

A meeting of the **STANDARDS COMMITTEE** will be held in **MEETING ROOM 1, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON, PE29 3TN** on **WEDNESDAY, 24 MARCH 2004** at **4:00 PM** and you are requested to attend for the transaction of the following business:-

**Contact
(01480)**

APOLOGIES

1. MINUTES (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting held on 17th December 2003.

**Christine Deller
(01480) 388007**

2. REVIEW OF COUNCIL CONSTITUTION (Pages 5 - 50)

In accordance with the Committee's terms of reference, to consider a report by the Head of Administration reviewing the Council's Constitution.

**Christine Deller
(01480) 388007/
Roy Reeves
(01480) 388003**

3. LOCAL INVESTIGATION AND DETERMINATION OF MISCONDUCT ALLEGATIONS - CONSULTATION (Pages 51 - 60)

To consider a report by the Executive Director of Central Services and Monitoring Officer in response to consultation papers on arrangements for the investigation of allegations of misconduct by Members.

**Christine Deller
(01480) 388007**

4. APPLICATION FOR DISPENSATIONS (Pages 61 - 62)

To consider a report by the Executive Director of Central Services and Monitoring Officer describing applications received for dispensations from two Parish Councils.

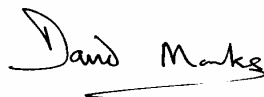
**Christine Deller
(01480) 388007**

5. STANDARDS - CURRENT ISSUES (Pages 63 - 66)

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

**Christine Deller
(01480) 388007**

Dated this 16th day of March 2004



Chief Executive

Please contact Christine Deller, Democratic Services Manager, Tel No 01480 388007 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.

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HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held at Meeting Room 1, Pathfinder House, St Mary's Street, Huntingdon on Wednesday, 17 December 2003

PRESENT: Councillor P J Brant - Chairman
Councillors Mrs B E Boddington, J A P Eddy, J D Fell, A Hansard, C W Looker and J Taylor
Messrs D H Bristow, D L Hall, D MacPherson and G Watkins

APOLOGY: An apology for absence from the meeting was submitted on behalf of Mr D Pattison.

16. MINUTES

Subject to the preparation of an annex to the Minutes to record the detailed variations recommended by the Committee to the text of the Codes and Protocols referred to in Minute No. 11, the Minutes of the meeting of the Committee held on 10th September 2003 were approved as a correct record and signed by the Chairman.

17. ANTI-FRAUD AND CORRUPTION STRATEGY

A report was submitted by the Audit Manager (a copy of which is appended in the Minute Book) to which was attached a proposed Anti-Fraud and Corruption Strategy setting out the District Council's approach towards the tackling of fraud, corruption and theft.

It was explained that arrangements would be made to publicise the Strategy and supporting policies to the public, Members and employees using the local press, website and an edition of the Council's newsletter "District Wide". Having established that in certain circumstances internal disciplinary action as well as prosecution might be initiated against an employee, the Committee requested that the text of paragraph 2.1 of the Strategy be varied to reflect that "appropriate action" would be taken "in all instances where fraud, corruption and theft are found".

RESOLVED

that, subject to the deletion of the words "prosecution where" and "of" from the penultimate and last line of paragraph 2.1 of the Strategy and their replacement with "appropriate action in all instances where fraud, corruption and theft are found", the Cabinet be recommended to approve the Anti-Fraud and Corruption Strategy and to authorise the Audit Manager to take appropriate action to publicise the Strategy both within the District Council and to the public and external organisations.

18. WHISTLEBLOWING - POLICY AND PROCEDURE

By way of a report by the Audit Manager (a copy of which is appended in the Minute Book), the Committee undertook its annual

review of the operation of the whistleblowing policy and procedure.

The Committee noted that one whistleblowing allegation had been received since the procedure had been last reviewed and that steps had been taken to publicise the policy both within the Council and externally. Having been advised that the identity of employees using the electronic disclosure form on the intranet was protected and that major contractors undertaking work for the District Council would be made aware of their entitlement to access the procedure, the Committee

RESOLVED

that the outcome of the annual review of the whistleblowing policy and procedure be noted.

19. LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATIONS) REGULATIONS 2003

Further to Minute No. 12, the Committee considered a report by the Executive Director of Central Services and Monitoring Officer (a copy of which is appended in the Minute Book) proposing a draft procedure for the local investigation and determination of allegations against Councillors.

During debate, the Committee suggested that five Members should comprise a Panel charged with undertaking a determination hearing, that the procedure should be amended to clarify that the Investigating Officer was an appointee of the Standards Board for England and to offer the opportunity to the Investigating Officer equally to bring new matters forward in the same way as a Councillor was entitled so to do.

Subject to revision of the procedure as discussed, the Committee

RESOLVED

- (a) that the Executive Director of Central Services be authorised, after consultation with the Chairman of the Committee, to administer the pre-hearing process and to convene and to appoint Members to hearings as necessary; and
- (b) that the proposed procedure for the hearing of cases by the Committee be approved.

20. MODEL CODE OF CONDUCT - STANDARDS BOARD NOTIFICATIONS

By reference to a report by the Executive 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 made against nine Members of the Development Control Panel and three ordinary Members of the Southoe and Midloe Parish Council but that it had referred to an Ethical Standards Officer a complaint made against the Chairman and one other Member of Southoe and Midloe

Parish Council.

21. APPLICATION FOR DISPENSATIONS

(Councillor C W Looker declared a personal interest in the following item in view of his membership of the Huntingdon and Godmanchester Twinning Association.)

The Committee were acquainted, via a report by the Executive Director of Central Services and Monitoring Officer (a copy of which is appended in the Minute Book) with an application received from Huntingdon Town Council for dispensations to allow six Members of their Twinning Sub-Committee to speak and vote in meetings of the Sub-Committee when matters arose relating to applications for grant and budgetary issues associated with their twinning functions.

Having regard to the advice of the Monitoring Officer, the Committee

RESOLVED

that dispensation to speak but not vote on budgetary issues associated with the twinning activities of the Huntingdon and Godmanchester Twinning Association be granted to six Members of the Twinning Sub-Committee of Huntingdon Town Council for the period ending 30th April 2007.

Councillor P J Brant
Chairman

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STANDARDS COMMITTEE

24TH MARCH 2004

REVIEW OF COUNCIL CONSTITUTION (Report by the Head of Administration)

1. INTRODUCTION

- 1.1 At their meeting in April 2002 and in acknowledging that the then new constitutional arrangements introduced using the Cabinet/Leader system would continue to evolve, the Council requested the Standards Committee to undertake an annual review of the Constitution. Under its terms of reference, oversight of the Constitutional arrangements of the Council is the responsibility of the Standards Committee. This report introduces the review commissioned during the current year.
- 1.2 Adopting the same approach undertaken during the review in 2003, the Cabinet and all Panels have been offered the opportunity to comment collectively on those aspects of the Constitution which affect their terms of reference during the January/February meeting cycles. Members also had been invited to submit comments individually by the end of January. Chief Officers and Heads of Service also have been similarly requested to highlight issues which have arisen based on practical experience of the operation of the Constitution since its implementation in May 2002 and subsequent review in May 2003.
- 1.3 To identify the changes proposed, Members will need to refer to the Constitution circulated to them in May 2003. Alternatively a copy is available electronically on both the Council's web site and intranet. Members are requested to bring their copy with them to the meeting for reference.

2. GENERAL CHANGES

- 2.1 The Council may amend their constitution at any time, subject to regard being paid to formal guidance issued by the Secretary of State. Any change will require reference to the Secretary of State only if the Council propose to change significantly the present form of Executive and Scrutiny arrangements.
- 2.2 The Constitution is divided into 16 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols. A series of changes are required to Articles 1 – 16 to correct minor typographical errors and to update the text to reflect:-
- ◆ new legislation;
 - ◆ alterations to –
 - table 2 – appointments to outside organisations (to reflect the addition/variation of appointments);

table 4 – scheme of delegation (to incorporate subsequent amendments to the scheme).

3. DECISION-TAKING BY EXECUTIVE COUNCILLORS

(p23 Article 7 The Cabinet

p71 Table 3 - Responsibility for Executive Functions

p75 Scheme of Delegations)

- 3.1 The Local Government Act 2000 introduced the concept of decision taking by individual Councillors who are Members of the Cabinet. This is not reflected specifically in Article 7 relating to the Cabinet and Table 3 which lists who is responsibility for executive functions. The following changes are therefore proposed.
- 3.2 On page 23 and paragraph 1, the description of the Cabinet should be expanded by the addition of the sentence – “The Cabinet will undertake those functions either collectively or by delegation to a panel of the Cabinet or to individual executive councillors as specified in Tables 3 and 4 of Part 3 of this Constitution.”
- 3.3 Table 3 of Part 3 then requires a further box to be added to reflect the responsibility of Executive Councillors for decision-making delegated to them by the Cabinet.
- 3.4 The introduction to Table 4 (second paragraph) refers only to the delegation of decision making to individuals under the Local Government Act 1972 which is restricted to non-executive decision making only. Executive decision-making is delegated under Section 15 of the Local Government Act 2000. It is proposed that the appropriate changes be made.

4. ARTICLE 9 – STANDARDS COMMITTEE (p27)

- 4.1 Part III of the Local Government Act 2000 provided for the establishment of a new framework to maintain high standards of conduct in local authorities. The main component of this ethical framework included the establishment by every authority of a Standards Committee. The first meeting of the Standards Committee in Huntingdonshire took place in July 2000. Since its inception, the Committee has been chaired by a member of the majority party group. Since May 2003 the Committee has comprised three independent members. These appointments have overcome difficulties in the consistency of attendance experienced in the past.
- 4.2 It is the view of the Standards Board that independent Members bring a fresh perspective to the work of Standards Committees and by extension, to the authorities themselves. Appointing independent members to Standards Committees is a way of involving citizens with a commitment to public service in the promotion of high standards of conduct among elected representatives. Appointing an independent member as Chairman of the Committee would send a strong message to the public that the District Council values impartiality and fairness.

- 4.3 The CPA Peer Challenge Team in their report of November 2003 reflecting on the Council's Constitutional arrangements, commented –
- “that it was inappropriate that the Council's Standards Committee should be chaired by a Councillor rather than an Independent Member and, with the changes to the independent membership, the Council might usefully revisit this issue”.
- 4.4 The Committee may recall that it has already resolved that in the event of cases being referred for determination locally, an independent Member shall chair the hearings.
- 4.5 The role of independent members has developed since the inception of Standards Committees and networks have been set up nationwide to support Members in terms of shared experiences, common issues, and training etc. The Standards Board for England also has supported the groups established. In addition to guidance offered by the Monitoring Officer, external training is also now available to help independent members keep abreast of new and emerging issues and broaden understanding of the role and responsibilities of Standards Committees. A survey of some 24 authorities classified as ‘excellent’ or ‘good’ in CPA Inspections to date has shown that the majority of Standards Committees are chaired by an independent member.
- 4.6 In view of the conclusions of the CPA Peer Review it may be timely and appropriate to consider incorporating a similar requirement within the Constitution. While legislation and regulations do not specify a term of office for independent members, the Standards Board recommend that authorities set a term of office similar to that of other members of the authority. Evidence suggests that most authorities appoint independent members for a period of 2 – 4 years.
- 4.7 Currently the Chairman has the task of presenting the report of the meeting(s) of the Committee to the Council. Although the Committee meets quarterly and therefore reports to Council on only 4 occasions during the Municipal Year, there is an expectation that the Chairman should attend all ordinary Council meetings (5) in the event that questions are asked of him/her. Should the Committee be minded to recommend the appointment of an independent member to act as Chairman, consideration also would need to be given to whether the Constitution requires amendment to reflect that the Chairman of the Committee irrespective of whether that person is an elected Member should assume responsibility for the presentation of reports to Council meetings.
- 4.8 The Local Government Act 2000 and the Relevant Authorities (Standards Committee) Regulations 2001 set out a range of functions for Standards Committees. These functions are only a minimum requirement, however, and do not exclude other functions which an authority feels are proper for its Standards Committee to undertake.
- 4.9 The Committee will be aware that their workload potentially may increase shortly which suggests that some of the “other functions” within their terms of reference on page 29 of the Constitution may be inappropriate located within the Committee’s remit. This, together

with the need to determine the location of certain governance and financial responsibilities is the subject of a separate exercise which will be reported to Members shortly.

4.10 A copy of the Committee's revised terms of reference would require to be submitted to the Standards Board for England.

4.11 **The Committee are invited to consider whether to appoint an Independent Member to act as Chairman with effect from the commencement of the municipal year 2004/5 and to note the possibility that their terms of reference may vary following further review.**

5. ARTICLE 12 – OFFICERS (p33)

5.1 At their meeting on 16th March, 2004 the Employment Panel considered a report by the Chief Executive proposing a revision to the structure of the Management Team to meet the Council's current needs. Since the Council's establishment was last restructured in 1996 there has been a series of changes to the organisation in management terms prompted initially by the transfer of the Council's housing stock to Huntingdonshire Housing Partnership, the creation of separate divisions for community services and operations and transferring the economic development function to the Policy Division of the Central Services Directorate.

5.2 The designations of the Directors have largely evolved in view of circumstances at the time of the original restructure and subsequent recruitment. The Management Team currently comprises the Chief Executive and three Directors namely –

- Director of Operational Services
- Corporate Director, Commerce and Technology
- Executive Director of Central Services.

5.3 However, in order to bring consistency to the organisation and to respond positively to the conclusions of the CPA Peer Reviewers the Chief Executive has proposed that each post should be entitled "Director".

5.4 Subject to the decision of the Employment Panel, Article 12 of the Constitution and all other references made to the Management Team in the Constitution will require to be adjusted to reflect the following designations –

- Director of Operational Services
- Director of Commerce and Technology
- Director of Central Services.

5.5 The report to the Employment Panel on the designation of Chief Officers and the role of the Director of Central Services has highlighted an inconsistency in the description of the Chief Executive's responsibilities in Article 12 on page 33 compared with that described in the Management Structure on page 295. In paragraph 2 (b) of Article 12, the Chief Executive's functions and

areas of responsibility are described as “overall corporate management and operational responsibility.....”. With the changes approved by the Employment Panel, the word “operational” should be replaced with the word “strategic” which is consistent with the description in the Management Structure later in the Constitution.

6. COUNCIL PROCEDURE RULES (STANDING ORDERS) (p155-171)

Section 10A – Petitions (p162)

6.1 Since the introduction of the procedure for petitions to be submitted at meetings of the Council, questions have arisen in respect of the interpretations of Rule 10A.5 on page 162 of the constitution. The rule prevents a Member of the Council from speaking to the petition under the procedure but then refers later to a debate or discussion on the item. It also refers to the Council deciding upon whether the contents of the petition should be referred to Cabinet, etc which would be precluded by the inability of Members to speak other than to ask questions.

6.2 In practice, the procedure is intended to prevent any discussion on the petition at the time when it is presented, other than to discuss and decide upon whether the petition should be referred to the Cabinet, etc for debate. The petition could of course relate to an item which appears later on the Agenda for that Council meeting. In the latter case, Members may wish to discuss the content of the petition but only when the Agenda item itself is being debated.

6.3 **It is recommended that minor changes be made to Rule 10A.5 to clarify when Members may speak on petitions that are submitted.**

Section 11 – Rules of Debate (p164)

6.4 The mover of an amendment to a Motion has no right of reply to the debate on his or her amendment. Councillor Downes has requested that the rules relating to “right to reply” be amended to enable the mover of an amendment to have a right of reply at the conclusion of the debate on the amendment.

6.5 The Cabinet has indicated that it would not object in principle to an amendment to the rules which would give a right of reply to the mover of an amendment in debate.

6.6 **The Committee is invited to consider the issue.**

Section 12 – State of the District Debate (p166)

6.7 The Leader of the Council introduces a State of the District debate annually at the September meeting of the Council deciding the form of the debate with the aim of enabling the widest possible public involvement and publicity. Councillor Downes has proposed that further consideration be given to the intentions of the section of the Constitution relating to “publicity” in order to encourage increased public interest in the content of the debate.

6.8 In response, the Cabinet neither recognises the need for nor supports the suggestion in relation to the need for additional publicity for the annual debate on the state of the District.

6.9 **The Committee is invited to consider the issue.**

**7. ACCESS TO INFORMATION PROCEDURE AND RULES
(p177-187)**

7.1 Under the provisions of Part III of the Local Government Act 2003, Ethical Standards Officers appointed by the Standards Board for England may carry out investigations into allegations that a Member of an authority in England has failed to comply with an authority's code of conduct. An Ethical Standards Officer may choose to refer the matters under investigation and send the report on the outcome of his investigation to the Monitoring Officer of any authority concerned. The Local Authority (Code of Conduct) (Local Determination) Regulations 2003 make provision in respect of the way such matters referred to Monitoring Officers are to be dealt with. The 2003 Regulations modify that part of the Local Government Act 1972 which relates to access to meetings and documents of certain authorities, committees and sub-committees to meetings of Standards Committees.

7.2 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed. The description of exempt information falls into fifteen categories. Where a Standards Committee is meeting to deal with an allegation relating to a breach of the code of conduct under these Regulations, the categories of exempt information have been further modified to comprise categories 16-19 as follows -

- “16. information relating to the personal circumstances of any person;
- 17. information which is subject to any obligation or confidentiality;
- 18. information which relates in any way to matters concerning national security and;
- 19. the deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 64(2) or 71(2) to the Local Government Act 2000.”

7.3 **It is recommended that paragraph 10.3 of the Access to Information Rules be varied to provide for the inclusion of additional categories of exempt information in accordance with the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.**

**8. PART IV –
OVERVIEW AND SCRUTINY PROCEDURE RULES (p199-205)**

Creation of a Third Overview and Scrutiny Panel and Review of the Terms of Reference of the Overview and Scrutiny Panels

- 8.1 The operation of the Overview and Scrutiny Panels has prompted most comments during the review, primarily from the Panels themselves and from the Leader of the Opposition, Councillor Downes.
- 8.2 The Overview and Scrutiny Panels are responsible for setting their own programme and also have a critical role in relation to policy review and development. Although the Panels meet monthly, meetings often continue until after 10 pm. Studies commissioned by the Panels may involve presentations by Officers or external organisations and guest speakers are invited to attend meetings to widen the Panel's understanding of the subject matters under review. In addition, there may be policy items to scrutinise together with the items placed regularly on the Panel agenda to monitor the Forward Plan, Decision Digest and Best Value Reviews. Special meetings of both Panels occurred in the Autumn to consider the Council's budget to give Members the time to consider the issue in the depth required. Both Panels requested the establishment of a third Panel to assist with the workload which has developed and should this proposal be acceptable a corresponding review of the Terms of Reference of the existing Panels would be required.
- 8.3 Having considered the suggestions put forward by the Overview and Scrutiny Panels, the Cabinet neither recognised the need for nor support the creation of an additional Overview and Scrutiny Panel.
- 8.4 **The Committee is invited to consider the issue.**

Policy Framework

- 8.5 The role of the Overview and Scrutiny Panels in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules. This provides for the publication, in advance, of a Forward Plan of Key Decisions which details a programme of policy, strategy or budget items to be considered by the Cabinet over a four-month period. It is open to the Overview and Scrutiny Panel to investigate, research or report on these issues in further detail by requesting the submission of items appearing on the Forward Plan to one of their meetings. Recommendations by the Panels are submitted to the Cabinet to consider together with the policy issue under discussion. The decisions of the Cabinet are required to be published and the relevant Overview and Scrutiny Panel is entitled to call-in a decision for scrutiny.
- 8.6 One of the Panels has commented that proposals for change to existing policy and new Council policy should be submitted to the relevant Overview and Scrutiny Panels as a matter of course and has

requested that on those occasions when the Overview and Scrutiny Panel make recommendations to the Cabinet on the conclusion of major studies which they have commissioned the Cabinet should formally respond with recommendations to the Overview and Scrutiny Panel.

8.7 Given the arrangements for the publication of the Forward Plan, the Cabinet does not recognise the need to make additional provision in the Constitution requiring all policy changes to be submitted to the Overview and Scrutiny Panels prior to their consideration by the Cabinet.

8.8 **The Committee is invited to consider the issue.**

Attendance by Others

8.9 Paragraph 13 of the Overview and Scrutiny Procedure Rules provides for the Panels to invite individuals other than Councillors or Members to address them. Councillor Downes, has requested that this rule be extended to enable the Chairman of a Panel to invite individuals in the public gallery to speak for up to two minutes where it is considered that the person might have a valuable contribution to make to the debate. These individuals would not have been formally invited to attend the meeting.

8.10 It is the view of the Cabinet that the facility for members of the public to be invited to speak at meetings of the Overview and Scrutiny Panels is covered adequately by paragraph 13 of the Constitution.

8.11 **The Committee is invited to consider the issue.**

Scheme of Substitution

8.12 A proposal to appoint substitute Members to Committees, Panels and Advisory Groups was considered but not supported by the Committee during the review of the Constitution in 2003. Both the Overview and Scrutiny Panel (Service Delivery and Resources) and Councillor Downes have raised the issue again. A copy of a potential scheme that was submitted to Members during the review in 2003 is reproduced at Appendix A. Should it be decided not to adopt a scheme for the appointment of substitute Members across all Panels and Groups, Councillor Downes has requested that consideration be given to the appointment of permanent and named substitutes to assist attendance at meetings of the Overview and Scrutiny Panels given the regularity of their meetings and the heavy workload which they entail.

8.13 Reviewing the question of substitution arrangements generally, the Cabinet has commented that if recommended, substitute Members should be named and nominated prior to the meeting, absences should continue to be recorded and a proportionate approach adopted.

8.14 **The Committee is invited to consider the issue.**

9. CODES OF FINANCIAL MANAGEMENT AND PROCUREMENT (p207-232)

9.1 Changes to the Codes of Financial Management and Procurement are proposed to reflect inflationary increases and the introduction of Prudential Indicators. Amended copies of both Codes are attached at Appendices B and C.

9.2 **The Committee is requested to recommend to Council the adoption of revised Codes of Financial Management and Procurement.**

10. OFFICER EMPLOYMENT PROCEDURE RULES (p233 – 236)

10.1 The Officer Employment Procedure Rules prescribe arrangements for appointments to the posts of the Head of the Paid Service, other Chief Officers and Heads of Service. Currently the rules provide for a Panel of the Council to appoint Chief Officers (other than the Head of the Paid Service) and Heads of Service or their equivalent. That Panel must include at least one Member of the Cabinet. It has been suggested that in practice it would be of greater benefit to the service and offer increased flexibility if the Procedure Rules were varied to allow the membership of the Panel, currently four Councillors, to specify the inclusion of the relevant Executive Councillor.

10.2 **It is recommended that paragraph 4 (b) of the Procedure Rules be amended to enable the Panel appointed by the Council to specify the inclusion of the relevant Executive Councillor as opposed to a Member of the Cabinet.**

11. CODES OF PROTOCOLS (p247)

11.1 Members are reminded that at their meeting held on 24th September 2003, on the recommendation of the Committee and the Employment Panel, the Council adopted for incorporation into the Constitution –

- ◆ the Planning Code of Good Practice;
- ◆ the Protocol of Member/Employee Relations
- ◆ the Protocol for Community leadership by Members; and
- ◆ the Employees Code of Conduct.

12. MEMBERS' ALLOWANCES SCHEME (p283 – 292)

12.1 The Independent Advisory Panel was reconvened in the Autumn to review the scheme of allowances payable to District Councillors in the light of the Local Authorities (Members' Allowances) (England) (Amendment) Regulations 2003. Following consideration of the recommendations of the Panel, the Council approved a new scheme of allowances to take effect from 1st January 2004. In addition to basic and special responsibility allowances for District Councillors, the scheme provides for the payment of childcare and dependants' allowances and the use of the average Cambridgeshire salary as indicated within the "New Earnings Survey" published by the Office of National Statistics as an index mechanism to enable the scheme to

be adjusted to reflect future inflationary changes. That mechanism will apply until 31st December 2007.

- 12.2 For the first time, the scheme specifies Member entitlement to travel and subsistence allowances and the payment of a basic allowance to co-opted Members and Parish Council representatives who serve on the Standards Committee together with travel, subsistence and care allowances. The Standards Committee also was authorised to withhold allowances in the event of the partial or full suspension of a Member under Part III of the Local Government Act 2000.
- 12.3 The revised Members' Allowances Scheme as approved by the Council has been incorporated into Part 6 of the Constitution.

13. DEVELOPMENT OF JOB DESCRIPTIONS FOR MEMBERS

- 13.1 The Overview and Scrutiny Panel (Service Delivery and Resources) have requested that consideration be given to the introduction of job descriptions for Members who have been appointed to posts within the political management framework of the Council, ie Leader of the Council, Chairman of the Cabinet, Chairmen of Overview and Scrutiny Panels. Some work has been undertaken in this respect in the past and will be reviewed as part of the continuing development of support to Members.

14. PUBLIC FORUM AT COUNCIL MEETINGS

- 14.1 Both the Overview and Scrutiny Panel (Service Delivery and Resources) and Councillor Downes have commented on ways to broaden the role of the Council meeting by the introduction of a time-limited session at the commencement of the Council whereby members of the public could be invited to put questions to the Cabinet and Chairmen of Panels and Committees on the Council. It is considered that this initiative would further promote efficient, effective and accountable decision-making and the active involvement of the public in the Council meetings.
- 14.2 Locally, Cambridge City, East Cambridgeshire and South Cambridgeshire District Councils and Peterborough City Council have schemes which enable citizens to participate in Council meetings. With the exception of East Cambridgeshire, questions are required to be submitted in advance over various time periods. A potential scheme for a public question time in Huntingdonshire is enclosed at Appendix D.
- 14.3 In their consideration of this development, the Cabinet neither recognises the need for nor supports the proposals for a forum to enable members of the public to ask questions or to speak at Council meetings.
- 14.4 **The Committee is requested to consider the issue.**

15. DECLARATION OF INTERESTS

- 15.1 The introduction of a Code of Conduct under the new ethical framework requires Members to declare their personal and prejudicial interests at all meetings where the matters being discussed, or to be discussed, relate to issues in which the Member considers that they have an interest. Current practice provides for Members to declare their interests, whether personal or prejudicial, at the commencement of the business to be discussed and for that declaration to be recorded formally in the Minutes prior to the Minute of that item. An alternative approach to the declaration of interests was suggested at the meeting of the Development Control Panel.
- 15.2 It was proposed that a standard item be included on every Agenda which would allow all interests anticipated by Members in relation to the business to be transacted to be declared at one point during the meeting rather than in advance of individual items. This is the practice at some other local authorities.
- 15.3 In practice, it can be difficult for Democratic Services Officers to note interests declared if they are delivered in haste at the start of a meeting and to readily identify which Agenda items the interests might refer to. There may also be instances where discussion on an item takes a particular course which results in a Member present having to declare an interest which he/she may not have anticipated at the start of the meeting.
- 15.4 In Huntingdonshire and other than at meetings of the Development Control Panel, interests tend to be declared infrequently and their recording at the commencement of each new Agenda item is not considered to be a significant issue. However, the issue of whether or not to include an item for "Declaration of Interests" is not necessarily one which requires to be reflected in the Constitution. It could be considered to be an administrative measure which, if thought to be of benefit, could be introduced at some future date.
- 15.5 **The Committee is invited to consider the issue.**

16. RECOMMENDATION

- 16.1 The Committee is requested to consider the recommendations contained in the foregoing paragraphs and to recommend the Council accordingly.

BACKGROUND DOCUMENTS

HDC Constitution

Minutes of the meetings of the Cabinet and Overview and Scrutiny Panels

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

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APPOINTMENT OF SUBSTITUTE MEMBERS

1. INTRODUCTION

- 1.1 At the meeting of the Council held on 25th September 2002, the following Motion proposed by Councillor J Taylor and amended by Councillor D P Holley was approved –

“that consideration be given to a variation in the Council Procedure Rules (page 160) to reflect this Council’s support in principle for the adoption of a scheme to allocate substitute Members to Committees and Panels and that the Chief Executive be requested to consult the Leader of the Council and the Opposition Group Leader in conjunction with the preparation of a report for consideration at the next ordinary meeting on the adoption and implementation of such a scheme”.

- 1.2 A proposed scheme for the appointment of substitute Members to Committees, Panels and Advisory Groups is enclosed as an Annexe.

2. CONSULTATION

- 2.1 In accordance with the terms of the Motion, the Leader of the Council and the opposition Group Leader, Councillor M G Baker were given the opportunity to consider the content of the proposed scheme in advance of its circulation to all Members.

3. CONCLUSION

- 3.1 The Council is invited to consider the adoption of a proposed scheme for the appointment of substitute Members to Committees, Panels and Advisory Groups, its incorporation within the Council Procedure Rules of the District Council’s Constitution with effect from 14th May 2003 and the relevant date for implementation.

DRAFT PROCEDURE

APPOINTMENT OF SUBSTITUTE MEMBERS TO COMMITTEES, PANELS AND ADVISORY GROUPS

1. ALLOCATION OF SUBSTITUTES

The Council at its Annual Meeting shall appoint named substitute Members from each political group, equivalent to one-third of the representation to which the group is entitled to attend Committees, Panels and Advisory Groups of the Council in the absence of ordinary Members.

For the purposes of determining a group's entitlement to substitute members –

- ◆ in rounding fractional calculations, one-third shall be rounded down and two-thirds shall be rounded up, provided that
- ◆ each group which is represented on a Committee, Panel or Advisory Group shall be entitled to nominate a minimum of one substitute member.

A Member of the Council who is not aligned to a political group ("independent Member") shall be entitled to appoint one other named "independent Member" to take his/her place in the event of his/her absence at meetings of any Committee, Panel or Advisory Group to which s/he is appointed.

The Leader, Deputy Leader and any Member of the Cabinet shall not be appointed as a substitute Member to an Overview and Scrutiny Panel and neither shall a Member of an Overview and Scrutiny Panel be appointed as a substitute Member to the Cabinet. The Leader shall not be appointed as a substitute Member to the Standards Committee.

As the Constitution of the Development Control, Employment and Licensing and Protection Panels provides for the appointment of only one Member of the Cabinet with Portfolio responsibility at each Panel, Portfolio holders other than the one with appropriate responsibility for those non executive functions within the terms of reference of each Panel may be appointed as substitute Members to the Development Control, Employment and Licensing and Protection Panels but may only attend in the absence of the appropriate Portfolio holder.

2. POWERS AND DUTIES

Other than the Standards Committee which shall not be Chaired by a Member of the Cabinet, substitute Members, when substituting for an ordinary Member of the Committee, Panel or Advisory Group shall have the powers and duties of any ordinary Member of the Committee, Panel or Advisory Group but shall not be able to exercise any special powers or duties exercisable by the person for whom they are substituting.

A substitute Member shall be entitled to be elected Chairman or appointed Vice-Chairman of the meeting of the Committee, Panel or Advisory Group at which s/he is in attendance but s/he shall be so elected or appointed for the duration of that meeting only.

The named Members appointed as substitute Members to the Overview and Scrutiny Panels shall not be entitled to participate in the Call-In procedure.

3. PROCESS FOR ATTENDANCE

Substitute Members may attend meetings in that capacity only -

- (i) to take the place of an ordinary Member of the Committee, Panel or Advisory Group for which s/he is the designated substitute;
- (ii) after notifying the Head of Administration or the relevant Democratic Services Officer of the intended substitution by 10am on the day of the meeting; and
- (iii) in the event of the ordinary Member not being present at the start of the meeting.

Attendance at a meeting of the Committee, Panel or Advisory Group for the purposes of substitution shall be determined at the start of the meeting and substitution or further substitution shall not be permitted during the course of the meeting.

4. GENERAL

- (i) A Member tendering an apology for absence at a meeting shall have that absence recorded irrespective of a substitute Member attending in his/her place to enable an accurate record of attendance to be published at the ensuing Annual Council meeting.
- (ii) Substitute Members shall be eligible for travelling, subsistence and carer's allowances as if they were appointed Members of the Committee, Panel or Advisory Group.
- (iii) Substitute Members attending meetings of the Development Control Panel shall not be eligible to receive the Special Responsibility Allowance payable to ordinary Members of the Panel but shall be entitled to claim reimbursement for the travelling and subsistence costs incurred when undertaking site visits in connection with the meetings.
- (iv) Those appointed as named substitute Members shall be invited to undertake appropriate training necessary to enable full participation in the business of the Committee, Panel or Advisory Group to which they are appointed, eg the Development Control or Licensing and Protection Panels.
- (v) Named substitute Members shall receive agenda issued for all meetings of the relevant Committee, Panel or Advisory Group

to which they are appointed to assist in continuity and knowledge of issues under consideration.

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CODE OF FINANCIAL MANAGEMENT

1. FINANCIAL RESPONSIBILITIES**1.1 General**

Before any proposal that materially affects the Council's financial position is made the body or person(s) responsible for making that decision shall consider a written report, approved by the Corporate Director, Commerce and Technology, detailing the financial implications.

1.2 The Council

Will be responsible for ensuring that financial management is adequate and effective and reviewing annually the effectiveness of the systems of internal control.

Will determine the Council's Financial Strategy, including a Medium Term Financial Plan (MTP), approve the Council Tax Base, decide the Prudential Indicators, approve the Annual Budget and final accounts and set the level of Council Tax.

1.3 The Cabinet

Will propose to the Council the Financial Strategy, Medium Term Financial Plan, Prudential Indicators and the Annual Budget after appropriate consultation, which will include the Overview and Scrutiny Panels.

Will set financial priorities, allocate and re-allocate resources, monitor and review financial performance, adopt a Treasury Management Policy and Annual Strategy.

1.4 Overview and Scrutiny Panels

Will contribute to the development of and review the effectiveness of the Council's Financial Strategy, Medium Term Financial Plan and Annual Budget.

1.5 Panels or Committees

Will ensure that all decisions within their remit are made within the resources allocated within relevant Service Financial Plans and are consistent with achieving the Council's objectives. If they wish to make proposals that will require additional resources these will need to be subject to the Cabinet or Council making these available.

1.6 Members and Employees

Will contribute to the general stewardship, integrity and confidence in the Council's financial affairs and comply with this Code and any systems, procedures, or policies relating to the financial management of the Council.

Specifically, they shall bring to the attention of the Director of Commerce and Technology any act or omission that is contrary to the provisions of this Code

or the maintenance of high standards of financial probity and provide information or explanation on matters within their responsibility to him/her, the Monitoring Officer, Internal Audit Service or the Council's external auditors.

Any Member or Officer who is involved or who has an interest in a transaction between a third party and the Council shall declare the nature and amount, if material, in accordance with the Accounting Standards Body's Financial Reporting Standard no. 8.

1.7 **The Director of Central Services, as Monitoring Officer** or in his absence the Head of Legal and Estates

Will report to the Council on any proposal, decision or omission that in his view is likely to result in the contravention of the law or any code of practice enacted under it, fails to comply with a legal duty, represents maladministration or is unjust, in accordance with section 5 of the Local Government and Housing Act 1989.

For these purposes he/she shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.

1.8 **The Director of Commerce and Technology, as Chief Finance Officer** or in his absence the Head of Financial Services

Will be responsible for the proper administration of the Council's financial affairs, prescribe appropriate financial systems, protocols, procedures and policies, maintain an internal audit and report to the Council in the event of a decision or action leading to unlawful expenditure, a loss or deficiency or an unlawful accounting entry (in accordance with section 151 of the Local Government Act 1972, section 114 of the Local Government Act 1988 and the Accounts and Audit Regulations).

Will be responsible for ensuring the final accounts are completed and published by the statutory dates and reporting the details of any material amendments required by the external auditor to the Council.

For these purposes he/she shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.

1.9 **The Head of Financial Services**

Will be responsible for detailed and operational aspects of the administration of the Council's financial affairs on behalf of the Director of Commerce and Technology, approving new financial systems and undertaking such duties as are set out in this Code.

1.10 **Chief Officers and Heads of Service**

Will be responsible for the proper financial management of the services and functions under their control and for establishing, maintaining and documenting adequate systems of internal control and financial monitoring, in consultation with the Internal Audit Service, and ensuring that relevant employees or Members are familiar with such systems.

They may incur financial commitments and liabilities in accordance with this Code, the Council's Scheme of Delegation and resources allocated in Service Financial Plans.

Will be responsible for providing in a timely manner, the information necessary to ensure that the final accounts can be completed by the statutory deadlines.

They are responsible also for reviewing and varying fees and charges annually for services under their control to reflect service objectives and Council policies.

1.11 Internal Audit

Will be responsible for providing an independent and objective opinion on internal control, risk management and governance systems. In accordance with its terms of reference it shall undertake audit reviews that focus on areas of greatest risk to the Council in accordance with a programme agreed annually by the Director of Commerce and Technology after consultation with Heads of Service.

For these purposes internal audit shall have full and unrestricted access to all Council assets, systems, documents, information, employees and Members.

1.12 Financial Limits

All financial limits included in this Code shall be updated by the most recently published annual increase in the RPI index on the 1st April each year and then rounded up to the next £100. The amended limits will be circulated as an Annex to this Code.

2. FINANCIAL AND SERVICE PLANNING

2.1 In the Summer - Overall Review

The Cabinet shall review the financial performance of the Council in the previous year, compared with the Annual Budget on the basis of a report prepared by the Head of Financial Services in conjunction with Heads of Service.

2.2 In the Autumn - Financial Strategy

The Cabinet, after consultation with the Overview and Scrutiny Panels and appropriate organisations and bodies, shall recommend to the Council a Financial Strategy which will be used to determine the overall financial limits within which the Annual Budget (financial plan) and MTP will be prepared.

2.3 In the Winter - Annual Budget and MTP

The Cabinet shall, after consultation with the Overview and Scrutiny Panels, recommend to the Council a draft Annual Budget for the next financial year and a MTP for the succeeding four years, incorporating both capital and revenue expenditure, which is consistent with corporate and service strategies and the Financial Strategy.

The Cabinet shall, after consultation with the Overview and Scrutiny Panels, recommend to the Council a final Annual Budget, MTP and Council Tax level which reflects any variations to the draft figures already reported. This Budget will include the allocation of resources to individual services and capital projects.

2.4 In the Spring - Service Financial Plans

Following approval of the Annual Budget each Head of Service shall update their Service Plan(s) to incorporate a Service Financial Plan, which details variations in the level of fees and charges and how the resources allocated will be used to meet service objectives in the forthcoming year.

3. CONTROLLING FINANCIAL PLANS

3.1 Increases and Commitments to Expenditure in Future Years

Commitments to expenditure beyond the current budget year may be made by a relevant Head of Service provided they are -

- ◆ consistent with the achievement of service objectives,
- ◆ compatible with the Council's Financial and other relevant Strategies, and
- ◆ can be met from their current budget level taking account of any already approved variations in subsequent years (this excludes MTP bids starting in future years as they are subject to annual review before inclusion in the budget)

If the Head of Service has any concerns about their proposal meeting these requirements they must consult the Head of Financial Services.

Where a Head of Service proposes to take advantage of grants from other organisations, or some other form of cost sharing, whereby they will be able to deliver additional or improved services, consistent with their Service Plan, without creating any current or future commitment to additional net expenditure they may do so subject to having first -

- ◆ Informed the Head of Financial Services of the details
- ◆ Consulted the relevant executive councillor(s) if the proposal exceeds £20,000 revenue or £50,000 capital in any one year.

Proposals for increases to the total allocated to Service Financial Plans in the current year (Supplementary Estimates) and their impact in future years may be approved by the Cabinet subject to the revenue impact not exceeding £300,000 in aggregate in any financial year. The impact of such approvals will be included in appropriate financial reports within the budget/MTP process and once Council have noted these items the Cabinet's limit will be re-set. This limit excludes any items funded from the contingency budget as described in the following paragraph.

The Director of Commerce and Technology, may authorise the use of the contingency budget subject to the item complying with the approved guidelines and following consultation with the relevant executive councillor(s).

In all other cases the approval of the Council will be required.

3.2 Budget Transfers

The transfer of resources between budgets is supported where it will make it more likely that the Council will achieve its service objectives and targets or enhance value for money. There do however need to be some limitations to ensure executive councillor, Cabinet and Council are aware of any significant changes.

The Council has two types of budget. The first, service budgets, are defined for this purpose as the lowest level of detail supplied to the Council when they approve the annual budget. The Annex to this Code provides the list for 2004/05 and the services which are listed within each Service Grouping. The breakdown of an approved Service Budget into specific elements of income and expenditure is initially determined by the relevant Head of Service and can be varied at any time subject to him/her first consulting the Head of Financial Services.

The other type of budget is a Management Unit and this groups together the employee and ancillary costs for each section of employees before they are allocated to the service budgets they are providing support to. Each Head of Service will have responsibility for a number of these Management Units.

A Head of Service may approve a budget transfer between the Management Units that they are responsible for providing it is consistent with achieving service objectives and compatible with the Council's Financial and other relevant Strategies. The Head of Financial Services shall be notified of the detail of any budget transfer.

Chief Officers may approve budget transfers between services within a Service Grouping and the Management Units that their Heads of Service are responsible for providing it is consistent with achieving service objectives and compatible with the Council's Financial and other relevant Strategies. The Head of Financial Services shall be notified of the detail of any budget transfer.

Budget transfers **between** Service Groupings, Capital schemes or between the Management Units of different Directorates, where this will not preclude the achievement of service objectives, may be approved by the Director of Commerce and Technology after consultation with the Executive Councillors for Finance and the relevant service(s) so long as they do not exceed the following limits:

- ◆ **Revenue** - £20,000 or 10% of any budget involved, whichever is the lower. Any previously approved transfers in the same year relating to those budgets shall be aggregated for determining whether the limit has been exceeded.
- ◆ **Capital** - £50,000 or 10% of any capital budget involved, whichever is the lower. Any previously approved transfers in the same year relating to those budgets shall be aggregated for determining whether the limit has been exceeded.
- ◆ Such transfers shall be reported to the Cabinet for information in the next budget monitoring report.

Cabinet may approve budget transfers of up to:

Revenue £100,000 or 15% of any budget involved, whichever is the lower

Capital £150,000 or 15% of any budget involved, whichever is the lower

Any previously approved transfers in the same year relating to those budgets shall be aggregated for determining whether the limit has been exceeded.

In all other cases the approval of the **Council** will be required.

3.3 **Re-phasing of Expenditure**

The re-phasing of expenditure between years may be made by the relevant Head of Service, following consultation with the Head of Financial Services, providing that it is consistent with service objectives and compatible with the Council's Financial and other relevant Strategies.

In all other cases the approval of the Cabinet will be required.

3.4 **Price Changes**

Variations to the totals in the Financial Strategy, the Medium Term Financial Plan and Service Financial Plans due to price changes will be determined by the Head of Financial Services after consultation with relevant Heads of Service.

3.5 **Project Appraisals**

All proposals for budget changes contained in the MTP will require a project appraisal, in a format approved by the Chief Officers' Management Team, to be approved by the Cabinet before the scheme can commence, unless the Head of Financial Services considers that the item is of a technical nature.

3.6 **Financial Monitoring**

The financial performance of the Council will be reviewed by the Cabinet quarterly on the basis of monitoring statements prepared by the Head of Financial Services in conjunction with Heads of Service.

The financial performance of each service and capital project will be reviewed by Chief Officers quarterly on the basis of monitoring statements prepared by Heads of Service in conjunction with the Head of Financial Services.

Heads of Service will ensure that relevant executive councillors are regularly informed of the progress in delivering approved MTP schemes.

4. **CASH AND CREDIT MANAGEMENT**

4.1 **Banking**

The Director of Commerce and Technology is responsible for all Council banking arrangements and shall maintain account(s) with an appropriate bank(s) with a credit rating equivalent to 'Long Term AA' or better in the data

published by Fitch IBCA. All transactions, whether income or expenditure, shall be dealt with through the Council's bank account(s).

4.2 **Income**

All employees receiving money (including cash, cheques, credit card payments etc.) must comply with the relevant procedures issued by the Head of Revenue Services to ensure that the sums are properly recorded, receipted and banked.

The Head of Revenue Services shall manage a debt collection service on behalf of the Council and all sums due must be registered by raising an invoice on the Council's Financial Management System or some other system or procedure approved by the Head of Revenue Services.

4.3 **Loans**

All borrowing will be undertaken by the Head of Financial Services in accordance with the Code of Practice for Treasury Management in Local Authorities, published by the Chartered Institute of Public Finance and Accountancy (CIPFA) and the Council's Treasury Management Policy and Annual Strategy Statement.

A report shall be submitted to the Cabinet prior to the start of each financial year so it can recommend to the Council the maximum borrowing limits for the forthcoming financial year.

4.4 **Investments**

Investments shall be made by the Head of Financial Services in accordance with the Prudential Code for Capital Finance in Local Authorities published by CIPFA, the Council's Treasury Management Policy and Annual Strategy Statement either directly or by utilising external fund managers.

Periodic reports shall be submitted to the Cabinet on Treasury Management and by 31st October each year an annual report shall be submitted on activities in the last financial year.

4.5 **Payments**

Payments due to external suppliers of goods and services must be made through the Council's Financial Management System and in accordance with the payments procedures of that system.

5. **ACCOUNTING PROCEDURES**

5.1 The Council will follow the best practice guidance contained in the Accounting Code of Practice and other relevant publications produced by CIPFA in the preparation and maintenance of its accounts.

5.2 **Statement of Accounts**

The annual Statement of Accounts shall be presented to the Cabinet for approval within the prescribed statutory timescale.

5.3 **Records**

Each Head of Service is responsible for maintaining records of financial transactions and commitments and employee time, in forms agreed with the Head of Financial Services, and for ensuring that all financial transactions are properly recorded in the appropriate financial period and to an appropriate account within the Council's Financial Management System.

5.4 **Retention of Documents**

Documents required for the verification of accounts, including invoices, shall be retained in a retrievable format for six years or such other time that is specified by the Head of Financial Services.

5.5 **Contingent Liabilities**

Any Officer who is aware of a material and outstanding contingent liability shall notify the Head of Financial Services who shall include details in the Council's accounts or in a Letter of Representation to be presented to the Council's external auditors in respect of those accounts.

5.6 **Stock**

Where a formal stock account is used in connection with any service the relevant Head of Service shall ensure that a certified stock-take is carried out in the last week of March each year and, records of receipt and issue of all stock are maintained throughout the year in a manner agreed with the Head of Financial Services.

5.7 **Insurance**

The Head of Financial Services shall obtain insurance to protect or minimise the Council's potential losses from risks including those to employees, property, equipment and cash. Any decision not to insure significant risks must be based on a detailed risk assessment.

5.8 **Write-off of Irrecoverable Debts**

The Head of Revenue Services, or in his/her absence the Head of Financial Services, is authorised to write-off debts with an individual value of up to £2,500, or of a greater amount after consultation with the executive councillor responsible for finance, having taken appropriate steps to satisfy himself/herself that the debts are irrecoverable or cannot be recovered without incurring disproportionate costs.

A summary report detailing debts written-off shall be submitted to the Cabinet quarterly.

6. ASSETS

6.1 Definition

An asset is an item of land, building, road or other infrastructure, vehicle or plant, equipment, furniture and fittings or information and communications technology, (hardware and software) with a life exceeding one year.

6.2 Capital Expenditure

The purchase or improvement of any asset will normally be treated as capital expenditure. However expenditure of less than £10,000, or £5,000 in the case of vehicles, plant and equipment, will not normally be treated as capital expenditure unless the Head of Financial Services considers it is in the Council's interests to do so.

6.3 Asset Register

All assets for which the purchase has been treated as capital expenditure will be included in the Council's asset register.

6.4 Acquisition

Assets shall only be acquired if provision is included in a Service Financial Plan or as a result of specific approval by the Cabinet. The purchase of assets must be in accordance with the procedures specified in the Council's Code of Procurement having regard to the value of the asset.

The relevant Head of Service shall inform the Head of Financial Services within 10 working days of the acquisition of an asset which meets the definition for capital expenditure.

6.5 Leases

Finance and Operating leases are to be used only if they are in the Council's financial interest and with the approval of the Head of Financial Services.

6.6 Control of Assets

Each Head of Service is responsible for ensuring that the assets relating to their services are properly safeguarded, managed and maintained and used only to achieve the Council's objectives. This will include establishing and maintaining appropriate security, control systems and records. They will need to consult relevant officers in relation to specialist items and, where vehicles are concerned, the officer holding the Council's Operating Certificate who has specific statutory responsibilities.

6.7 Disposal of Assets

The sale of assets must be in accordance with the procedures specified in the Council's Code of Procurement having regard to the current value of the asset.

The relevant Head of Service shall inform the Head of Financial Services within 10 working days of any disposal of an asset included in the Asset Register.

6.8 **Valuations**

Assets will be re-valued at five yearly intervals by an appropriately qualified person according to the type of asset. Where appropriate, interim valuations will be recorded on the Asset Register by reference to a suitable index.

SERVICES WITHIN SERVICE GROUPINGS
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Refuse Collection
Domestic Refuse Refuse Policy Trade Refuse
Recycling
Recycling Kerbside Collections Recycling Policy Recycling Sites Green Waste
Street Cleansing & Litter
Fly Poster/Graffiti Removal Litter Control Street Cleansing Operations Street Cleansing Policy Weed Control
Drainage & Sewers
Internal Drainage Boards Septic Tanks & Nightsoil Watercourses
Public Conveniences
Public Conveniences
Environmental Health
Abandoned Vehicles Air Quality Animal Welfare Burials Under Health Acts Caravans And Camping Contaminated Land Eh Health & Safety Energy Efficiency Environmental Health General Food Safety Health Promotion Nuisances Pest Control Private Housing Eh Travellers

Development Control
<ul style="list-style-type: none"> Advice Alconbury Appeal Appeals Application Processing Dev Control Panel Enforcement Environmental Assessment S106 Agreements Administration
Building Control
<ul style="list-style-type: none"> Bc Advice Bc Applications Bc Best Value Review Bc Promotion & Enforcement Sustainable Construction
Planning Policy & Conservation
<ul style="list-style-type: none"> Biodiversity Action Plan Cambs Historic Churches Trust Cambs Sub Region Infr Conservation Management Conservation Technical Support Kimbolton Small Works Listed Buildings Local Plan Parish Plans Rural Renewal N & E Hunts St Neots Cap Scheme Strategic & Regional Planning Structure Plan Town Centre Vision Trees Undergrounding Power Lines
Markets
<ul style="list-style-type: none"> Farmers Markets Huntingdon Market Markets Management Ramsey Market St Ives Bank Holiday Market St Ives Market St Neots Market
Economic Development
<ul style="list-style-type: none"> Business & Enterprise Support Industrial Properties Miscellaneous Properties NDR Discretionary Relief Town Centre Management
Planning Delivery Grant
<ul style="list-style-type: none"> Planning Delivery Grant Planning Grant Unallocated

Corporate Events
17th Century Festival (2003) Leisure Grants Priory Centre
Joint Sports Centres
Huntingdon Recreation Centre Ramsey Leisure Centre Recreation Centres Overall Sawtry Sports Centre St Ivo Recreation Centre St Neots Recreation Centre
Leisure Policy & Development
Arts Development Leisure & Amenities Committee Leisure Development Policy and Strategic Mgt
Parks Management
Highways Amenities Parks Contracts Parks Management Pavillions
Countryside
Countryside Management Hinchingbrooke Country Park Holt Island Ouse Valley Way Paxton Pits Spring Common
Tourism
Brown Signs Discover Cambridgeshire District Promotion Eetb Domestic Marketing Eetb Overseas Marketing Familiarisation Trips (Tic) Family Pack Mini Guides Newsletter Out & About Short Breaks Guide Tip Posters Tip Renewal & Repair Tourist Services Web Development
Community Initiatives
Com Initiatives – Housing Com Initiatives – Leisure Community Strategy Health For Huntingdonshire Health For Hunt Yaxley Healthy Living Centre Hunts Learning Partnership Local Agenda 21 Miscellaneous Grants Oxmoor Action Plan Yaxley Community Project Young Peoples Project

Housing Services
Common Housing Register Contributions To H R A Housing Advances Housing Advice Housing Developments Housing Resources Bvr Housing Strategy Mobile Home Park Publicising Housing Services Supporting People Waiting List
Private Housing Support
Home Improvement Agency Housing Associations Housing Surveys Renovation/Improvement Grants
Homelessness
Homelessness Management Homeless Young Persons Advisor Hostel Support Rental Deposit Scheme Supporting People Scheme Temp Accommodation – B&B
Housing Benefits
Rent Allowance Local Scheme Rent Allowance National Scheme Housing Benefits Admin Temporary Accommodation Support

Community Safety
CCTV Community Partnership
Transportation Strategy
Environmental Management Transportation Developments Transportation Grants Transportation Strategy

Public Transport
Bus Shelters Concessionary Fares Huntingdon Bus Station Rail Passes St Ives Bus Station
Highways Services
Highways Cyclic Mtce Highways Management Highways R&R Schemes
Car Parks
Car Park Management Car Park Policy
Environmental Improvements
Env Imps Feasibility Studies Env Imps Management Environmental Imps Renewals Gazebo R&R Godmanchester Env Improvements Huntingdon Env Improvements Other Schemes Ramsey Env Improvements Small Scale Env Improvements Somersham Env Improvements St Ives Env Improvements St Neots Env Improvements Yaxley Env Improvements

Administrative Services
District Elections Elections Periodic Review Electoral Registration Emergency Planning Land Charges Licences National & County Elections Parish Elections
Local Taxation & Benefits
Community Charge Council Tax Council Tax Benefits NNDR Administration
Corporate Management
Bank Charges Best Value Customer First External Audit Information & Promotion Local Council Support Pensions Policy and Strategy Public Accountability System & Asset Management Telecommunications Unallocated Central Overheads
Democratic Representation
Corporate Committees Corporate Subscriptions Member Expenses & Allowances Member Support Twinning

Contingency
General Contingency Other Contingencies
Other Expenditure
Capital Charges Reversed Commutation Transfer VAT Partial Exemption
Investment Interest
Interest Paid Interest Received

CODE OF PROCUREMENT

1. INTERPRETATION AND SCOPE

This Code applies to the procurement, hire, rental or lease of -

- ◆ land and buildings, roads or other infrastructure;
- ◆ vehicles or plant;
- ◆ equipment, furniture and fittings;
- ◆ construction and engineering works;
- ◆ information and communication technology - hardware and software;
- ◆ goods, materials and services;
- ◆ repairs and maintenance; and
- ◆ consultants, agents and professional services.

It applies also to the sale of assets, goods or services by the Council where the appropriate Head of Service estimates that the assets, goods or services to be sold exceed £1000. Where the value is estimated to be less than £1000 then the 'Sale of Equipment' procedures contained within the Inventory procedures shall be followed.

The Council includes the Cabinet, panels, committees or other body or person(s) acting in accordance with delegated authority on behalf of the Council.

All procurements or sales made by or on behalf of the Council shall comply with this Code, subject to any overriding requirements of the Council's Rules of Procedure and Code of Financial Management and British or European Union law or regulation.

This Code has been adopted in accordance with the requirements of Section 135(2) of the Local Government Act 1972.

Throughout the Code, reference to contractor(s) or sub-contractor(s) shall mean any person, company or supplier who have:-

- (i) requested to be on an approved or ad-hoc approved list of tenderers;
- (ii) been approached to provide a quotation or tender;
- (iii) provided a quotation or tender; or
- (iv) been awarded a contract in accordance with the provisions of this Code.

The Head of Financial Services shall adjust all the financial values contained in the Code annually to take account of the impact of inflation. He shall inform all Heads of Service of any amendments to the values prior to the 1st April from which they shall be operative.

2. PROCEDURES

At the commencement of each financial year (or by 30 April each year) Heads of Service shall estimate the total value for each discrete procurement area where total value:

- (i) is estimated over the financial year; or
- (ii) if a contract is to be awarded, is calculated over the maximum contract term; or
- (iii) in the case of long-term contract that is open-ended or of uncertain duration, such as those for the hire of goods or for the delivery of a particular service, is based on the estimated average monthly expenditure multiplied by 48 (4 years)

and there shall be no separation or dis-aggregation of procurements to avoid the requirements of this Code.

Heads of Service wherever practicable shall proactively maximise contract values with other Heads of Service to secure lower costs.

Heads of Service after determining the proposed contract total value shall then follow one of the procedures which shall be used in **all** procurements or sales:-

Estimated Total Value of Procurement	Requirement
Up to £5,000	An estimate or offer shall be obtained.
£5,001 to £30,000	Competitive written quotations or offers shall be invited, unless the Head of Service has complied in full with para.2.2 E of this Code.
£30,001 to European Union Procurement Threshold	Competitive tenders shall be obtained using one of the tendering options in this Code, and a formal written contract prepared in accordance with Section 10.
Above the EU Threshold specified below	The appropriate EU procurement directive shall be complied with.

The EU thresholds are as follows:-

	Special Drawing Rights	£	
Supplies	200,000	153,376	<i>These values are reviewed periodically, and are valid from 1st January 2004. The Head of Administration is able to provide the latest values, and advice if required, as to the specific procedures that shall be followed.</i>
Services	200,000	153,376	
Works	5,000,000	3,834,411	

2.1 Quotation Options

Wherever possible a minimum of three competitive quotations shall be sought. In selecting contractors who are to be requested to provide a quotation Heads of Service shall ensure that the selection process they are using is fair and equitable, and that no favouritism is shown to any one contractor. The Head of Service shall keep a record, in the form agreed by the Executive Director of Central Services, of:-

- (i) all those contractors that were requested to provide a quotation;
- (ii) the reasons why those particular contractors were selected to provide a quotation; and
- (iii) if applicable, the reasons why less than three contractors were selected to provide a quotation.

2.2 Tendering Options

Heads of Service shall select one of the following tendering methods. If any alternative tendering method is proposed then approval of the Cabinet is required before the proposed tendering option is followed. In selecting contractors who are to be requested to provide a tender Heads of Service shall ensure that the selection process they are using is fair and equitable, and that no favouritism is shown to any one contractor.

Tender Option	Requirement
A. Ad Hoc Tender Open tender	Public notice shall be given in one or more newspapers and/or in an appropriate trade journal. The notice shall state the nature and purpose of the contract, where tender documentation can be obtained, and state the closing date for the receipt of tenders.
B. Approved List of Tenderers Restricted tender	Tenders shall be invited from at least three contractors selected from an approved list established in accordance with Section 3 of this Code.
C. Ad Hoc Approved List of Tenderers Open restricted tender	Tenders shall be invited from a list of contractors compiled in accordance with Section 4 of this Code for a specific contract.
D. Serial Tenders	The proposed contract shall form part of a serial programme. The contract terms shall be negotiated with a contractor, using as a basis for negotiation the rates and prices contained in an initial contract that was awarded following a

	<p>competitive tendering process that complied with this Code. No more than two serial contracts shall be negotiated from an initial contract.</p>
<p>E. Single Tenders</p>	<p>A Head of Service after consulting the Executive Director of Central Services may obtain a single tender (or quotation – see 2.2 above) when:</p> <p>Prices are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available.</p> <p>Work to be executed or goods, services or materials to be supplied consist of repairs to or the supply of parts of existing proprietary machinery, equipment, hardware or plant and the repairs or the supply of parts cannot be carried out practicably by alternative contractors.</p> <p>Specialist consultants, agents or professional advisers are required and</p> <ul style="list-style-type: none"> ◆ there is no satisfactory alternative; or ◆ evidence indicates that there is likely to be no genuine competition; or ◆ it is in the Council’s best interest to engage a particular consultant, agent or adviser. <p>Products are sold at a fixed price, and market conditions make genuine competition impossible.</p> <p>No satisfactory alternative is available.</p> <p>If the Single Tender option is used, the Head of Service shall</p> <ul style="list-style-type: none"> ◆ notify the Executive Director of Central Services who shall make a record in a register kept for that purpose; ◆ retain records that demonstrate that the best price or value for money has been obtained from the negotiations with the tenderer.

Except to the extent that the Cabinet in a particular case or specified categories of contract otherwise decides, all quotations or tenders that are being sought shall include approved contract terms in accordance with section 10 of this Code, and be based on a definite written specification, which shall include an award criteria, which if it is not to be the lowest price shall be agreed by the appropriate

Director, and if appropriate, a requirement for a performance bond and liquidated damages.

2.3 **Non-Traditional Procurement**

If a Head of Service believes that by following one of the procurement options detailed in 2.1 to 2.2 above, that the procurement process will not provide him with the most appropriate method of service delivery, the most competitive prices, allow for continuous improvements in service delivery, or stifle procurement innovation, then he may suggest alternative procurement strategies.

The Head of Service shall produce, in accordance with guidance issued by the Executive Director of Central Services and prior to proceeding with the procurement, a written procurement strategy that shall be approved by the Executive Director of Central Services and the Cabinet.

3. **PROCEDURE FOR THE APPROVAL AND MAINTENANCE OF APPROVED LISTS OF TENDERERS**

Only those lists containing details of contractors that are compiled and maintained by an external organisation to the satisfaction of the Executive Director of Central Services, after consultation with the Head of Financial Service and the other relevant Heads of Service shall be adopted as approved lists of tenderers.

The Executive Director of Central Services in conjunction with the Head of Financial Services and relevant Heads of Service shall review the continued suitability of an Approved List of Tenderers periodically and at least prior to the third anniversary of its initial or further adoption.

4. **PROCEDURE FOR THE APPROVAL OF AD-HOC APPROVED LISTS OF TENDERERS**

A public notice shall be issued inviting applications for inclusion on a specific approved list for the supply of goods, services or materials. The ad-hoc approved list of tenderers shall be established from contractors replying to the public notice or who have previously requested to be included on an ad-hoc approved list for work of a similar nature.

Ad hoc approved lists shall:-

- (i) be approved by the appropriate Head of Service after consultation with the Executive Director of Central Services and the Head of Financial Services; and
- (ii) only be used for seeking tenders for the supply of goods, services or materials specifically detailed within the original public notice.

5. SUB-CONTRACTS AND NOMINATED SUPPLIERS

Quotations or tenders for sub-contracts to be performed or for goods, services or materials to be supplied by nominated sub-contractors shall be invited in accordance with this Code.

The relevant Head of Service is authorised to nominate to a main contractor a sub-contractor whose quotation or tender has been obtained in full accordance with this Code.

6. CONSULTANTS

It shall be a condition of the engagement of any consultant, agent or professional adviser who is to be responsible to the Council for the award or supervision of a contract on its behalf, that in relation to that contract he shall:-

- (i) comply with this Code as though he were an employee of the Council;
- (ii) at any time during the carrying out of the contract produce to the appropriate Head of Service, on request, all the records maintained by him in relation to the contract; and
- (iii) on completion of the contract transmit all records that he has produced or received that relate to the contract to the appropriate Head of Service.

7. EXCEPTIONS

Nothing in this Code shall require tenders or quotations to be sought:-

- (a)
 - (i) for purchases made from internal Management Units;
 - (ii) for purchases made through ESPO;
 - (iii) for purchases made at public auction;
 - (iv) for purchases through any local authority or government consortium, collaboration or similar body, where the procurement rules of that organisation have been adopted. The Executive Director of Central Services shall approve and keep under review the continued suitability of any such organisation; or
 - (v) for purchases through any Framework Agreement where this Code of Procurement has been adopted. The Procurement Manager shall approve and keep under review the continued suitability of any such Framework Agreements.
- (b) where the relevant Director or Head of Service:-

- (i) consider that the work is of an emergency nature or is necessary to enable the service to continue; or
- (ii) with the Head of Financial Services' agreement considers that it is in the Council's best interest in negotiating a further contract for works, supplies or services of a similar nature with a contractor who is currently undertaking such work.

The relevant Director or Head of Service shall report details of all work awarded under paragraph 7 (b):-

- (i) to the Executive Director of Central Services who shall make a record in a register kept for that purpose; and
- (ii) to the next meeting of the Cabinet.

8. RECEIPT AND OPENING OF TENDERS AND QUOTATIONS

Where tenders or quotations are invited in accordance with this Code no tender or quotation will be considered unless:-

- (i) contained in a plain envelope which shall be securely sealed and shall bear the word "Tender" or "Quotation" followed by the subject to which it relates; or
- (ii) it has been sent electronically to a specific e-mail address, which the appropriate Head of Service shall obtain from the Head of Information Management.

In respect of:-

- (i) above, the envelope shall not bear any distinguishing matter or mark intended to indicate the identity of the sender. Contractors shall be notified accordingly. Such envelope shall be addressed impersonally to the Executive Director of Central Services if it contains a "Tender" or the appropriate Head of Service if it contains a "Quotation"; and
- (ii) above, the Head of Information Technology shall ensure that the e-mail address is secure, can only be accessed by the Executive Director of Central Services or officers specifically appointed by him.

All envelopes or e-mails received shall be kept securely and shall not be opened or accessed until the time appointed for their opening.

All tenders or quotations invited in accordance with this Code shall be opened at one time only and by at least two officers:-

- (i) tenders shall be opened by officers nominated by the Executive Director of Central Services and by the appropriate Head of

Service. The Head of Financial Services shall be notified of the time and place appointed for the opening; and

- (ii) quotations shall be opened by the appropriate Head of Service and/or his nominee(s).

All tenders or quotations upon opening shall be recorded in writing on either a tender or quotation opening record, as is appropriate. The format of the opening record shall have been previously agreed with the Executive Director of Central Services and Head of Financial Services. The Form of Tender or Quotation and any accompanying documentation shall be marked with the date of opening, and signed by all officers present at the opening. The tender or quotation opening record shall be signed by at least two officers present at the opening.

The original opening record shall be retained by the Executive Director of Central Services in respect of tenders, and the relevant Head of Service in respect of quotations.

Any tenders or quotations received after the specified time shall be returned promptly to the contractor by the Executive Director of Central Services or his nominated officer in respect of tenders, or by the appropriate Head of Service or his nominated officer in respect of a quotation. The tender or quotation may be opened to ascertain the name of the contractor but no details of the tender or quotation shall be disclosed.

9. ACCEPTANCE OF TENDERS AND QUOTATIONS

The appropriate Head of Service shall evaluate all the tenders or quotations received in accordance with the award criteria set out in the bid documentation and shall accept, subject to the provisos set out in this paragraph, either:-

- (i) the lowest priced tender or quotation; or
- (ii) the highest scoring tender or quotation, as evaluated against the award criteria.

Tenders or quotations exceeding the approved estimate may only be accepted once approval to further expenditure is obtained.

If the lowest priced, or highest scoring quotation exceeds £30,000:-

- (i) but is within 15% of the original estimate, the appropriate Head of Service may accept the quotation without seeking further competition; and
- (ii) is in excess of 15% of the original estimate then a competitive tender exercise in accordance with paragraph 2 above shall be carried out, unless the appropriate Head of Service has consulted and obtained the approval of the Executive Director

of Central Services and relevant executive councillor that the quotation can be accepted.

The acceptance of a tender or quotation that is not the lowest priced tender or quotation or the highest scoring tender or quotation in accordance with the award criteria set out in the tender or quotation documentation, if payment is to be made by the Council, or the highest tender or quotation, if payment is to be received by the Council, shall only be accepted if:-

- (i) the Cabinet have considered a written report from the appropriate Head of Service, or
- (ii) in cases of urgency, the Executive Director of Central Services has consulted and obtained the approval of the relevant executive councillor. Tenders or quotations accepted in this way shall be reported by the appropriate Head of Service to the next meeting of the Cabinet.

Where post-tender negotiations have been undertaken in accordance with paragraph 9.1 below, the appropriate Head of Service shall only accept the lowest priced tender received. A tender other than the lowest shall not be accepted until the Cabinet have considered a written report from the appropriate Head of Service, and recommended acceptance of a tender other than the lowest.

9.1 Arithmetical Errors and Post-Tender Negotiations

Contractors can alter their tenders or quotations after the date specified for their receipt but before the acceptance of the tender or quotation, where examination of the tender or quotation documents reveals arithmetical errors or discrepancies which affect the tender or quotation figure. The contractor shall be given details of all such errors or discrepancies and afforded an opportunity of confirming, amending or withdrawing his offer.

In evaluating tenders, the appropriate Head of Service may invite one or more contractors who have submitted a tender to submit a revised offer following post-tender negotiations.

All post-tender negotiations shall:-

- (i) only be undertaken where permitted by law and where the appropriate Head of Service, Head of Legal and Estates and Head of Financial Services consider additional financial or other benefits may be obtained which over the period of the contract shall exceed the cost of the post-tender negotiation process;
- (ii) be conducted by a team of officers approved in writing by the appropriate Head of Service, Executive Director of Central Services and Head of Financial Services;

- (iii) be conducted in accordance with guidance issued by the Executive Director of Central Services; and
- (iv) not disclose commercially sensitive information supplied by other bidders for the contract.

Post-tender negotiations shall not be used to degrade the original specification unless the capital or revenue budget is exceeded, or the appropriate Director or Head of Service considers other special circumstances exist, in which case all those contractors who originally submitted a tender shall be given the opportunity to re-tender.

The appropriate Head of Service shall ensure that all post-tender negotiation meetings are properly minuted with all savings and benefits offered clearly costed. Following negotiations but before the letting of the contract, amendments to the original tender submitted shall be put in writing by the contractor(s) and shall be signed by him.

10. CONTRACTS

Every contract which exceeds £30,000 in value shall be in writing in a form approved by the Head of Legal and Estates who shall also determine the format of any contract for a lesser value.

In the case of any contract for the execution of works or for the supply of goods, services or materials, the Head of Service after consulting with the Head of Financial Services and the Head of Legal and Estates shall consider whether the Council should require security for its due performance and shall either certify that no such security is necessary or shall specify in the specification of tender the nature and amount of the security to be given. In the latter event, the Council shall require and take a bond or other sufficient security for the due performance of the contract.

All original documents, including specifications, drawings, tender documents and correspondence relating to contracts which exceed a total value of £30,000 shall be retained by the Head of Legal and Estates, otherwise the relevant Head of Services shall make arrangements for their retention.

PROPOSED SCHEME FOR PUBLIC SPEAKING AT COUNCIL MEETINGS

1. Definition

To encourage participation in the Council meeting, members of the public are invited to ask questions of

- ◆ The Leader;
- ◆ Deputy Leader;
- ◆ Member of the Cabinet; or
- ◆ Chairman of a Panel/Committee.

A public question time shall be part of the formal business of ordinary meetings of the Council and shall continue for a period of 15 minutes. Questions shall be dealt with at the commencement of the meeting.

2. Scope

Questions shall be relevant to matters in relation to which the Council has powers or duties or a matter relating to the promotion or improvement of the economic, social or environmental well-being of the District.

The Council will not permit questions to be asked which are abusive or libellous, relate to a specific or identifiable person, involve personal or prejudicial issues nor matters associated with political parties or organisations where there is recourse to the courts, a tribunal or to a Government Minister. As Monitoring Officer, the interpretation of the above criteria by the Director of Central Services is final.

3. Notice

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Director of Central Services by no later than noon, 3 clear working days before the day of the meeting. Each question shall give the name and address of the questioner and shall name the Member of the Council to whom the question is to be put.

No person may submit more than one question but one supplementary question may be asked.

The Director of Central Services will keep a record of submitted questions and send a copy of the question to the Member to whom it is to be put. A member of the public whose question has been rejected will be notified of the reason(s) for its rejection.

4. Procedure

The Chairman will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, he/she may ask the Chairman to put the question on their behalf. The Chairman may ask the question on the questioner's behalf or indicate that a written reply will be given or decide, in the absence of the questioner that the question will not be dealt with. A questioner has three

minutes to put a question and a further two minutes for a supplementary question. Questions shall be dealt with in the order in which they are submitted unless the Chairman chooses to group together similar questions.

The questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his/her original question. A supplementary question must arise directly out of the original question or the reply.

5. Answers

An answer can take any of the following forms:

- ◆ A direct oral answer;
- ◆ A reference to one of the Council's publications if it answers the question;
- ◆ If it would not be practicable or appropriate to answer a question orally the Member will supply a written answer to the questioner within seven days.

Any question which cannot be dealt with during public question time either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

Unless the Chairman decides otherwise, no discussion will take place on any question but any Member may move that a matter raised by a question be referred to the Cabinet or appropriate Panel or Committee. Once seconded, such a Motion will be voted on without discussion.

STANDARDS COMMITTEE

24TH MARCH 2004

**LOCAL INVESTIGATION AND
DETERMINATION OF MISCONDUCT ALLEGATIONS - CONSULTATION
(Report by the Executive Director of Central Services and
Monitoring Officer)**

1. INTRODUCTION

- 1.1 Local authorities have been awaiting the issue of guidance and Regulations relating to the treatment of complaints or allegations which may be referred by an Ethical Standards Officer (ESO) for investigation and settlement locally. Indeed, Members may recall that they approved at their last meeting a procedure to assist in the conduct of hearings in the event of the reference of cases from the Board to the Committee for local determination. It was envisaged that such references would involve allegations or infringements or breaches of the Codes which are of lesser consequence than those referred by an ESO to the Adjudication Panel for England.
- 1.2 Consultation papers now have been issued relating to the arrangements by which local authority Monitoring Officers may investigate allegations of misconduct by Members referred to them by ESOs. Two separate consultation exercises are being undertaken – one by the Office of the Deputy Prime Minister and the other by the Standards Board for England. Both are seeking comments by 18th May 2004.

**2. CONSULTATION BY THE STANDARDS BOARD FOR ENGLAND
Draft Guidance to Monitoring Officers: Local Investigation of
Allegations of Misconduct under the Local Authorities (Code of
Conduct) (Local Determination) (Amendment) Regulations 2004**

- 2.1 The Standards Board for England has issued guidance for Monitoring Officers of all relevant authorities in England on carrying out local investigations under Section 62 of the Local Government Act 2000. The guidance has been issued at the same time as the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004. The guidance issued by the Standards Board for England covers cases referred back to Monitoring Officers by Ethical Standards Officers (ESOs). The Board has invited comments on the content of the guidance by reference to specific questions. These are set out below with some suggested responses for Members of the Committee to consider. There may also be other issues on which Members of the Committee may wish to express views.

Question 1 – Are the circumstances which an ESO will consider when deciding whether to refer an allegation for local investigation reasonable? Are there other factors they should consider?

When considering whether or not to refer the allegation to a Standards Committee, ESO's will use their discretion and take into

account all relevant circumstances. For example, ESOs may consider whether, in their opinion:

- ◆ *the matter does not appear to need the heavier penalties only available to the Adjudication Panel for England;*
- ◆ *the matter is an isolated occurrence and is unlikely to be repeated;*
- ◆ *the Member has given a prompt, adequate and unreserved apology and whether remedial action has been taken;*
- ◆ *there is evidence that a local investigation would be perceived as unfair or biased;*
- ◆ *the allocation is of an entirely local nature and does not raise matters of principle;*
- ◆ *there are any relevant local political issues that may have a bearing on a local investigation.*

Suggested response – the circumstances proposed are considered to be reasonable. However, there may be local circumstances which, irrespective of a unreserved apology, would still be sufficient to justify local investigation (or no further action). The question of whether remedial action has been taken should be entirely separate from the question of whether an apology has been given. The fact that remedial action has been taken is a reasonable criterion for deciding that the matter can be referred for local investigation whether or not an apology has been given. In terms of “any relevant local political issues”, it would be helpful to know what sort of matters the Board consider to be relevant to assist the Committee in their understanding of the conclusions of an ESO and the Monitoring Officer in the event that he is asked to respond to this issue.

Question 2 – The Regulations allow cases to be passed back to the ESO in certain circumstances. Are there other circumstances where cases might be referred back?

The powers of a Monitoring Officer relate only to the allegation that he has been given to investigate. If he uncovers evidence of a possible breach that does not relate directly to the investigation, he should ask the person from whom he has obtained the information to make an allegation to the Standards Board for England, or to make an allegation himself. He should not investigate it. If a Monitoring Officer uncovers additional matters that relate directly to the allegation referred to him – i.e. an isolated instance of rudeness that reveals a consistent pattern of behaviour, the Monitoring Officer may write to the Ethical Standards Officer to request that the original allegation be referred back to them for investigation. The ESO can decide whether to direct the Monitoring Officer to continue with his investigation or to refer the matter to them and to stop the investigation.

Suggested response – the circumstances outlined in the guidance are considered to be reasonable. However, it could be contended that there should be an opportunity to refer back a case to the Board when the Standards Committee during a hearing uncovers evidence of a further possible breach of the Code. It may also be considered unreasonable to attempt to restrict the Monitoring Officer’s ability to

carry out local investigations into matters uncovered during his or her investigation. The suggestion that the Monitoring Officer's powers "relate only to the allegation that he has been given" fails to take into account the extent of the Monitoring Officer's and duties under the Local Government and Housing Act 1989 and Section 2 of the Local Government Act 2000. It is questionable whether the guidance distinguishes clearly enough the difference between those circumstances that warrant a referral back to the ESO and those circumstances that warrant a new allegation being made.

Question 3 – Is the Board correct to want to seek to maintain confidentiality? Is the guidance clear on the issue on confidentiality?

While the Monitoring Officer is conducting his investigation, it is good practise to treat the information gathered as confidential and to ask the people interviewed, and anyone else aware of the investigation, to maintain confidentiality. This will help to ensure that the investigation is not seen as prejudiced. Maintaining confidentiality reduces opportunities for evidence to be seen as unfair or biased and preserves the integrity of the investigation. Members should be reminded of their obligation under the Code of Conduct not to disclose information that they have received or that has been given to them in confidence. Any draft report issued by the Monitoring Officer on the outcome of the investigation should be marked as confidential to preserve the integrity of any further investigation that he may need to undertake. The Monitoring Officer should also consider whether the information that he collects during his investigation should be treated as confidential information under Section 100(A) to the Local Government Act 1972 or be categorised as exempt information under Schedule 12A of the 1972 Act as amended by the regulations.

Suggested response – the Board is justified in seeking to maintain confidentiality and the guidance is clear in this respect.

Question 4 – Is it appropriate not to have to produce draft reports in all cases? Are the factors to take into account when considering whether to issue a draft comprehensive?

When the Monitoring Officer has concluded his investigation he should consider whether to produce a draft report. Factors to be taken into account when deciding whether to do this include:

- ◆ *is there factual complexity or ambiguity in his statement of facts?*
- ◆ *is there a genuine dispute as to the material facts of the case?*
- ◆ *has his investigation created an expectation that the parties will receive a draft for comment?*

If the Monitoring Officer decides to produce a draft report it should be sent to the complainant and to the subject of the allegation for comment on findings of fact. The Monitoring Officer does not need to send the draft to other witnesses or parties interviewed, although he should have confirmed individual statements with the witnesses who gave them. He does not need to send the draft report to the relevant

parish clerk. At this stage, Members may make representations in whatever manner is most appropriate to them. Responses to the draft may reveal the need for further investigation, or they may add nothing of further relevance. Once the Monitoring Officer has considered whether they add anything of substance to the investigation he will be able to make his final recommendations.

Suggested response. It is appropriate to suggest that draft reports will not be needed in all cases. The factors to take into account appear to be comprehensive.

Question 5 – does the Report Checklist, with regard to draft and final reports, provide sufficient steps to produce a comprehensive report?

Draft and final reports should contain the following information. The level of detail required will vary for each report depending on the complexity of information to be considered and presented:

- ◆ *the confidential marking (draft reports only)*
- ◆ *the date*
- ◆ *the legislation under which the investigation is being carried out*
- ◆ *a summary of the allegation*
- ◆ *the relevant sections of the Code of Conduct*
- ◆ *evidence*
- ◆ *the Monitoring Officers findings of fact*
- ◆ *the finding*
- ◆ *the reasoning.*

In addition final reports should also contain documents relevant to the Monitoring Officer's report:

- ◆ *a schedule containing background documents;*
- ◆ *a schedule containing notes of telephone conversations, letters and notes of interviews with witnesses; and*
- ◆ *a schedule containing chronology of events*

Suggested response – It is considered that the Report Checklist is sufficiently comprehensive to lead to the production of a draft and final report.

Question 6 – When appointing someone else to conduct an investigation on their behalf, should the Guidance give direction as to how Monitoring Officers can delegate their investigative role and to whom?

Monitoring Officers have four main roles in relation to the Code of Conduct:

- ◆ *to provide advice to the Standards Committee;*
- ◆ *to advise Members who are the subject of an allegation and the person making the allegation;*
- ◆ *to investigate alleged breaches of the Code of Conduct that an Ethical Standards Officer has referred for local determination;*

- ◆ *to advise Members about conduct issues before any alleged misconduct takes place.*

Each role is important but may lead to a conflict of interest in relation to an investigation. If such a situation arises the Monitoring Officer should delegate the investigation to somebody else. In previous guidance, the Standards Board has recommended that in cases referred by an Ethical Standards Officer for local determination, the Monitoring Officer should act as the main adviser to the Standards Committee, unless they have an interest in the matter that would prevent them from performing this role independently. Where a matter is referred back for local investigation, it is still vital that the Standards Committee has access to appropriate advice. The Monitoring Officer may need to consider whether he wishes to investigate the matter and delegate the role of advising the Standards Committee or if it is more important to delegate the investigative role. Such a decision will need to be based on a careful assessment of the circumstances that are appropriate to the role of the Monitoring Officer and to the Council.

Suggested response – The guidance states that if a conflict of interest arises the Monitoring Officer “should delegate the investigation to somebody else”. The Boards accepts there may be difficulties where there is a clear reporting line between the person likely to be nominated and the Monitoring Officer and should give direction as to how the role could be delegated. In such a situation, it may be necessary to appoint somebody from outside the Council to carry out the investigation. In addition to the Monitoring Officers role in advising the Standards Committee, there are many situations where a Monitoring Officers experience and expertise are better used in advising individual Members and seeking to secure an early resolution of any alleged breach. There is some flexibility in that Monitoring Officers can delegate investigations to a deputy or to any other person nominated providing they follow guidance issued for Monitoring Officers. Authorities have a duty to provide sufficient resources to enable Monitoring Officers and their Deputies to perform their duties. It has been suggested that smaller authorities might find it useful to make reciprocal arrangements with neighbouring authorities or engage expertise from outside the organisation to carry out investigations but there are differing views as to whether this arrangement would be acceptable or, indeed, whether the resource issue could be addressed adequately in this way.

Question 7 – Is the Section on conflicts or interests clear and appropriate? Is the Board right to suggest that a Monitoring Officers chief role is to advise the Standards Committee rather than to investigate? The Standards Board are considering whether to issue a guide on how to conduct by investigations would this be helpful?

See answer to question 6. It could be contended that the Boards advice on conflicts of interests is not sufficiently detailed to assist Monitoring Officers should they find themselves in a conflict situation. The role of the Monitoring Officer extends beyond advisor to the Committee but clearly there has to be some early consideration given

by the Monitoring Officer as to what role he should take in the event of a reference to his authority of a case for investigation. There can be no suggestion that the Monitoring Officer can both be advisor and investigator in the same case. The guidance offered by the Board on investigations would be helpful.

3. CONSULTATION BY THE OFFICE OF THE DEPUTY PRIME MINISTER ON THE PROPOSED LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) (AMENDMENT) REGULATIONS 2004

3.1 It is the purpose of the proposed new amendment Regulations to make provision for Monitoring Officers to investigate allegations referred to them by ESOs that the Code of Conduct has been breached. They will also enable Standards Committees to consider reports made by Monitoring Officers following these investigations. The consultation paper seeks the views of the Committee on the proposals to amend the 2003 Regulations with regard to the way matters referred to Monitoring Officers should be dealt with. The proposals amend the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 and set out how a Monitoring Officer should conduct an investigation into a claim of misconduct against a council member, referred to him by an ESO. The Regulations also make changes to allow Standards Committees to consider reports referred to them by the Monitoring Officer and not just, as now, reports by a ESO. The intention is that the hearing and appeals procedure set out in the existing Regulations will apply in the case of investigation by a Monitoring Officer as well as an investigation by an ESO.

3.2 The Office of the Deputy Prime Minister has requested the views of consultees on the following questions:

Question 1 – Are the investigative powers proposed for Monitoring Officers necessary and sufficient?

“Where a matter is referred to a Monitoring Officer of an Authority he may:

- ◆ *call upon such advice and assistance as he may reasonable require to assist him in the investigation;*
- ◆ *require any authority concerned to meet the cost of such advice and assistance so far as such cost is reasonable; and*
- ◆ *require any authority concerned to afford him reasonable access to such documents in the possession of that authority as appear, to him to be necessary for the purpose of conducting his investigation.*

Where a matter is referred to a Monitoring Officer of an authority he may at any stage prior to the completion of his investigation make a written request to the Ethical Standards Officer concerned requesting that the matter be referred back to that Ethical Standards Officer for him to undertake an investigation and any such request must set the reason for making that request”

Suggested response – the investigative powers proposed for Monitoring Officers are both necessary and sufficient although it would be helpful if guidance from the Standards Board clarified the implications of failure to comply with reasonable requests from the Monitoring Officer.

Question 2 – Are the powers proposed for Standards Committees to consider reports referred to them by Monitoring Officers necessary and sufficient?

‘Where a Monitoring Officer refers to the Standards Committee a report received from a ESO, a report prepared by the Monitoring Officer or the Standards Committee makes a finding that a matter should be considered at hearing of the Standards Committee then the Standards Committee shall convene to conduct a hearing in relation to the allegation that the Member failed to comply with the authority’s Code of Conduct or with the Code of Conduct of any other authority concerned’.

Suggested response – the powers proposed for Standards Committees to consider reports referred to them by Monitoring Officers are necessary. Additionally Standards Committees should be empowered to:

- ◆ ask the Monitoring Officer to carry out further investigations and to report back;
- ◆ refer a case back to the ESO as a result of additional evidence arising at a hearing; and
- ◆ consider evidence collected by an ESO on the case and including elements of the ESOs report and evidence which appears to be appropriate or material to the appeal hearing.

Question 3 – Should all cases investigated by the Monitoring Officer be referred to the Standards Committee for decision or, alternatively, is there a case for giving the Monitoring Officer the function of determining whether for the most minor cases no evidence of a breach of the Code has occurred, so no further action is needed?

In the latter option, where there was such a determination, there would be no need for the case to be considered by the Standards Committee, and so such a case could be referred to the Committee “for information only”. As the proposals are currently drafted, however, every case will be considered by the Committee (either by considering and accepting a Monitoring Officer’s finding that there is no evidence of a breach of the Code or by holding a full hearing into the matter), as a reassurance that all cases, including the most minor, will be subject to Committee Scrutiny.

Suggested response – it could be contended that there is a case for giving the Monitoring Officer power to determine that no further action is needed. However it is accepted that a review by the Standards Committee of such decisions would be a necessary safeguard against pressures being placed on Monitoring Officers. Such a conclusion by Monitoring Officers could have important local

consequences particularly if publicity arises before the Standards Committee meets. Additionally, Standards Committees should be given explicit powers to review the conclusions of an ESO to allow them to conclude that there has been no breach at all (where an ESO concludes that there may have been a breach but no further action is required), or that there was a breach and action is required (where an ESO has concluded otherwise).

Question 4 – Should Monitoring Officers be able to refer cases back to the ESO? Should there be provision for cases to be referred back to the ESO by the Monitoring Officer if new evidence is discovered suggesting that the case is more serious than first thought by the ESO when he originally referred it to the Monitoring Officer?

Suggested response – both Monitoring Officer and Standards Committees should have the power to refer cases back to an ESO. This will allow a view to be taken of any additional evidence which arises during the Monitoring Officers investigation and during a Standards Committee hearing. This should assist in ensuring that serious cases are appropriately treated.

Question 5 – Is the balance between the actions required of Monitoring Officers under the proposed amendment regulations and the Standards Board proposed guidance to Monitoring Officers appropriate?

Suggested response – yes – the balance between the actions required of Monitoring Officers under the proposed amendment Regulations and the Standards Board proposed guidance appears to be appropriate.

4. CONCLUSION AND RECOMMENDATION

- 4.1 The framework for the local investigation and determination of complaints was always likely to be complex. However the acknowledgement by the Government of the scope for some alleged breaches of the Code to be dealt with locally is to be welcomed and the guidance offered by the Standards Board for England and the amendment Regulations issued by the ODPM in this respect will prove valuable.
- 4.2 In the light of the foregoing summary of both the consultation papers issued by the ODPM and the Standards Board for England, the Committee is recommended to approve the suggested responses contained herein to the consultation papers on behalf of the District Council.

BACKGROUND PAPERS

Consultation by the Office of the Deputy Prime Minister on the proposed Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004.

Draft guidance to Monitoring Officers by the Standards Board for England:
Local Investigation of Allegations and Misconduct under the Local Authorities
(Code of Conduct) (Local Determination) (Amendment) Regulations 2004.

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STANDARDS COMMITTEE

24TH MARCH 2004

**APPLICATIONS FOR DISPENSATIONS
(Report by the Executive Director of Central Services
and Monitoring Officer)**

1. INTRODUCTION

- 1.1 Two applications have been received from Parish Councils requesting the Standards Committee to grant dispensations to enable their Councillors to speak and vote on matters relating to community facilities in their Parishes.

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. APPLICATIONS RECEIVED

- 3.1 Four of the seven Members of Ellington Parish Council also serve on the Ellington Village Hall Management Committee. The Parish Council has applied for dispensation to allow the four Councillors to speak and vote on matters relating to the Village Hall should they arise at meetings of the Parish Council.

- 3.2 All Members of the Upwood and the Raveleys Parish Council have, since the 1850's acted as Trustees to two charities relating to allotments for the poor of the Parish. There are occasions when matters concerning the allotments arise at Parish Council meetings and to enable such business to continue to be conducted, the Parish Clerk has requested that dispensation be granted to the ten Members of the Council for this purpose.

4. CONCLUSION

- 4.1 In each of 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) (Dispensation) 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 these applications, it is suggested that consideration should be given to granting dispensations to speak and to vote for the period specified –

Ellington Parish Council – 30th April 2007; and
Upwood and The Raveleys Parish Council – 30th April 2007

after which time applications for the newly elected Councillors would need to be submitted.

BACKGROUND PAPERS

The Parish Council's Model Code of Conduct (Order 2001)
The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002
Letters received from the Parish Clerks to Ellington and Upwood and The Raveleys Parish Councils.

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STANDARDS COMMITTEE

24TH MARCH 2004

**STANDARDS – CURRENT ISSUES
(Report by the Democratic Services Manager)**

1. INTRODUCTION

1.1 The purpose of this report is –

- ◆ to advise Members of the appointment of a new Chief Executive to the Standards Board for England;
- ◆ to advise the Committee of training held recently at South Cambridgeshire District Council on Local Determination Hearings
- ◆ to update the Committee on the current position with regard to Local Authorities (Code of Conduct) (Local Determinations) (Amendments) Regulations 2003; and
- ◆ to invite the Committee to nominate representatives to attend the Third Annual Assembly of Standards Committees.

2. APPOINTMENT OF CHIEF EXECUTIVE

2.1 David Prince, currently Director of Strategy and Resources at the Audit Commission has been appointed Chief Executive to the Standards Board for England and will take up his new post in April. Members may recall that one of Mr Princes' past appointments included Director of Finance and Administration at Cambridgeshire County Council.

2.2 The Board has indicated that it will be the priority of the new Chief Executive to continue to work in Partnership with those bodies involved in the Local Government Community, meeting regularly to discuss issues of mutual interest and concern and to expedite arrangements for dealing with complaints.

3. TRAINING – LOCAL DETERMINATION REGULATIONS

3.1 Members will recall South Cambridgeshire District Council's offer to host a training event on the Local Determination Regulations and their invitation to Members serving on District Standards Committees in Cambridgeshire to attend.

3.2 In the event, District and Parish Councillors and Independent Members from East Cambridgeshire, South Cambridgeshire, Huntingdonshire and representatives from the Cambridgeshire Association of Local Councils attended a joint training session in Cambridge on 24th February 2004. The event was led by the Head of Legal Services at South Cambridgeshire and supported by the Monitoring Officers attending from the other Districts.

3.3 Councillors Mrs Boddington and Hansard and Messrs Bristow and Hall attended from Huntingdonshire. The training comprised a factual introduction to the procedure to be followed in the investigation and

determination of allegations of misconduct locally by Councillors, including reference to the pre-hearing process, sanctions and notice of decisions. Those present also had the opportunity to apply the decision-making principles to a series of cases downloaded from the website of the Standards Board for England. A mock hearing which concluded the event was very well received by those in attendance.

4. LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATIONS) (AMENDMENT) REGULATIONS 2003

4.1 At the meeting of the Committee held in December (Minute No.19 refers) Members approved a procedure to assist in the conduct of hearings in the event of the reference of cases from the Board to the Committee for local determination. It was also anticipated that whilst the Standards Board should continue to be the initial recipient of all allegations of breaches of the Code of Conduct to ensure consistency, cases could be referred to the Standards Committee of a local authority for investigation, report and determination. Regulations to assist authorities in implementing these proposals have been expected for some time.

4.2 On 24th February, 2004 the Office of the Deputy Prime Minister issued a second draft of S66 Regulations to provide a framework for Monitoring Officers to investigate allegations of misconduct that are referred to them by Ethical Standards Officers. It is the intention that the new arrangements will mean some investigations can be carried out at the level most appropriate to the alleged misconduct and speed up the investigations process overall.

4.3 It is understood that the Office of the Deputy Prime Minister will be consulting widely on the draft Regulations and in this connection the Committee has been invited to respond to consultation papers issued by both the Office of the Deputy Prime Minister and Standards Board under Agenda Item 3 ante.

5. THIRD ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

5.1 The Third Annual Assembly of Standards Committees Conference is to take place at the International Conference Centre (ICC), Birmingham between 13th and 14th September 2004. 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 will address the practical application of the Code of Conduct, its areas of difficulty and how it can be improved and will debate the role of the Code in the wider ethical framework. A comprehensive programme of presentations, plenary discussions and workshops will cover topics such as bullying, campaigning and planning.

5.2 Places are not limited and will be allocated on a first come, first served basis. However, in view of the District and Parish Council elections on 10th June, 2004 and the possibility that Membership of the Committee might vary 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 1st July 2004.

6. CONCLUSION

6.1 The Committee is requested to –

- ◆ note the appointment of Mr David Prince as new Chief Executive to the Standards Board for England;
- ◆ note training undertaken on Local Government determination hearings hosted by South Cambridgeshire District Council;
- ◆ note the current position with regard to the provision of draft Regulations under the Local Authorities (Code of Conduct) (Local Determinations) (Amendment) Regulations 2003; and
- ◆ approve the attendance of Members of the Committee at the Third Annual Assembly of Standards Committees Conference.

BACKGROUND PAPERS

Leaflet detailing the content of the Third Annual Assembly of Standards Committees.

Bulletin No. 16 – Standards Board for England.

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