak to and vote on occasions when the Alleviation Scheme is discussed and when the Parish Council is consulted on the planning application.
- 3.4 Should planning consent be granted, the proposed programme for the work suggests a start on site commencing Winter 2005/Spring 2006. Alconbury Parish Council is scheduled for re-election in May 2006 – thus any dispensation granted would be sufficient to meet the requirements of the Parish Council over the consultation period and leading to the construction works.

4. CONCLUSION

- 4.1 In the circumstances described, dispensations are required to prevent the transaction of Parish Council business from being impeded.
- 4.2 That part of the Relevant Authorities Standards Committee (Dispensations) Regulations 2002 which would enable dispensations to be granted is reproduced in paragraph 2.1 (i) ante.
- 4.3 Should the Committee look favourably on this application, it is suggested that consideration should be given to granting dispensations to speak and to vote to six Members of Alconbury Parish Council for the period ending 30th April 2006 after which time applications for the newly elected Councillors would need to be submitted should it be considered necessary.

Background Papers

The Parish Council's Model Code of Conduct Order 2001

The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002.

Letter received from the Parish Clerk to Alconbury Parish Council

Contact Officer: Christine Deller, Democratic Services Manager
Tel: 01480 388007

STANDARDS COMMITTEE

10TH MARCH 2005

MODEL CODE OF CONDUCT: STANDARDS BOARD NOTIFICATIONS (Report by the Director of Central Services and Monitoring Officer)

1. INTRODUCTION

1.1 In accordance with the procedure adopted by the Standards Board for England for the investigation of allegations, the Monitoring Officer has been notified of the Board's decisions in respect of –

- ◆ an allegation made by a District Councillor against a colleague District Councillor (Case 1);
- ◆ an allegation made by a Parish Clerk against a Councillor serving on Bluntisham Parish Council (Case 2); and
- ◆ an allegation made by a Parish Councillor against colleague Parish Councillors on Oldhurst Parish Council (Case 3).

2. DETAILS OF CASE 1

2.1 At the meeting of the Committee in September 2004 (Minute No 15 refers), the Monitoring Officer reported an allegation that a District Councillor had breached Clause 3 (a) of the Code of Conduct by disclosing information given to him in confidence or information which was of a confidential nature without the consent of the person authorised to give it. At that time, the Standards Board for England had considered the allegation and decided that it should not be investigated. In accordance with Section 112 of the Local Government Act 2003, the complainant in this case requested a review of the decision not to refer the matter for investigation. The allegation was subsequently investigated by an Ethical Standards Officer.

2.2 In a report by the Ethical Standards Officer dated 7th January 2005, the Board concluded that although the District Councillor had allowed information taken from a draft report to be made public, the information was not given to him in confidence nor did he believe it to be of a confidential nature. The Board were of the view that the District Councillor did not fail to comply with Clause 3(a) of the Code and therefore found that there was no evidence of any failure to comply with the District Council's Code of Conduct.

3. DETAILS OF CASE 2

3.1 It has been alleged that a Member of Bluntisham Parish Council has acted without that Council's authority by instructing Contractors, building a new village hall, to undertake additional works at extra cost to the Council without having obtained the Council's approval. The allegation has been referred to an Ethical Standards Officer to investigate and it has subsequently been decided that the matter should be investigated centrally by the Standards Board and not locally by the Monitoring Officer.

- 3.2 The Committee will be advised of the outcome of the case on the conclusion of the investigation by an Ethical Standards Officer.

4. DETAILS OF CASE 3

- 4.1 Case 3 involves an allegation as to the failure of two Parish Councillors to withdraw from a meeting of Oldhurst Parish Council during discussion of a matter on which they had a prejudicial interest. The allegation had been referred to an Ethical Standards Officer who has subsequently passed the matter to the Monitoring Officer for investigation locally. A report on the outcome of the investigation will be submitted to the Standards Committee in due course.

5. CONDUCTING LOCAL INVESTIGATIONS

- 5.1 Members will be aware that the Regulations governing local investigations came into force on 4th November 2004 and that cases are now being referred to Monitoring Officers for investigation. As this process evolves, experience of the responsibilities, in terms of the methodology and practice required under the Regulations to meet the expectations of the Standards Board, will develop. However, it is useful to note the following advice from the Board in respect of “unfair procedures” and “late hearings”.
- 5.2 Members who are dissatisfied with the outcome of a Standards Committee hearing into their conduct can appeal to The Adjudication Panel for England. The subject Member must first request permission to appeal the decision from the President of the Panel setting out which aspects of the hearing the Member wishes to appeal – the decision as to whether the subject Member has breached the Code of Conduct, the sanction, or both. The President will consider whether permission to appeal should be granted.
- 5.3 In some of the appeals that have been permitted to date, it has been noticeable that the subject Member has alleged that Members of the Standards Committee hearing the matter were biased or partial. In some cases, the subject Member has alleged that the Standards Committee procedures were unfair, preventing that Member from receiving a fair hearing.
- 5.4 It is therefore important that Standards Committee Members hearing cases against Councillors should consider not only whether they have a personal or prejudicial interest as set out in the Code of Conduct, but also whether their connection to, relationship with or knowledge of the subject Member could be considered to be biased or give a reasonable Member of the public the impression that the decision could be partial. Standards Committees should also ensure that, as fair as possible, the procedures of the Committee hearing a matter concerning the conduct of a Councillor are fair.
- 5.5 The decision of a Standards Committee on a matter referred for local determination was overturned in January in a judicial review claim, on the grounds that the Standards Committee had taken too long to hear the case.

- 5.6 Mr Justice Hughes gave judgement in *Dawkins v Bolsover District Council* on 10th December 2004. The court quashed the decision of the District Council's Standards Committee because the delay of over 7 months between receipt of the Ethical Standards Officer's report by the Monitoring Officer and the Standards Committee hearing represented a substantial failure to comply with Regulation 6 (2) (b) of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, which set a 3 month deadline for hearings.
- 5.7 The court accepted submissions from Bolsover District Council and the Standards Board for England that there was no automatic loss of jurisdiction once a three-month period expired. Unforeseen circumstances might arise that would make it genuinely impractical to hold the hearing within 3 months. In such circumstances there would be no loss of jurisdiction. Nevertheless, the Standards Committee was under a statutory obligation to meet the 3 month deadline. However, it should not be regarded as a target to aim for. An authority has to plan on the basis that the 3 month deadline must be met. In this case, the evidence showed that Bolsover District Council had failed to put the necessary arrangements in place. The Standards Committee hearing was therefore unlawful.

6. LOCAL INVESTIGATION REGULATIONS

- 6.1 At its last meeting, the Committee requested the Director of Central Services and Monitoring Officer to ask the Council's insurers to consider whether it was appropriate to indemnify against the risk of any potential claim for defamation against an Investigating Officer in the event of the reference by the Board of a case of misconduct by a Councillor which is required to be dealt with locally.
- 6.2 The Council's insurers Zurich Municipal have replied as follows:

"As it is a regulatory duty to carry out these investigations, I am able to confirm that in the event of an action by a Councillor against the Monitoring Officer, or persons appointed to undertake investigations and prepare reports, for defamation arising out of and in the course of the business of the Council, our policy wording would operate, subject of course, to the normal terms and conditions.

We would naturally expect that the Officer concerned would make every effort to ensure that nothing defamatory is recorded in the first instance. And when information must be released, ensure that everything which is required to be deleted or allowed to be deleted is done so if there is any conceivable chance of it being seen as defamatory."

7. CONCLUSION

7.1 The Committee is invited to note

- ◆ that the Standards Board for England has agreed to take no further action in relation to an allegation against a District Councillor but to refer for full investigation two cases involving Members of Bluntisham and Oldhurst Parish Councils; and
- ◆ information on the conduct of local investigations and a response received from Zurich Municipal on the question of an indemnity for the Monitoring Officer or Investigating Officer in the event of a claim arising from a local investigation.

BACKGROUND PAPERS

Letters received from the Standards Board for England dated 25th January and 4th February 2005.

Bulletin No 22 – Standards Board for England.

Contact Officer: Christine Deller
Democratic Services Manager
01480 388007

CURRENT ISSUES
(Report by the Democratic Services Manager)

1. INTRODUCTION

1.1 The purpose of this report is –

- ◆ to advise Members of the progress of the Select Committee Enquiry on “The Role and Effectiveness of the Standards Board for England”; and
- ◆ to invite the Committee to nominate representatives to attend the Fourth Annual Assembly of Standards Committees.

2. THE ROLE AND EFFECTIVENESS OF THE STANDARDS BOARD FOR ENGLAND

2.1 Last September, the Housing, Planning, Local Government and the Regions Committee of the Office of the Deputy Prime Minister (ODPM) resolved to undertake an enquiry into “The Role and Effectiveness of the Standards Board for England” with particular reference to

- ◆ the effectiveness of the Board in promoting and overseeing the Code of Conduct;
- ◆ the role of the Board in ensuring local authorities adhere to a Code of Conduct and its ability to assess allegations of misconduct in a timely and fair way;
- ◆ an examination of the Boards’ relationship with
 - (i) other regulatory organisations that support the ethical framework;
 - (ii) central government;
 - (iii) local government stakeholders; and
- ◆ the role of the Board in supporting the establishment and operation of Standards Committees at local level.

2.2 The Standards Board for England gave evidence to the Committee on 17th January 2005. The Minister for Local and Regional Government also appeared. Other written submissions to complement the Committee hearing have been invited. Copies of the evidence including the Standards Board submission is available on the Parliament website at –

www.publications.parliament.uk/pa/cm/200304/cmselect/cmodpm/1118/1118we01.htm

3. 4TH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

3.1 The Fourth Annual Assembly of Standards Committees Conference is to take place at the International Conference Centre (ICC) Birmingham on 5th and 6th September 2005. The Conference provides an opportunity for Monitoring Officers, Members of Standards Committees and other local government professionals to discuss key issues and on this occasion the conference, to be entitled 'In your hands' will focus on the work of Standards Committees within local government and use the opportunity to

- ◆ examine both good and bad practice
- ◆ identify areas for improvement within their authorities
- ◆ look beyond the scope of the Standards Committee's statutory remit
- ◆ focus on the relationship between Members and their communities; and
- ◆ consider what further support and guidance is needed.

3.2 A comprehensive programme of presentations, plenary discussions and workshops will cover these topics. Keynote speakers will include the Local Government Minister, the Rt Hon Nick Raynsford MP and Sir Alistair Graham who will report on the Committee on Standards in Public Life's Tenth Enquiry. This year's main debate will feature opinion influencers including Tim Minogue, editor of Privates Eye's, Rotton Borough's column.

3.3 Given the possibility that the composition of the Committee may vary after the Annual Council Meeting in May, it is suggested that places initially be reserved for the Chairman and Vice-Chairman, a representative of the opposition group on the Committee, an independent Member and a Town and Parish Council representative. The Monitoring Officer will be able to confirm attendance at the conference following the meeting of the Committee on 7th July 2005.

4. CONCLUSION

The Committee is requested to –

- ◆ note the commencement of the Select Committee Enquiry on the "Role and Effectiveness of the Standards Board for England"; and
- ◆ approve the attendance of Members of the Committee at the Fourth Annual Assembly of Standards Committees Conference.

Backgrounds Papers

Leaflet detailing the content of the Fourth Annual Assembly of Standards Committees Conference.

Bulletin No 22 - Standards Board for England.

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