

A meeting of the **STANDARDS COMMITTEE** will be held in **MEETING ROOM 1, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **THURSDAY, 6 JULY 2006** at **4:00 PM** and you are requested to attend for the transaction of the following business:-

## **A G E N D A**

### **APOLOGIES**

**Contact**

**1. ELECTION OF CHAIRMAN**

To elect a Chairman of the Committee for the ensuing Municipal Year.

**2. MINUTES** (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting held on 9th March 2006.

**C Deller  
388007**

**3. MEMBERS' INTERESTS**

To receive from Members declarations as to personal and/or prejudicial interests and the nature of those interests in relation to any Agenda Item. Please see Notes 1 and 2 below.

**4. APPOINTMENT OF VICE-CHAIRMAN**

To appoint a Vice-Chairman of the Committee for the ensuing Municipal Year.

**5. THE STUKELEYS PARISH COUNCIL - ALLEGED BREACH OF CODE OF CONDUCT** (Pages 5 - 14)

To consider a report by the Director of Central Services and Monitoring Officer regarding allegations made against two Councillors serving on The Stukeleys Parish Council and the recommendations of the Investigating Officer thereon.

**P Watkins  
388002**

**6. APPLICATIONS FOR DISPENSATION** (Pages 15 - 18)

To consider a report by the Director of Central Services and Monitoring Officer regarding two applications received for dispensation from Alconbury and Buckden Parish Councils.

**C Deller  
388007**

7. **CODE OF CONDUCT - STANDARDS BOARD NOTIFICATION** (Pages 19 - 20) **C Deller  
388007**

To consider a report by the Director of Central Services and Monitoring Officer regarding a notification received from the Standards Board for England in respect of an allegation of misconduct by a District Councillor.

8. **INTRODUCTION TO THE "CASE ALERT"** (Pages 21 - 26) **C Deller  
388007**

To consider a report by the Director of Central Services and Monitoring Officer regarding the launch by the Standards Board for England of the "Case Alert".

9. **CURRENT ISSUES** (Pages 27 - 32) **C Deller  
388007**

To consider a report by the Director of Central Services and Monitoring Officer regarding issues of concern to the Committee.

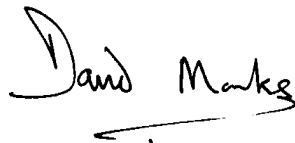
10. **NEXT MEETING**

To note that the next meeting of the Committee will be held on Thursday 14th September 2006 at 4.00pm.

11. **DVD**

Should the Committee be so minded, to view a DVD prepared by the Standards Board for England on local investigations and the conduct of local hearings (approximate length thirty-three minutes).

Dated this 12 day of December 2008

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

Chief Executive

## Notes

1. *A personal interest exists where a decision on a matter would affect to a greater extent than other people in the District –*
  - (a) *the well-being, financial position, employment or business of the Councillor, a partner, relatives or close friends;*
  - (b) *a body employing those persons, any firm in which they are a partner and any company of which they are directors;*
  - (c) *any corporate body in which those persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or*
  - (d) *the Councillor's registerable financial and other interests.*
2. *A personal interest becomes a prejudicial interest where a member of the public (who has knowledge of the circumstances) would reasonably regard the Member's personal interest as being so significant that it is likely to prejudice the Councillor's judgement of the public interest.*

**Please contact Ms C Deller, Democratic Services Manager, Tel No 01480 388007/e-mail: [Christine.Deller@huntsdc.gov](mailto:Christine.Deller@huntsdc.gov). 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 Panel.**

**Specific enquires with regard to items on the Agenda should be directed towards the Contact Officer.**

**Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.**

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

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

### **Emergency Procedure**

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

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# Agenda Item 2

## HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held in the Cabinet Room. Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Thursday, 9 March 2006.

PRESENT: Councillor D H Bristow - Chairman  
Councillors P J Downes, J A P Eddy,  
Mrs K P Gregory, I R Muir, T D Sanderson  
and J Taylor.

Messrs D L Hall, D Macpherson and  
G Watkins.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillor Mrs B E Boddington and D Patisson

### **25. MINUTES**

The Minutes of the meeting held on 8th December 2005 were approved as a correct record and signed by the Chairman.

### **26. MEMBERS' INTERESTS**

None were declared.

### **27. STANDARDS OF CONDUCT IN ENGLISH LOCAL GOVERNMENT: THE FUTURE - DISCUSSION PAPER**

Further to Minute No. 5, the Committee considered a report by the Director of Central Services and Monitoring Officer (a copy of which is appended in the Minute Book) summarising the content of a discussion paper published by the Office of the Deputy Prime Minister (ODPM) entitled "Standards of Conduct in English Local Government: The Future". The consultation paper contained the Government's view on the future of the conduct regime for local government and provided a co-ordinated response to the recommendations of the Graham and Select Committees enquiries and Standards Board.

In general, Members welcomed the content of the consultation paper and acknowledged that it had addressed several areas of concern highlighted in their original response to the consultation undertaken by the Board on the review of the Code of Conduct. Referring to proposed changes to the definition of "personal interest" and variations in the practices for the declaration of a "prejudicial interest", the Committee recognised that all Members would require further training and there was a view that such training should be obligatory for Councillors and Parish Clerks. There also was some uncertainty regarding the use of the phrase "unlawful conduct" which could refer to either a criminal or a civil offence.

In respect of the suggestion that Standards Committees should assume from the Standards Board responsibility for initial assessment of most allegations, a Member expressed concern that this approach undermined the independence of the current complaints process and could result in the loss of consistency and objectivity exposing issues arising from complaints to personal and local influences.

The Committee were concerned at the additional resources required to respond to a regime where Standards Committees would assess and determine complaints with Monitoring Officers undertaking most investigations particularly given the other pressures currently prevailing on local government. Whilst expressing their interest in joint working and co-operation with other authorities to share the burden of investigations, the Committee recognised that a series of principles would require to be established before such arrangements could be implemented.

Having noted which of the issues highlighted would require primary or secondary legislation and the estimated timetable for implementation, the Committee

RESOLVED

that the Director of Central Services and Monitoring Officer be authorised to convey to the Office of the Deputy Prime Minister the comments raised by the Committee on the content of the Government Consultation Paper "Standards of Conduct in English Local Government".

## **28. CODE OF CONDUCT - STANDARDS BOARD NOTIFICATION**

Pursuant to Item No. 21, the Committee received and noted a report by the Director of Central Services and Monitoring Officer (a copy of which is appended in the Minute Book) regarding the decision of the Standards Board for England not to take any further action in relation to an allegation made against a Councillor serving on Earith Parish Council.

## **29. REVIEW OF CASE SUMMARIES**

Following the interest expressed by the Committee in reviewing case examples drawn from the Standards Board for England, Members considered a report by the Director of Central Services and Monitoring Officer (a copy of which is appended in the Minute Book) which related to cases involving a breach of the Code of Conduct and the appointment of Parish Councillors to Trusts.

Having welcomed the opportunity to review various points illustrated and having indicated their wish to receive case summaries to future meetings, the Committee

RESOLVED

that the details of the cases presented be noted.

**30. APPLICATION(S) FOR DISPENSATION**

The Director of Central Services and Monitoring Officer reported that he had received an e-mail from the Parish Clerk to Grafham Parish Council requesting dispensation for five Members of the Parish Council in order that they might continue to participate in meetings of the Council when issues arose relating to traffic calming measures in Grafham village.

After discussion of the various options available to the Parish Council and in view of the information available to them regarding the various interests held by the Councillors concerned, the Committee

RESOLVED

that the request for dispensation on behalf of five Members of Grafham Parish Council be not granted.

**31. CURRENT ISSUES**

A report by the Director of Central Services and Monitoring Officer was received and noted (a copy of which is appended in the Minute Book) updating Members on a variety of matters relating to the work of the Committee including the availability of new guidance on the Code of Conduct and a revised referral criteria for local investigations.

A discussion ensued on the arrangements which might be made to train Councillors and Parish Clerks on changes to the Code of Conduct and principally on the areas of personal and prejudicial interests and the difficulties still experienced by some parishes in relation to their understanding of the Code.

Having been advised that an easy guide to the Code of Conduct now was available for issue to new clerks and that training for new Councillors and Parish Clerks would take place after the elections in May, the Director of Central Services and Monitoring Officer undertook to consider re-issuing advice to Parish Clerks regarding the placing of text relating to the declaration of Members' interests as a standard item on Parish Council agenda.

**32. NEXT MEETING**

It was noted that the next meeting of the Committee would be held on Thursday 6th July 2006 at 4.00pm.

**33. DVD**

In view of the lateness of the hour, it was agreed to postpone, until the next meeting, the showing of the DVD prepared by the Standards Board for England on local investigations and the conduct of local hearings.

Chairman

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**STANDARDS COMMITTEE**

**6TH JULY 2006**

**THE STUKELEYS PARISH COUNCIL –  
ALLEGED BREACH OF CODE OF CONDUCT  
(Report by the Director of Central Services and Monitoring Officer)**

**1. INTRODUCTION**

- 1.1 Members will be aware of a complaint which had been made to the Standards Board for England relating to the alleged conduct of two Parish Councillors serving on The Stukeleys Parish Council. The allegation had been referred to an Ethical Standards Officer who had subsequently passed the matter to the Monitoring Officer for investigation locally.
- 1.2 This procedure requires a report on the outcome of the investigation to be submitted to the Standards Committee in due course.

**2. INVESTIGATION**

- 2.1 In accordance with the guidance issued by the Standards Board for England, an investigation into the complaint has been undertaken. This has involved the inspection of Parish records and individual interviews with the complainant and his partner, with those Councillors subject to the allegations and with the Parish Clerk.
- 2.2 The final report on the case is now enclosed, appended to it are the documents which the Investigating Officer has taken into account in reaching her conclusions.
- 2.3 A copy of the Agenda for this meeting, including the final report has been sent to the complainant, to the Clerk to The Stukeleys Parish Council and to the Ethical Standards Officer.
- 2.4 The Monitoring Officer also has sent a copy of the final report to the Councillors against whom the allegations have been made. The Councillors have been advised of the conclusions of the final report and that the report has been referred to the Standards Committee.

**3. NEXT STEPS**

- 3.1 The Committee should consider making one of the following findings–
- (i) that it accepts the Investigating Officer's finding, that the Councillors have not failed to comply with the Code of Conduct for Members as set out in the allegation; or
  - (ii) that the matter should be considered at a hearing of the Standards Committee conducted in accordance with the District Council's adopted procedure for local determination hearings.
- 3.2 Should the Standards Committee find that there has not been a failure to comply with the Code of Conduct, the Monitoring Officer is required, as soon as practicable thereafter, to send a written note of that finding and the reasons on which it was based together with a copy of the Investigating Officer's report to the Councillors, to the

Ethical Standards Officer, to the Parish Council and to the person who made the allegation. The Councillors should be asked whether they object to the publication of a notice of the finding in the local newspaper and arrangements should be made for the publication of the notice unless the Councillors so objects.

- 3.3 If the Standards Committee decides that there is a case to answer, a hearing will be held to make a final determination on whether the Code of Conduct has been breached. The Standards Committee's decision to hold a hearing should be based on careful consideration of the information in the report of the Investigating Officer. Should the Committee wish to proceed, the Monitoring Officer is required to arrange for the matter to be considered at a hearing held in accordance with the adopted procedure.
- 3.4 The Committee will recall that they authorised the Director of Central Services and Monitoring Officer, after consultation with the Chairman of the Committee, to appoint Members to hearings as necessary and suggested that five Members should comprise the Panel, charged with undertaking a determination hearing. It was agreed that a minimum of three Members of the Standards Committee, including at least one independent Member must be present. If a case related to a Parish Councillor it was agreed that one of the Committee Members present must be a Parish Councillor.

#### **4. CONCLUSION**

- 4.1 The Committee is invited to consider the report of the Investigating Officer and to decide whether, based on the facts set out, that it agrees or otherwise with the finding and considers whether there is a case to answer.

#### **BACKGROUND PAPERS**

Local Investigations – Guidance for Monitoring Officers and Standards Committees – Standards Board for England.

**Contact Officer:** Peter Watkins, Director of Central Services and Monitoring Officer  
☎ 01480 388002

**FINAL REPORT – CONFIDENTIAL**

<b>SBE CASE NOS:</b>	13997.06 13998.06
<b>MEMBERS:</b>	Parish Councillors T F Pinner and D J Middleton
<b>AUTHORITY:</b>	The Stukeleys Parish Council
<b>ALLEGATIONS:</b>	It is alleged that the above-named Members acted contrary to Paragraphs 2. (a), 4, and/or 5 (a) of the Parish Council's Code of Conduct
<b>DATE REFERRED TO DISTRICT COUNCIL'S MONITORING OFFICER:</b>	In accordance with Section 60 (2) of the Local Government Act 2000, the case was referred to the Monitoring Officer, Huntingdonshire District Council for investigation on 27th February 2006.
<b>APPOINTMENT OF INVESTIGATING OFFICER:</b>	On 1st March 2006 the Monitoring Officer appointed Ms C Deller, Democratic Services Manager at Huntingdonshire District Council to investigate the allegations.
<b>DATE OF FINAL REPORT:</b>	23rd June 2006
<b>SUMMARY:</b>	<p>The complainant, Mr Brian Warne of Bell Cottage, 26 Ermine Street, Little Stukeley had alleged in a complaint sent to the Standards Board for England dated 2nd January 2006 that Councillors T F Pinner and D J Middleton had verbally abused Mr Warne and his partner Miss A B and threatened to use their positions to obtain permission to build houses on land adjacent to Mr Warne's property, Bell Cottage.</p> <p>As a result of these actions, it has been alleged that Councillors Pinner and Middleton failed to comply with Sections 2 (a), 4 and/or 5 (a) of The Stukeleys Parish Council's Code of Conduct adopted by the Council at its meeting held on 1st July 2002 which require</p> <p>"2. (a) – A Member must promote equality by not discriminating unlawfully against any person."</p>

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

5. (a) – A Member must not in his official capacity, or any other circumstance, use his position as a Member improperly to confer on or to secure for himself or any other person, an advantage or disadvantage.”

#### **RESPONSES TO ALLEGATIONS:**

In a letter from the Standards Board for England dated 27th February 2006 the allegations were referred for investigation to the Monitoring Officer, Huntingdonshire District Council in accordance with Section 60(2) of the Local Government Act 2000.

In accordance with the procedure for the local investigation of allegations, Councillors Pinner and Middleton each submitted written statements in which they denied having breached the Code of Conduct. However, by their accounts of the alleged incidents both admitted to their participation in exchanges following which Mr Warne submitted his complaint to the Standards Board for England. Enclosed with the statements submitted by Councillor Pinner were letters from Mrs S J VanBergen former Huntingdonshire District Councillor for the Alconbury and The Stukeleys Ward and Ms Suzanne Maskell of 11 Bramble End, Alconbury.

#### **INVESTIGATION:**

##### **Procedure**

Four interviews were conducted by the Investigating Officer: one with Mr M J Newman, Clerk to The Stukeleys Parish Council on 26th April 2006, others separately with Councillors D J Middleton and T F Pinner against whom the allegations had been made on 3rd May 2006 and with Mr B Warne, the complainant and his partner Ms A B on 15th May 2006.

Despite having been requested during the course of the interviews by Mr Newman, Clerk and Councillors Pinner and Middleton to interview Mr M Monk, Vice-Chairman

of the Parish Council to verify advice which might have been given to Councillor Pinner regarding planning issues and various persons associated with Mr Warne's employer to obtain character references, the Investigating Officer considered that those suggested courses of action would not have contributed materially to the resolution of the case.

A written note of the material points of the interviews conducted was sent to each party, together with a request that one copy be returned signed as a correct record with such corrections or amendments as the interviewees felt necessary. Copies of the interview notes are appended together with other documents that are relevant to the investigation (Members copies only) –

- ◆ a map of Little Stukeley identifying the location of the paddock/field to the rear of Bell Cottage and the lay-by/bus stop where the alleged incidents had taken place;
- ◆ a statement produced by Ms A B during the course of the interview undertaken by the Investigating Officer with Mr Warne and Ms B on 15th May 2005; and
- ◆ a copy of Councillor Pinner's Registration of Financial and Other interests in which Councillor Pinner identifies in Section 4 - land that he (or jointly) rents or owns, rents, leases or has the right to occupy in the Parish area. The entry refers to a field known as "Jack Harris" which Councillor Pinner has indicated is the paddock/field to the rear of Bell Cottage.

Also appended to Members' copies only is a copy of a letter received from the complainant sent in response to the content of the draft report.

#### **RELEVANT INFORMATION:**

Mr Newman, Clerk to the Parish Council has confirmed that Councillors Pinner and Middleton had signed their Declaration of Acceptance of Office and agreed to observe the Parish Council's Code of Conduct. Both Councillors believed themselves to have a good understanding of the requirements of the Code either through length of service as a Parish Councillor (Councillor Pinner) or Government service (Councillor Middleton). It appears that only Councillor Middleton had attended training on the Code, hosted by the Cambridgeshire Association of Local Councils, although this has not been verified by the Clerk. Both Councillors had registered their financial and other interests with the Monitoring Officer.

From the written statements submitted and the interviews conducted there was no doubt that Councillors Pinner and Middleton, Mr Warne and Ms B were parties to an exchange which began in the paddock/field to the rear of Bell Cottage and moved onto the lay-by/bus stop adjacent to the same cottage on 21st November 2005. The sequence of events recalled by those involved as re-counted in detail in the interview notes are very similar and are unlikely to be disputed.

There is, however, contradictory evidence as to whether abusive language was used, whether physical contact between Councillor Pinner and Mr Warne occurred and whether a statement was made regarding the building of houses or an intention to seek planning consent for the paddock/field to the rear of Bell Cottage.

Historically, it appears that issues associated with the ownership of the land to the rear of Bell Cottage had been the cause of ill feeling between Councillor Pinner and

Mr Warne before the incidents on 21st November 2005 occurred. There was clearly a dispute over ownership of the paddock/field and whilst the Investigating Officer has had sight of material which suggests that the land is owned by Councillor Pinner, uncertainty still remains in the mind of Mr Warne ("It is a grey area"). The resolution of this matter is for the two parties concerned and remains outside of this investigation but the issue un-questionably contributed to the confrontation which resulted on 21st November 2005. It perhaps also should be borne in mind that both incidents took place in little more than an hour.

Councillor Pinner also has suggested that Mr Warne had interfered with the electric boundary fencing around the paddock/field and the water trough and had previously allowed a dog to trouble ponies kept in the field (by Councillor Pinner). Although these facts cannot be verified, the fact that Councillor Pinner feels that they are material to the case indicates the existence of other underlying factors which could have led to the exchanges on 21st November. Letters written by Suzanne Maskell and Elisabeth M Hunt suggest that the disagreements between Councillor Pinner and Mr Warne were longstanding and also that tension had been building for some time.

Using and comparing the evidence gathered during the interviews, it is possible to examine the various allegations made in the complaint.

## **INCIDENT NO. 1 – FIELD/PADDOCK**

### **Verbal Abuse/Foul Language/Threat of Housebuilding**

Although Ms B described Councillor Pinner's behaviour as "aggressive, intimidating, not relaxed and tense" she stated categorically in the interview that he did not use foul language nor did he physically touch her. Neither Councillor Pinner nor Ms B could recall Councillor Middleton having spoken during the incident. Councillor Middleton also confirmed that no foul language had been used by Councillor Pinner nor did he believe that he nor Councillor Pinner had been aggressive. Councillor Pinner also suggested that he would not use foul language in a lady's presence, had not sworn at Ms B and that Councillor Middleton had not spoken during the incident. From the statements of those parties involved in the first confrontation it appears clear that –

- ◆ Councillor Middleton, other than accompanying Councillor Pinner on his inspection of the boundary fence was not involved in any exchange with Ms B; and
- ◆ that it is unlikely that foul language was used by any of the parties concerned.

Similarly there is no disagreement that Ms B's dog had broken into the field/paddock and was barking at Councillors Pinner and Middleton. There are contrary reports as to the degree of nuisance or threat caused but it seems that voices were raised on both sides in attempts to calm the animal and the situation. It is clear that Ms B became distressed by the confrontation and because feelings were "running high" the issue of land ownership, which was already a sensitive matter between Councillor Pinner and Mr Warne, arose again and an exchange of words on that issue ensued. Ms B contends that Councillor Pinner stated "it wouldn't be long before he put houses on the area". Councillors Pinner and Middleton deny this statement having been made. There is no doubt that Ms B was upset by the incident (she admitted to hating confrontation) and that a heated exchange did take place between Councillor Pinner

and Ms B. Whether this exchange involved verbal abuse of Ms B is questionable, but there were no independent witnesses to the incident to substantiate the facts.

## **INCIDENT NO. 2 – LAY-BY/BUS STOP**

### **Verbal Abuse, Foul Language, Threat of Housebuilding**

Councillor Pinner has stated that neither he nor Councillor Middleton used foul language to Mr Warne during the confrontation in the lay-by. Councillor Middleton stated that he would not have sworn and could not recall whether Councillor Pinner had. Mr Warne admitted swearing and alleged that both Councillors used the “F” word. Once again there was no doubt that an argument occurred in the lay-by/bus stop between Councillor Pinner and Mr Warne. Councillor Middleton was drawn to the incident having heard raised voices. Both Councillors alleged that Mr Warne physically held Mr Pinner although Mr Warne denies this. There is no suggestion that Councillor Pinner touched Mr Warne. Unquestionably, Mr Warne’s return home and approach to Councillor Pinner had been motivated by the distress of his partner Ms B. However the argument had quickly moved on to the question of ownership of the field/paddock and a heated exchange as to ownership of the land followed.

Regarding the threat allegedly made by Councillor Pinner to build houses on the field/paddock – all parties made reference to something having been said at the conclusion of the incident. Councillor Middleton suggests that Councillor Pinner had said that “he had a right to apply for planning permission and that Mr Warne could object through the usual procedures”. Councillor Middleton was clear that Councillor Pinner did not suggest that he, as Chairman of the Parish Council could influence approval of a planning application. Councillor Middleton was of the view that nothing Councillor Pinner had said could have been misinterpreted.

Councillor Pinner denied threatening to build houses on the paddock/field. Whilst he was of the view that nothing he said could have been misinterpreted, Councillor Pinner did admit that he might have exclaimed “God, I’d wish I’d got planning permission for it” despite knowingly having received advice from more than one source suggesting that this would not be permitted.

Mr Warne alleged that Councillor Pinner threatened to build a bungalow on the land and that Councillor Middleton had suggested that as Chairman of the Parish Council (Councillor Pinner) could do what he wanted despite it having been pointed out that planning consent would have to be obtained.

There were no independent witnesses to the incident to substantiate the facts.

## **OTHER ISSUES**

Councillors Pinner and Middleton considered that the behaviour of Mr Warne at a meeting of The Stukeleys Parish Council on 5th December 2005 was material to the case and both described the proceedings in their statement. They both take the view that Mr Warne's behaviour at this meeting was an indication of his temperament and character. Letters received from former District Councillor Mrs S J VanBergen (appended to Councillor Pinner's statement) and from Stephanie Webb, Youth Work Manager, Huntingdon (viewed by the Investigating Officer) were highlighted.

During his interview, Mr Warne expressed his wish to have admitted as evidence a tape recording of the beginning of the Parish Council meeting on 5th December at which he asked during a public question period about the building of houses to the rear of Bell Cottage. He also made reference to his argument with Councillor Pinner. Mr Warne was disappointed that the Parish Council did not pursue his complaint about the conduct of Councillor Pinner.

As the conduct of Councillor Pinner and Mr Warne at the meeting of The Stukeleys Parish Council on 5th December 2005 did not form part of the allegations made to the Standards Board for England, the Investigating Officer advised that that it would not be taken into account as material to the complaint.

Mr Warne had suggested that there was a family relationship between Councillors Pinner and Middleton. This has been denied by both Councillors and Mr Warne accepts that he had received the information indirectly and could not verify it.

## **FINDINGS OF FACT**

It has been demonstrated in the submission of the written statements to the Monitoring Officer, in the original complaint to the Standards Board for England and during the interviews held by the Investigating Officer that two arguments took place during the course of one hour on the afternoon of 21st November 2005 in which Councillors Pinner and Middleton, Mr Warne and Ms B were involved.

Whatever instigated the first confrontation, whether it be the alleged dog attack, short-circuiting of the electric current to the boundary fence or cuttings in the paddock/field, it is clear that the underlying contributory factor was the dispute between Mr Warne and Councillor Pinner regarding ownership of the paddock/field known as "Jack Harris" to the rear of Bell Cottage, Little Stukeley. Councillor Pinner has documentary evidence going back a number of years which suggests that the land is in his ownership. Mr Warne admits that ownership of the land is "a grey area". Councillor Middleton has no knowledge whatsoever of these issues. This dispute appears to have been ongoing for a number of years although it appears that neither party had contact over the period.

The very nature of an argument between two parties involved a contentious exchange of views, the raising of voices, the heightening of emotion and tension and lack of control in making, perhaps, statements which ordinarily would not be made.

There is no doubt that Ms B was genuinely upset and distressed by the first incident. However, there is general agreement that no foul language was used in the exchanges. Ms B was upset and sensitive to involvement in the argument (which is understandable). She did not assert that she was insulted verbally, neither was insulting language used against her. Undoubtedly Mr Warne's reaction to Councillor Pinner was motivated by Ms B's distress but the ongoing dispute between the two



parties about land ownership quickly arose as the primary issue in the second incident.

There are no witnesses to either incident: without independent evidence it would be unreasonable to reach any conclusion as to whether offensive language was exchanged between Councillor Pinner and Mr Warne. Similarly, without verification and given the conflict in the statements made, no conclusions can be reached about the allegation of physical assault.

In respect of the third issue regarding the alleged “threat” to build houses or a bungalow in the paddock/field to the rear of Bell Cottage and from the interviews conducted it would appear that some reference to that effect may have been made by Councillor Pinner. There are three varying accounts of the actual words used in the statement made by Councillor Pinner, but again in the absence of any independent witnesses, the suggestion of a “threat” being made to Mr Warne and Ms B cannot be verified.

Evidence suggests that Councillor Middleton played little part in the first incident: the timing of his arrival at the field/paddock at the point Councillor Pinner was about to investigate the problem of the electric fencing was purely coincidental. Councillor Middleton also had limited involvement in the second incident with Mr Warne. Councillors Pinner and Middleton are of similar ages and have been friends from boyhood so it would not be unusual for them to chat, accompany each other on a walk or support each other if it was thought they were in difficulty. Mr Middleton stated that he had no knowledge of any land ownership issues in relation to the “Jack Harris” paddock.

Without independent verification of the events of 21st November, I am unable to substantiate the allegations made by Mr B Warne. I have concluded, therefore, that neither Councillor Pinner nor Councillor Middleton breached The Stukeleys Parish Council’s Code of Conduct.

**Christine Deller**  
**Investigating Officer**  
**23rd June 2006**

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

**1. INTRODUCTION**

- 1.1 At their meeting on 10th March 2005, the Committee granted dispensation to speak and vote to six Members of Alconbury Parish Council on matters relating to the Alconbury Flood Alleviation Scheme and related planning applications for the period ending 30th April 2006.
- 1.2 Dispensation to speak and vote on matters relating to Buckden Village Hall and Recreation Ground Trust was granted by the Committee on 26th March 2003 to fifteen Members of Buckden Parish Council for the period ending 30th April 2006.
- 1.3 In each case, the period for which dispensation had been granted to Alconbury and Buckden Parish Councils has expired. Both Parish Councils have requested the Committee to grant further periods of dispensation.

**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 refers 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 The Environment Agency has published a “preferred option consultation” in respect of the Alconbury Flood Alleviation Scheme on which stakeholders, including the Parish Council, have been consulted. The Scheme will provide flood defences in the form of earth banks and flood walls through the village centre to protect properties from flooding. It is anticipated that a planning application for the scheme will ultimately be submitted by the Environment Agency to the District Council as local planning authority for determination. Alconbury Parish Council would be a consultee in that process. The scheme has been delayed and the Parish Council have not been required to comment formally on the proposal since the original dispensation was granted. It is now anticipated that there will be some progress in late Summer/early Autumn.

- 3.2 Currently, there are ten Members (one vacancy) serving on Alconbury Parish Council. The Parish Clerk will confirm in advance of the Committee how many of these Councillors have been affected by flooding in the past and therefore might be seen to benefit from any future flood alleviation scheme. Those Councillors would have both a personal interest under the Parish Council’s Code of Conduct by virtue of their home address and prejudicial interest because of the improvements a scheme should bring to the safety and security of their properties.

- 3.3 Because the number of Members of the Parish Council that would be prohibited from participating in meetings when the scheme was being discussed might exceed 50% of those entitled or required to participate, the Parish Council have requested the Standards Committee to grant dispensations to allow those Members to continue to fully participate in the meeting and to speak to and vote on occasions when the alleviation scheme is discussed and when the Parish Council is consulted on the planning application.

- 3.4 Buckden Parish Council is landlord of property administered by the Buckden Village Hall and Recreation Ground Trust and is party to an agreement with the Millennium Commission under which the present village hall was enlarged into a Millennium Community Centre. The Parish Council contributed to the extension to the Centre via a loan – repayment of which has been secured through an increase in the Parish precept. Given the property and financial interests of the Parish Council, the Monitoring Officer has advised that dispensations are required to enable the Members of the Parish Council to conduct business associated with the village hall and recreation ground trust.

### **4. CONCLUSION**

- 4.1 In the circumstances described, dispensations are required to prevent the transaction of Parish Council business from being impeded.

- 4.2 That part of the Relevant Authorities Standards Committee (Dispensations) Regulations 2002 which would enable dispensations to be granted is reproduced in paragraph 2.1 (i) ante.
- 4.3 Should the Committee look favourably on these applications, it is suggested that consideration should be given to granting dispensations to speak and to vote to Members of Alconbury and Buckden Parish Councils for the period ending 30th April 2010 after which time applications for the newly elected Councillors would need to be submitted should it be considered necessary.

### **BACKGROUND PAPERS**

The Parish Councils Model Code of Conduct Order 2001.

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

Letters received from the Parish Clerks to Alconbury and Buckden Parish Councils.

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

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**STANDARDS COMMITTEE**

**6TH JULY 2006**

**CODE OF CONDUCT – STANDARDS BOARD NOTIFICATION  
(Report by the Director of Central Services and Monitoring Officer)**

**1. INTRODUCTION**

- 1.1 In accordance with the procedure adopted by the Standards Board for England for the investigation of allegations, the Monitoring Officer has been notified of the Board's decision in respect of an allegation made against a Councillor serving on the District Council.

**2. DETAILS**

- 2.1 It had been alleged that a District Councillor had brought his office into disrepute and had improperly sought to secure an advantage at forthcoming District Council elections by referring to the employment of a consultant "to make sure that electors ticked the correct boxes" to assist with publicity for the scheme for a new headquarters building for the District Council. Officers and colleague Councillors witnessed the remark.
- 2.2 In response, the Standards Board for England were of the view that Members were entitled to express their views on matters even though these might be at variance with others. In the circumstances described the Board considered that the alleged conduct (even if it were bound to have occurred) would not have involved any failure to comply with the Authority's Code of Conduct.
- 2.3 Given this conclusion, the Board found that no further action needed to be taken.

**3. CONCLUSION**

- 3.1 The Committee is invited to note that the Standards Board for England has agreed not to take any further action in relation to the allegation.

**BACKGROUND PAPERS**

Letter received from Standards Board for England dated 22nd March 2006.

**Contact Officer:** Christine Deller, Democratic Services Manager  
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## INTRODUCTION TO THE “CASE ALERT”

(Report by the Director of Central Services and Monitoring Officer)

### 1. INTRODUCTION

- 1.1 Members may recall having expressed interest in reviewing case examples drawn from the Standards Board for England. Subsequently, two cases were presented to the Committee at their last meeting and Members indicated a wish for this practice to continue.
- 1.2 By coincidence and as an initial step in developing their role as strategic regulator and adviser, the Standards Board for England has launched a new facility entitled “Case Alert”.

### 2. THE CASE ALERT

- 2.1 It is the intention that the “Case Alert” will provide regular in-depth analysis of significant cases and best practice guidance drawing upon decisions by Standards Committees, the Adjudication Panel for England and the High Court. The “Case Alert” will focus on those cases which set important legal precedents and which will help to interpret the Code of Conduct and existing case law.
- 2.2 As the “Case Alert” should be especially useful to Monitoring Officers and Standards Committees, the District Council has registered to receive bulletins as and when they are published.
- 2.3 It is understood that the reports on cases in the “Case Alert” will be more detailed than the case summaries from which the report to your last meeting was drawn. Therefore and rather than duplicate efforts, it is suggested that when published the “Case Alert” be included on the Agenda for the next available meeting and replace the practice of producing case summaries as first presented to your last meeting. The Committee could continue to draw to the attention of town and parish councils any issues highlighted by the “Case Alert” as originally intended.
- 2.4 The first issue of the “Case Alert” is enclosed. This examines a case from January 2006 involving decisions on personal and prejudicial interests and whether the rules on interests affect Members’ human rights.

### **3. RECOMMENDATION**

- 3.1 To assist Members in their interpretation of the Code of Conduct issued it is recommended that the “Case Alert” be submitted to future meetings of the Committee in place of “case summaries” produced by the Director of Central Services and Monitoring Officer.

### **BACKGROUND PAPERS**

Standards Board for England Bulletin No. 29.

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

**The Case Alert 1, May 2006**

**Councillor with Conflict of Interest Suspended**

**Councillor with conflict of interest suspended**

**North Norfolk district councillor Michael Baker was suspended from office for 12 months, following a hearing of the Adjudication Panel for England on 9 January 2006.**

The panel's tribunal decided that Councillor Baker had breached the Code of Conduct by taking part in a meeting in which he had a prejudicial interest. The tribunal expressed concerns that members and council officers had not clearly explained the councillor's obligations under the Code of Conduct.

The decision in the case clarifies councillors' duties when they have conflicts of interest in meetings, particularly in relation to the current definition of personal and prejudicial interests and the implications of human rights legislation.

**The planning application**

Councillor Baker was found to have taken part in the consideration of his own company's planning application for flats and shop storage at the council's development committee meeting on 3 February 2005.

Councillor Baker was the managing director of the company, as well as a company shareholder and employee. However, he did not declare an interest at the meeting, nor withdraw from the room when the application was discussed.

**Official capacity**

Councillor Baker said that he attended the meeting as an applicant, and not as a councillor. However, the case tribunal referred to a Court of Appeal judgment — *R. (on the application of Richardson) v North Yorkshire CC [2003] EWCA Civ 1860*. This judgment stated that members could not avoid the rules on interests by claiming to be present at meetings in a professional capacity.

He would still be a member, and regarded as representing his authority. (See chapter 3 of [The Case Review number 2](#) – ‘Prejudicial interests: an attack on local democracy?’ – for details of this judgment.)

There was a potential conflict of interest between Councillor Baker’s role as an applicant, and his role as an elected member. His ability to take part in the meeting was restricted by the rules on personal and prejudicial interests in the Code of Conduct.

### **Personal and prejudicial interests**

Members of the committee appeared to be aware of Councillor Baker’s interest in the application, but no one seemed to challenge his participation at the meeting. Councillor Baker later claimed that he had not sought to take advantage of his position, but had acted to help build affordable housing for the company’s employees, which he regarded as “social housing”. However, the test of whether he had a prejudicial interest was an objective one, set out in the Code of Conduct.

The Code states that a member has a personal interest if it relates to one of their interests in the register of interests, or if it could be regarded as affecting his financial position or well-being to a greater extent than others in the area of the authority. A member also has a prejudicial interest if it is one that a member of the public would reasonably regard as so significant that it is likely to impair their judgment of the public interest.

The Adjudication Panel’s case tribunal found Councillor Baker had both a personal and prejudicial interest according to these criteria. He was the managing director of the company, as well as a shareholder and employee, and a decision on the application would affect him more than others in the area of the authority. The tribunal also found that a member of the public would be in no doubt that Councillor Baker had a prejudicial interest.

Councillor Baker accordingly had a duty under the Code of Conduct to declare a personal interest and withdraw from the meeting when the application was considered.

### **Human rights**

The case tribunal also looked at the implications of human rights legislation for members making representations at council meetings.

Councillor Baker argued that it was unfair in terms of his human rights that he had been denied the right to speak on the application as a result of his holding office.

Article 6 of the *European Convention on Human Rights* states that “In the determination of his civil rights and obligations ... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”

The tribunal found that the company had the right to a fair and public hearing and to send anyone to make representations except Councillor Baker, who was prevented from doing so by the Code of Conduct. The tribunal regarded this as a proportionate and lawful restriction to prevent bias and ensure that the planning process was fair:

*“The restriction on the company, as to who could represent them ... was a proportionate restriction in pursuit of a legitimate aim, to prevent bias and ensure fairness in the planning decision making process.”*

There was also a question of whether this restriction infringed Councillor Baker’s right to freedom of expression.

Article 10(1) of the convention states that:

*“Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by a public authority...”*

However, Article 10(2) states that:

*“The exercise of these freedoms ... may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society ... for the protection of the reputation or rights of others...”*

The tribunal found that Councillor Baker’s undertaking to comply with the Code of Conduct restricted his right to freedom of expression. The tribunal decided that this was not an infringement of his human rights, as the restriction was in accordance with the law and “necessary in a democratic society for the protection of the rights of others”.

The tribunal took into account the High Court judgment *Sanders v Kingston [2005] EWHC 1145*. This judgment found that interference with freedom of expression was lawful and justified by the need to protect the rights of others

in a democracy, in accordance with Article 10(2) of the convention. The judge concluded that the member was not expressing political opinions, which have a higher level of protection (see [The Case Review number 3](#), pages 46-49 for more details).

### **The case tribunal's decision**

The Adjudication Panel's case tribunal decided that Councillor Baker had failed to comply with the Code of Conduct by failing to declare a personal interest, failing to withdraw from a meeting when a matter in which he had a prejudicial interest was considered, and improperly seeking to influence a decision on the matter.

The tribunal also decided that Councillor Baker had brought his office or authority into disrepute, particularly by choosing to ignore the advice of council officers before and during the meeting.

The 12-month suspension was imposed in view of the seriousness of the breach, but took into account the fact that Councillor Baker had not received clear advice at the meeting.

**STANDARDS COMMITTEE**

**6TH JULY 2006**

## **CURRENT ISSUES**

**(Report by the Director of Central Services and Monitoring Officer)**

### **1. INTRODUCTION**

1.1 This report will –

- ◆ seek confirmation as to which Members of the Committee will attend the Fifth Annual Assembly of Standards Committees Conference to be held on 16th and 17th October 2006 at the International Conference Centre, Birmingham;
- ◆ request the views of the Committee on the inclusion of the contact details of the five non-elected District Council Members on the Standards Committee on the District Council's web site;
- ◆ refer to a new publication by the Standards Board for England called "How to Make a Complaint"; and
- ◆ advise of recent referral statistics, including those involving local investigations.

### **2. "A CONFERENCE TAILOR MADE"**

2.1 The Committee is requested to confirm which Members shall attend the "Fifth Annual Assembly of Standards Committees" Conference which is to take place at the International Conference Centre (ICC), Birmingham on 16th and 17th October 2006. Four conference places have been reserved.

2.2 This year's conference, "Bridging the Gap: Towards Effective Local Regulation", will encourage local authorities to assess their current performance and to identify and consider the strengths and weaknesses of the authority they represent in a range of areas relating to the Code and the ethical framework. The conference will seek to establish some key milestones for implementing changes and future improvements.

2.3 Phil Woolas MP, Minister for Local Government again is the keynote speaker and he will be joined by a number of senior figures including Professor Gerry Stoker, University of Manchester who will share his views on the key components of an ethical environment.

### **3. STANDARDS AND CONDUCT WEB SITE**

3.1 The Chairman of the Committee has received a letter from the Vice-Chairman of a Parish Council in Huntingdonshire raising an issue which the Chairman considered should be discussed by the Committee. The Parish Councillor, having questioned the information, he was expected to register under the provisions of the Model Code of Conduct "was astounded to find that no less than five Standards Committee Members, including the Chairman, did not have their contact details published on the District Council web site".

- 3.3 Whilst their names appear, the contact details which are not published on the web site relate to five non-District Council Members of the Committee, ie. the three Independent Members and two Parish Council representatives. These feature in a section which allows access to the agenda of the Committee, contact details of the Committee Members, attendance and meeting statistics. The Parish Councillor contends that the details of all Members of the Committee appointed “to promote and maintain high standards of conduct” should be publicly available. It could be argued that the Independent Members and Parish Councillors appointed to the Committee are not elected District representatives and as such serve the Committee under different circumstances. However, the Chairman was of the view that the issue warranted discussion by the Committee and has undertaken to convey the Committee’s decision to the Parish Councillor after the meeting.

#### **4. STANDARDS BOARD FOR ENGLAND – PUBLICATIONS**

- 4.1 The Standards Board for England has published a revised edition of the booklet entitled “How to Make a Complaint” which replaces one of the same name issued in November 2003. A copy of the booklet is enclosed for the Committee and has been circulated to all Members of the District Council. The booklet offers guidance on making a complaint to the Standards Board for England, the procedures for dealing with the allegations and their investigation and includes a form for use by complainants.

#### **5. REFERRAL AND LOCAL INVESTIGATION STATISTICS**

- 5.1 The Standards Board for England received 304 allegations in March bringing the total number of allegations for the 2005 – 2006 financial year to 3,836. The referral statistics for that period are reflected pictorially in the Appendix.

- 5.2 For the financial year 2005 – 2006, Ethical Standards Officers referred 352 cases for local investigation – equivalent to 44% of all cases referred during that time. Of those 352 cases, 125 reports have been received by the Standards Board and of that number a breach has been found in 58 cases. In those cases, the local Standards Committee has determined that –

- ◆ 19 Members had no sanction imposed;
- ◆ 2 were suspended for one month;
- ◆ 1 was suspended for one month with training;
- ◆ 2 were suspended for two weeks with an apology;
- ◆ 7 were suspended for two months;
- ◆ 1 was suspended for six weeks with training;
- ◆ 4 were suspended for up to three months;
- ◆ 10 were censured with training and/or apology;
- ◆ 4 were required to make an apology and/or undergo appropriate training and mediation.

During that period five appeals went to the Adjudications Panel from local investigations.



## **6. CONCLUSIONS**

6.1 The Committee is requested to –

- ◆ nominate four Members to attend the “Fifth Annual Assembly of Standards Committees” Conference;
- ◆ consider whether to publish contact details of the Independent Members and Parish Councillors serving on the Standards Committee on the District Council’s web site;
- ◆ note the publication of a revised edition of the booklet “How to Make A Complaint”; and
- ◆ note the latest referral and local investigation statistics.

## **BACKGROUND PAPERS**

Bulletin No. 29 – Standards Board for England.

**Contact Officer:** Christine Deller, Democratic Services Manager  
☎ 01480 388007.

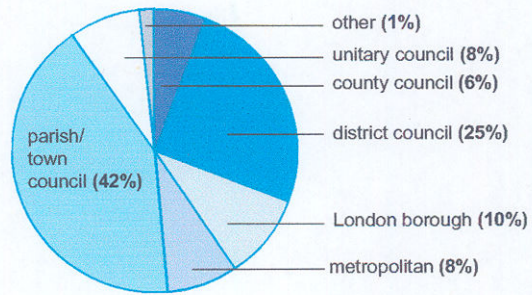
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## Referral and investigation statistics

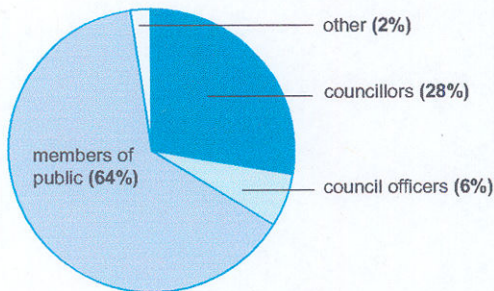
The Standards Board for England received 304 allegations in March, bringing the total number of allegations for the 2005-06 financial year to 3,836.

The following charts show referral and investigation statistics for that period.

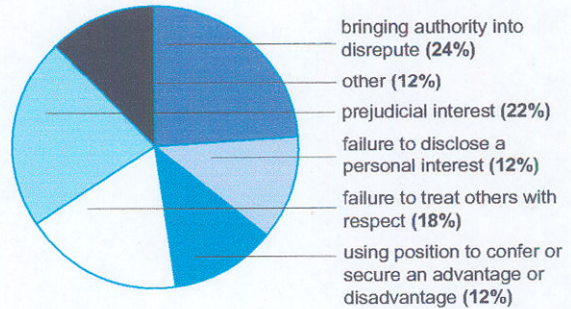
**Authority of subject member in allegations referred for investigation**



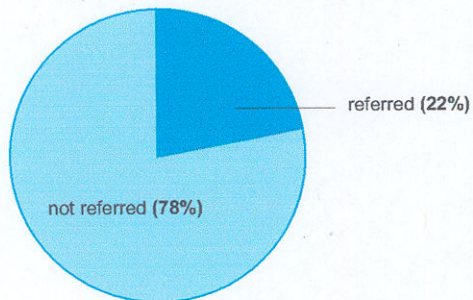
**Source of allegations received**



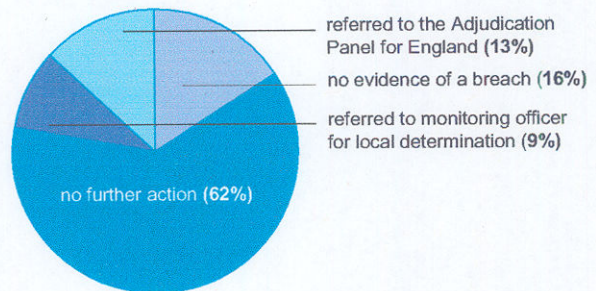
**Nature of allegations referred for investigation**



**Allegations referred for investigation**



**Final findings**



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