

A meeting of the **STANDARDS COMMITTEE** will be held in the **AQUARIUS ROOM, ST IVO LEISURE CENTRE, WESTWOOD ROAD, ST IVES PE27 6WU** on **THURSDAY, 4 MARCH 2010** 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. MINUTES** (Pages 1 - 4)

To approve as a correct record the Minutes of the meeting on 3rd December 2009.

C Deller  
388007

**2. 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 Items - Please See Notes 1 and 2 below.

**3. REPORTS OF SUB-COMMITTEES**

**(a) Referrals (Assessment) Sub-Committee**

Meetings held on 12th January, 2nd February and 2nd March 2010.

**(b) Standards (Consideration and Hearing) Sub-Committee**

**(c) Review Sub-Committee**

The Chairmen of the Sub-Committees to report on the business considered since the last meeting.

**4. UPDATE ON CASE NO. 15**

The Committee will recall that the Referrals (Assessment) Sub-Committee considered a complaint which had alleged a breach of paragraph 6 (c) of the Code of Conduct relating to the Local Authority Code of Publicity. The complaint exposed a significant issue with regard to the level of awareness of the Council in question of the content of the Code of Publicity. The Sub-Committee requested the Monitoring Officer to ensure that the Code was drawn to the attention of all town and parish Councils in Huntingdonshire on the eve of elections in any year irrespective of whether an election is scheduled in a parish or not.

In accordance with this instruction, the Director of Central Services has reminded Town and Parish Councils of the requirements of the Code of Publicity via e-mail on 1st February 2010. The Monitoring Officer has also incorporated a section on the Code of Publicity in his training presentation to Town and Parish Councils.

**5. UPDATE ON CODE REVISION**

Members will be aware that the Department of Communities and Local Government is responsible for dealing with revisions to the Members' Code of Conduct and for introducing a new national code for officers. Despite earlier indications that a revised code of conduct would be published before May, the Department has now announced that a new code of conduct for Members will not be laid during this Parliamentary Session. The Department has advised Standards for England that as the Government would be concentrating on financial instruments there would not be sufficient Parliamentary time available for the Code. In practice this means that a new code will not now be made until after a General Election.

**6. LOG OF CODE OF CONDUCT ENQUIRIES (Pages 5 - 8)**

To note the Code of Conduct enquiries recorded by the Head of Law, Property and Governance and Monitoring Officer since the meeting held in December.

C Deller  
388007

**7. BIAS, PRE-DETERMINATION AND THE CODE (Pages 9 - 12)**

At the 2009 Annual Assembly, 'Standards for England' presented a session called "understanding pre-determination and bias". This examined the relationship between bias, pre-determination and the Code of Conduct. The session proved to be hugely successful in providing information that all Standards Committees and Monitoring Officers should be aware of particularly as it drew upon recent and relevant case law in this area. Accordingly, enclosed is a short article which attempts to draw out some of the key messages from the session to ease understanding of the relationship between pre-determination and the Code.

**8. REQUEST FOR DISPENSATION - ST. IVES TOWN COUNCIL (Pages 13 - 14)**

To consider a report by the Head of Law, Property and Governance.

C Deller  
388007

**9. ANNUAL RETURN 2010 (Pages 15 - 16)**

To consider a report by the Head of Law, Property and Governance.

C Deller  
388007

**10. INFORMATION/DISCUSSION - CODE OF CONDUCT ADVICE AND RECENT TRIBUNAL DETERMINATIONS (Pages 17 - 24)**

The following are enclosed for discussion and learning purposes –

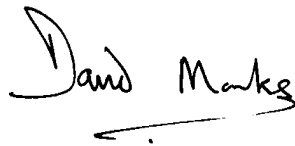
Quick Guide: Freemasons and the Code of Conduct;

Case Summaries from Blackpool Borough and Daventry District Councils.

## 11. DATE OF NEXT MEETING

To note that the next meeting of the Committee will be held at 4pm on Thursday 8th July 2010 in the Civic Suite, Pathfinder House, Huntingdon.

Dated this 25 day of February 2010



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, their family or any person with whom they had a close association;*
  - (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 £25,000; 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.uk](mailto:Christine.Deller@huntsdc.gov.uk) 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.**

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.*

# Agenda Item 1

## HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held in the Aquarius Room, St. Ivo Leisure Centre, Westwood Road, St. Ives, PE27 6WU on Thursday, 3 December 2009.

PRESENT: Councillor T D Sanderson - Vice-Chairman

Councillors J D Ablewhite, Mrs B E Boddington,  
P J Downes, R S Farrer, A Hansard,  
T D Sanderson and G S E Thorpe.

Messrs J B Alexander, P L Boothman and  
M Lynch.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Messrs D L Hall and G Watkins.

### **21. MINUTES**

The Minutes of the meeting of the Committee held on 3rd September 2009 were approved as a correct record and signed by the Chairman.

The Monitoring Officer announced that former Parish Councillor D MacPherson, who had been a Member of the Committee for many years, had passed away recently after a long illness. The Committee extended their condolences to Mr MacPherson's family.

### **22. MEMBERS' INTERESTS**

No declarations were received.

### **23. MEMBERSHIP OF COMMITTEE**

Having noted the resignation of Mr M Reece as Councillor of the Offords Parish Council and consequently as the Parish Council representative on the Committee, Members were informed that the Cambridgeshire and Peterborough Association of Local Councils had been requested to nominate a replacement representative and that it was the expectation that the Huntingdonshire Association would be meeting shortly to do so.

### **24. REPORT OF SUB-COMMITTEE**

The Chairman of the Referrals (Assessment) Sub-Committee updated Members on the business considered by the Sub-Committee at meetings held on 6th October and 1st December 2009 and, in general terms, reported on the outcome of each case.

In the absence of the Chairman, the Monitoring Officer reported that the Consideration and Hearing Sub-Committee had accepted a recommendation from the Investigating Officer that there was no breach of the Code of Conduct in cases involving complaints against two councillors serving on Yaxley Parish Council.

**25. 2009 ANNUAL ASSEMBLY OF STANDARDS COMMITTEES**

Further to Minute No. 9 of the meeting held on 9th July 2009, the Committee received a report from those Members who had attended the 2009 Annual Assembly of Standards Committees Conference held in Birmingham in October.

It was reported that, overall, attendance was considered to be worthwhile with participation in sessions with other local authorities particularly beneficial. Members also were reminded that the materials and presentations used at the conference were available to view and download from the Standards for England website.

Mention was made of the tendency of other authorities to appoint specific town/parish council liaison officers which, in the view of the parish representatives present, potentially might offer some advantages in Huntingdonshire.

**26. UPDATE ON CODE REVISION**

The Committee were reminded that the Department for Communities and Local Government was responsible for dealing with revisions to the Members' Code of Conduct. The Monitoring Officer reported that it was the expectation that minor revisions to the current Code would be published in the Autumn. However, the Committee noted that a new Code had not yet been published but were reminded that the main change was expected to involve the conduct of Members in their non-official capacity where that conduct would be a criminal offence. The Monitoring Officer added that training for District, town and parish Councillors would be arranged when the changes to the Code had been published.

**27. LOG OF CODE OF CONDUCT ENQUIRIES**

The Committee received and noted the Code of Conduct enquiries which had been recorded by the Head of Law, Property and Governance and Monitoring Officer since the last meeting in September 2009 (an extract of the log is appended in the Minute Book).

**28. TRANSFER OF WORK FROM ADJUDICATION PANEL FOR ENGLAND INTO UNIFIED TRIBUNAL STRUCTURE**

A report by the Head of Law, Property and Governance and Monitoring Officer was submitted (a copy of which is appended in the Minute Book) regarding the transfer of the work of the Adjudication Panel (Standards for England) into the new General Regulatory Chamber (GRC) with effect from January 2010. The Monitoring Officer reported that from this date, the GRC would be known as the First Tier Tribunal (Local Government Standards, England). Members further noted that the Adjudication Panel would be abolished and references and appeals made formerly to the President of the Panel would now be determined by the First Tier Tribunal. These changes formed part of a programme of tribunal reform and would involve no additional staff at the Tribunal Offices in Leeds. Whereupon, it was

RESOLVED

that the proposed changes to the Adjudication Panel for England be noted.

**29. STANDARDS COMMITTEE - WEB STRATEGY**

Consideration was given to a report by the Head of Law, Property and Governance and Monitoring Officer (a copy of which is appended in the Minute Book) regarding a proposal to review the content of the "Standards and Conduct" pages on the District Council's website.

The Monitoring Officer reported that following a meeting with the District Council's Web Development Team, several suggestions to improve the style and content of the Committee's current web pages and raise the profile of standards and code of conduct issues had been discussed. Proposed initiatives included the introduction of an on-line complaint form and a section featuring answers to frequently asked questions. Having invited Members to comment on the proposed web strategy and make suggestions for additional initiatives that might be produced, Members suggested that it would be useful to create an on-site flow diagram which could act as a training aid, when, for instance, seeking advice on whether or not it would be appropriate to declare an interest.

Although reminding the Committee that limited resources would dictate the extent of the development work proposed, the Monitoring Officer also undertook to pursue other suggestions which comprised giving advice on how to pursue other forms of complaints and associated web links.

**30. ASSESSMENT MADE CLEAR DVD**

The Committee viewed the latest training aid produced by Standards for England which was a DVD designed to help Members involved in the assessment of complaints. The Monitoring Officer responded to a series of questions on its conclusion.

**31. DATE OF NEXT MEETING**

It was noted that the next meeting of the Committee would be held on Thursday 4th March 2010 at 4pm.

Chairman

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Case No.	Date of Enquiry	District/Town/Parish Council	Nature of Enquiry (Brief Details)	Advice Given (Brief Details)	Code of Conduct Reference (Para No.)
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**LOG OF CODE OF CONDUCT ENQUIRIES**  
From 3rd December 2009

Case No.	Date of Enquiry	District/Town/Parish Council	Nature of Enquiry (Brief Details)	Advice Given (Brief Details)	Code of Conduct Reference (Para No.)
57	9.12.09		Advice to Clerk regarding proposed social weekend away comprising a group which included the Clerk and 2 Councillors.	Advice given that the Clerk should check whether the Council had a Code dealing with officer/member relations. The District Council code suggests that close personal familiarity should be avoided. However as this is a one off event it probably would not amount to a "close association" as envisaged under the definition of "personal interest" as the individuals concerned would not socialise generally (CM).	8,9,10
58.	13.1.10		A Town Council has set up a community interest company to manage the corn exchange and granted it a lease. 15 out of 16 Councillors are Board Members and 3 Town Councillors are also Directors of the Company.	Advice given that if the Town Council was dealing with anything likely to affect the company then they would have personal interests and if it was financial or regulatory it would also be prejudicial. As this would leave the Council unable to deal with the matter they would need to apply to the Standards Committee for dispensation (CM)	8,9,10

<b>Case No.</b>	<b>Date of Enquiry</b>	<b>District/Town/Parish Council</b>	<b>Nature of Enquiry (Brief Details)</b>	<b>Advice Given (Brief Details)</b>	<b>Code of Conduct Reference (Para No.)</b>
				(See Agenda Item No. 8).	
59.	12, 13 & 14, 1.10		Enquiry from Member of the public, alleging that Parish Council was pursuing courses of action that favoured individuals in the community. Advice sought as to whether a vote of no confidence could be made in respect of the Council and what other action is available.	Advice given that a vote of no confidence in the Council is not possible. The Council is elected for a 4 year term. Also advised enquirer that the code of conduct states that a Councillor must not use or attempt to use his position as a member improperly to confer on or secure for himself any other person an advantage or disadvantage. If a complaint was to be made to the Monitoring Officer concerning the actions of individual councillors, the person making the complaint should submit evidence with his/her claim. (RR).	
60.	25.1.10		Further to Case No. 57	The Chairman of the Amenities Committee is unlikely to have to declare a personal interest in connection with any dealings with the clerk and whilst the Vice-Chairman may wish to "declare" the connection in the interests of complete transparency if dealing with personnel/employment issues affecting the Clerk the Monitoring Officer did not consider it to be a true "personal interest" (CM).	8, 9, 10

Case No.	Date of Enquiry	District/Town/Parish Council	Nature of Enquiry (Brief Details)	Advice Given (Brief Details)	Code of Conduct Reference (Para No.)
61.	28.1.10		A Parish Council have been offered a donation from a local resident towards a project in the village. The Council was concerned at the public perception of this gift should the Council be required to consider a planning application from the benefactor.	The gift of £200 from the local resident is to the Council which is a legal entity in itself. The gift is not to individual Councillors and so would not be something they have to declare, nor would it prevent them dealing with future planning applications. Regarding raffle and quiz night tickets the interest of the resident in question is no greater than anyone else in the village. (CD)	8, 9, 10
62.	2.2.10		A query regarding the potential interests of a Parish Councillor who is also a member of the Village Hall Trust.	As the Parish Council is being asked to give permission for the village hall trust to hold an event which would involve raising funds for the village hall and as the Councillor concerned has registered membership of the trust, that interest would be prejudicial given that the matter affects the finances of her registerable interests. There are no similar concerns over the erection of a fence. In the event of planning application from the village hall trust, any Councillor in membership of the trust committee would be required to declare a prejudicial interest. (CD).	8, 9, 10

<b>Case No.</b>	<b>Date of Enquiry</b>	<b>District/Town/Parish Council</b>	<b>Nature of Enquiry (Brief Details)</b>	<b>Advice Given (Brief Details)</b>	<b>Code of Conduct Reference (Para No.)</b>
63.	11.2.10		The Parish Council is custodian trustee for the village hall. Do Members have a personal interest when matters affecting the village hall are discussed? Two individual Councillors sit on the management committee but have not been appointed by the Parish Council. Do they have personal interests?	Link sent to Standards for England guidance on charitable trustees and declarations of interest under the code. As the custodian trustee, is not a charity trustee, individual Members do not have to register an interest if they have no other connection with the village hall. Similarly they do not have a personal interest. The two individual members of the village hall management committee are likely to be charity trustees and should register their interest and declare a personal interest at meetings. Depending upon the subject matter of the discussion, the interest may also be of a prejudicial nature. (RR).	8, 9, 10

## Predisposition, Predetermination or Bias, and the Code

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Both predetermination and bias have proved to be difficult and controversial issues for many councillors and monitoring officers. Although they are judge-made, common law issues, and not part of the Code of Conduct, Standards for England is publishing this up-dated guide to help clarify the issues.

We originally published a paper on this issue in August 2007. It was based on advice from leading treasury counsel Philip Sales QC, which can also be found on our [website](#).

This new version of the paper aims to clarify the issues involved. It includes examples of where councillors are predisposed, and so can take part in a debate and vote, and where they are predetermined and their participation in a decision would risk it being ruled as invalid.

This area of law is constantly developing which is why the paper has been revised. However, members should refer to their monitoring officers for the most up-to-date position.

### What is predisposition?

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It is not a problem for councillors to be predisposed to a particular view. That predisposition can be strong and can be publicly voiced. They may even have been elected specifically because of their views on this particular issue. It might be in favour of or against a particular point of view, for example an application for planning permission.

However, the councillor must be open to the possibility that, however unlikely, they will hear arguments during the debate about the issue that will change their mind about how they intend to vote. As long as they are willing to keep an open mind about the issue they are entitled to take part in any vote on it.

### What is predetermination or bias?

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Predetermination is where a councillor's mind is closed to the merits of any arguments which differ from their own about a particular issue on which they are making a decision, such as an application for planning permission. The councillor makes a decision on the issue without taking them all into account.

If councillors are involved in making a decision they should avoid giving the appearance that they have conclusively decided how they will vote at the meeting, such that nothing will change their mind. This impression can be created in a number of different ways such as quotes given in the press, and what they have said at meetings or written in correspondence.

Rarely will membership of an organisation on its own, such as a national charity, amount to apparent bias. This is unless the organisation has a particular vested interest in the outcome of a specific decision that a councillor is involved in making, or the decision is quasi-judicial in nature.

### Making the decision

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There is an important difference between those councillors who are involved in making a decision and those councillors who are seeking to influence it. This is because councillors who are not involved with making a decision are generally free to speak about how they want that decision to go.

When considering whether there is an appearance of predetermination or bias, councillors who are responsible for making the decision should apply the following test: would a fair-minded and informed

observer, having considered the facts, decide there is a real possibility that the councillor had predetermined the issue or was biased?

However, when applying this test, they should remember that it is legitimate for a councillor to be predisposed towards a particular outcome as long as they are prepared to consider all the arguments and points made about the specific issue under consideration.

Also the importance of appearances is generally more limited when the context of the decision-making is not judicial or similar to judicial. Planning decisions are not similar to judicial decisions, they are administrative. Therefore councillors can appear strongly predisposed for or against a particular planning decision.

## How can predetermination or bias arise?

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The following are some of the potential situations in which predetermination or bias could arise.

### Connection with someone affected by a decision

This sort of bias particularly concerns administrative decision-making, where the authority must take a decision which involves balancing the interests of people with opposing views. It is based on the belief that the decision-making body cannot make an unbiased decision, or a decision which objectively looks impartial, if a councillor serving on it is closely connected with one of the parties involved.

#### Example:

a) A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. As a result of the complaint the officer has been disciplined. The officer has appealed to a councillor panel and the councillor seeks to sit on the panel hearing the appeal. The councillor should not participate.

Contrast this with:

b) The complaint about the officer described above is made by the local office of a national charity of which the councillor is an ordinary member and has no involvement with the local office. The councillor should be able to participate in this situation because the matter is not concerned with the promotion of the interests of the charity.

### Improper involvement of someone with an interest in the outcome

This sort of bias involves someone who has, or appears to have, inappropriate influence in the decision being made by someone else. It is inappropriate because they have a vested interest in the decision.

#### Example:

A local authority receives an application to modify the Definitive Map of public rights of way.

A panel of councillors is given delegated authority to make the statutory modification Order. They have a private meeting with local representatives of a footpath organisation before deciding whether the Order should be made. However, they do not give the same opportunity to people with opposing interests.

### Prior involvement

This sort of bias arises because someone is being asked to make a decision about an issue which they have previously been involved with. This may be a problem if the second decision is a formal appeal from the first decision, so that someone is hearing an appeal from their own decision. However, if it is just a case of the person in question being required to reconsider a matter in the light of new evidence or representations, it is unlikely to be unlawful for them to participate.

Example:

A councillor of a local highway authority, who is also a member of a parish council that has been consulted about a road closure, could take part in the discussion at both councils. The important thing is that the councillor must be prepared to reconsider the matter at county level in the light of the information and evidence presented there.

**Commenting before a decision is made**

Once a lobby group or advisory body has commented on a matter or application, it is likely that a councillor involved with that body will still be able to take part in making a decision about it. But this is as long as they do not give the appearance of being bound only by the views of that body. If the councillor makes comments which make it clear that they have already made up their mind, they may not take part in the decision.

If the councillor is merely seeking to lobby a public meeting at which the decision is taking place, but will not themselves be involved in making the decision, then they are not prevented by the principles of predetermination or bias from doing so. Unlike private lobbying, there is no particular reason why the fact that councillors can address a public meeting in the same way as the public should lead to successful legal challenges.

Example 1:

A council appoints a barrister to hold a public inquiry into an application to register a village green. The barrister produces a report where he recommends that the application is rejected. A councillor attends a meeting in one of the affected wards and says publicly: "speaking for myself I am inclined to go along with the barrister's recommendation". He later participates in the council's decision to accept the barrister's recommendation. At the meeting the supporters of the application are given an opportunity to argue that the recommendation should not be accepted.

This is unlikely to give rise to a successful claim of predetermination or bias. The statement made by the councillor only suggests a predisposition to follow the recommendation of the barrister's report, and not that he has closed his mind to all possibilities. The subsequent conduct of the meeting, where supporters of the application could try and persuade councillors to disagree with the recommendation, would confirm this.

Example 2:

A developer has entered into negotiations to acquire some surplus local authority land for an incinerator. Planning permission for the incinerator has already been granted. Following local elections there is a change in the composition and political control of the council. After pressure from new councillors who have campaigned against the incinerator and a full debate, the council's executive decides to end the negotiations. This is on the grounds that the land is needed for housing and employment uses.

The council's decision is unlikely to be found to be biased, so long as the eventual decision was taken on proper grounds and after a full consideration of all the relevant issues.

**Predetermination or Bias, and the Code**

There is a difference between breaching the Code and being predetermined or biased. It is perfectly possible to act within the Code and still cause a decision you were involved in to be bad for predetermination or bias.

Example:

Under the Code, a councillor may take part in considering whether or not to grant a planning application which is recommended for refusal by planning officers and made by a colleague with whom they do not share a "close association". Nevertheless, because the councillor is the Chair of the planning committee, uses his casting vote to decide in favour of his colleague, and regularly shares a car with that colleague when coming to council meetings, this gives rise to an appearance of bias.

**Conclusion**

When making administrative decisions like whether or not to grant planning permission, councillors are entitled to have and express their own views. However, this is as long as they are prepared to reconsider their position in the light of all the evidence and arguments. They must not give the impression that their mind is closed.


### **Relationship to the Code of Conduct**

The First-tier Tribunal (Local Government Standards in England) in case reference 0352 has also looked at the relationship between the Code and predetermination and gave an indication that where such issues arise there is a potential paragraph 5 **Code breach**. The outcome is likely to depend on the individual circumstances of a case and any other Code issues and breaches. This is because a councillor who renders the decision of a council unlawful due to predetermination could reasonably be regarded as bringing that authority or his office into disrepute.

An important issue for members is that by and large predetermination will not amount to a personal or prejudicial interest. Therefore there is no specific requirement to declare an interest and leave the room under paragraphs 8 to 10 of the Code. Members may however find themselves the subject of a complaint under paragraph 5 on disrepute. This paragraph of the Code has no provision for declaring interests or leaving meetings.

**For more information on the issue of predetermination or bias, councillors should talk to their monitoring officers or their political group.**

**Published on December 2009.**

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**APPLICATION FOR DISPENSATION  
(Report by the Head of Law, Property and Governance  
and Monitoring Officer)**

**1. INTRODUCTION**

- 1.1 In response to a request for guidance, advice was given by the Head of Law, Property and Governance to the Town Clerk, St. Ives Town Council (see Agenda Item No. 6 – Case No. 58), on the nature of the interests which were required to be declared by Members of that Council in a specific situation which had arisen in the Parish.
- 1.2 In accordance with the advice given, a written request for dispensation subsequently has been received from the Town Council.

**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 and subsequently varied by the Standards Committee (Further Provisions) (England) Regulations 2009.

The Regulations provide that a member with a prejudicial interest in a matter which was coming before the Authority could apply to the Standards Committee for a dispensation to allow the member to speak and vote on the matter at meetings. The Regulations specify two grounds for dispensation -

- (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) that the business of the Authority will be impeded because the absence of Members as a consequence of prejudicial interests would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting.
- 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. A dispensation can be granted for a particular meeting or for a period not exceeding four years.

- 2.4 Where dispensations are granted, Standards Committees must ensure that their nature and duration are recorded in a register for the purpose.

### 3. **APPLICATION RECEIVED**

- 3.1 Fifteen of the sixteen members of St. Ives Town Council are Board Members of a Community Interest Company set up to manage the Corn Exchange, a public building in St Ives. Three town councillors are also Directors of the company. The Monitoring Officer has advised the Town Clerk that if the Town Council is dealing with anything likely to affect the company in Council or Committee meetings then they would have personal interests but if that matter was financial or regulatory it would also be prejudicial. As this would leave the Town Council unable to deal with the matter, the Committee is required to consider an application from them for dispensation.

### 4. **CONCLUSION**

- 4.1 In the circumstances described, dispensations are required to prevent the transaction of Town Council business from being impeded.
- 4.2 That part of the Regulations which would enable dispensations to be granted is reproduced in paragraph 2.1 (i) ante.
- 4.3 Should the Committee look favourably on this application, it is suggested that consideration should be given to granting dispensations to speak and to vote to 15 Members of St. Ives Town Council for the period ending 30th April 2012 after which time an application for the newly elected Councillors would need to be submitted should it be considered necessary.

### **BACKGROUND PAPERS**

The Local Authorities (Model Code of Conduct) Order 2007.  
The Relevant Authorities (Standards Committee) Dispensation Regulations 2002 and Standards Committee (Further Provisions) (England) Regulations 2009  
Letter received from the Town Clerk to St. Ives Town Council.

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

**STANDARDS FOR ENGLAND  
ANNUAL RETURN 2010  
(Report by the Head of Law, Property and Governance  
and Monitoring Officer)**

**1. INTRODUCTION**

- 1.1 In April 2009, Standards for England (SFE) collected annual information returns completed by Monitoring Officers from 438 local authorities covering the period 18th May 2008 to 30th March 2009.
- 1.2 SFE consider that this initiative will help them fulfil their duty to maintain high standards of ethical conduct in their authorities and ensure the effectiveness of local standards arrangements.
- 1.3 This year and whilst the questions of the annual return are currently being developed, SFE has given monitoring officers additional time to prepare their responses and to consult with their Standards Committees on the preparation of the District Council's annual return for 2010.
- 1.4 Members views are requested to assist the Monitoring Officer in response to Part 1 of the annual return and to consider whether, in future, the return should be completed after consultation with the Chairman of the Committee.

**2. ANNUAL REPORT**

- 2.1 It would appear that last year's annual return showed that 59% of standards committees produced an annual report.
- 2.2 An annual report might contain -
- ◆ a personal statement by the Standards Committee Chairman;
  - ◆ information about members of the Standards Committee;
  - ◆ the role of the Standards Committee;
  - ◆ the Standards Committee terms of reference;
  - ◆ information about the code of conduct;
  - ◆ statistical information about complaints that have been received;
  - ◆ information about the length of time taken to deal with complaints;
  - ◆ a summary of complaints which led to investigation, sanction or other action;
  - ◆ details about training/events provided;
  - ◆ the forward work plan of the Committee.
- 2.3 It is suggested that the annual report might be made available in the following way -
- ◆ sent to all Chief Officers;
  - ◆ sent to all Members;
  - ◆ sent to Parish/Town Councils;

- ◆ made available on the authority's intranet;
- ◆ made available as a specific item on the authority website;
- ◆ made available in the Standards Committee papers published on the authority website;
- ◆ made available in the Standards Committee papers published on the authority website;
- ◆ included as a full authority meeting agenda item;
- ◆ publicised in the local newspaper/press release;
- ◆ distributed to households;
- ◆ made available at the authority offices.

2.3 In previous years, the Committee has produced an annual survey of complaints received by type, locality and outcome and on the training received by Councillors (both District and Parish). A training programme for the following year is then structured to meet any emerging needs or trends. This survey has been undertaken in response to the requirements of the Audit Commission and their "use of resources judgement" under the theme "an assessment of the standards of ethical conduct across the organisation".

2.4 SFE indicate that any response to their annual review would be shared with the Audit Commission to help inform their organisational "use of resources, key line of enquiry" assessment.

### **3. QUESTIONS FOR THE COMMITTEE**

3.1 It would seem that SFE are encouraging all authorities to produce an annual report. This could incorporate the survey of complaints undertaken annually by the Monitoring Officer and respond to the requirements of the Audit Commission. As this appears to be the approach taken by a number of authorities, the Monitoring Officer recommends that the Committee's first annual report be prepared for the July 2010 meeting. The Committee is asked to support this course of action. Members views also are invited on what they would wish to see featured in the Annual Report, how it should be circulated and (after July 2010) at what point in the year it should be published.

### **4. CONCLUSIONS**

4.1 The views of the Committee are invited.

### **BACKGROUND PAPERS**

Letter received from the Standards Board dated 16th February 2010.

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

## Freemasons and the Code of Conduct

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### What is a Freemason?

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Freemasonry is one of the world's oldest secular, fraternal and charitable societies. The United Grand Lodge of England administers Lodges of Freemasons in England and Wales. When freemasons pay their annual subscription fee to their respective Lodges, part of the fee goes automatically to the Freemasons' Grand Charity. The United Grand Lodge distributes charitable grants to individuals and groups through the Grand Charity.

### Why do I need to declare my membership?

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Personal and prejudicial interests are covered by paragraphs 8-13 of the Code of Conduct.

You have a personal interest in any business of your authority where either it relates to or is likely to affect any body directed to charitable purposes.

Overall, freemasons are not singled out by the Code. The Code applies to membership of any body that is directed to charitable purposes.

Under paragraph 8(1)(a) (ii) (bb) of the Code, freemasons who are members of the Grand Charity must register membership of the Grand Charity in their register of members' interests and, where appropriate, declare their membership of the Grand Charity as a personal or prejudicial interest before or during council meetings. If an individual lodge is one which has charitable status or could be described as a body directed towards charitable purposes, then membership of that lodge would also need to be registered.

Councillors who are freemasons will also need to declare membership of their lodge as a personal interest in a matter to be discussed if that matter would affect the member to a greater extent than the majority of other people in the area affected by the decision. The member will also need to consider whether that interest is prejudicial. For example, if the councillor's own lodge was making a planning application it would be necessary to declare a personal and prejudicial interest when that matter is considered.


The recent government decision that freemasons will no longer need to declare their membership when applying for positions on the judiciary does not affect the need to register membership as an interest under the Code.

### Find out more

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

Published on 4th January 2010.

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## Case Summary - Blackpool Council

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**Case no.** SBE-07588-R18QK  
**Member(s):** Councillor J Houldsworth  
**Date received:** 09 Oct 2009  
**Date completed:** 07 Jan 2010

### Allegation:

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The member brought his office or authority into disrepute, and failed to declare a personal and a prejudicial interest.

### Standards Board outcome:

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The ethical standards officer found that the member did not breach the Code of Conduct.

### Case Summary

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The complainants alleged that Councillor Houldsworth failed to declare a personal or a prejudicial interest at a development control committee meeting on 8 June 2009 during consideration of a planning application by Kensington Developments Limited. The application was to build housing in the Marton Moss area of Blackpool. The complainants alleged that by the date of the meeting on 8 June 2009, Councillor Houldsworth knew that Kensington Developments had made a political donation of £5,000 to the Blackpool South Conservative Association, of which he is a member.

On 22 July 2008, Kensington Developments submitted an outline planning application for the large scale development of parts of the Marton Moss area of Blackpool. On 14 May 2009 they appealed to the planning inspectorate against the council's non-determination of that application. On 3 June 2009, Kensington Developments submitted a further planning application to the council.

On 8 June 2009, the Council's development control committee considered the first planning application because of the appeal. The committee was asked to say whether the application would have been rejected or approved if it had come before the committee for determination. Councillor Houldsworth was at the meeting and did not declare a personal or prejudicial interest in the application.

Councillor Houldsworth is a member of Blackpool South Conservative Association. The Association maintains a "fighting fund" account. Donations for the prospective parliamentary candidate were put in the fighting fund and were for the exclusive use of the parliamentary candidate's election expenses. No payments are made from the fighting fund to ward members or other candidates.

On 19 May 2008, Kensington Developments donated £5,000 made payable to Blackpool South Conservative Association. They sent the cheque to Councillor Ron Bell, prospective Conservative Party parliamentary candidate for the Blackpool South constituency. He presented it at a meeting of the Association on 20 May 2008 as a donation for his campaign. The donation was paid into the fighting fund account. Councillor Houldsworth remembered Councillor Bell presenting the £5,000 donation at the 20 May 2008 meeting. He said that he did not know who the donor was.

The Conservative Group members met on 17 September 2009 and 21 September 2009. No council officers were present at either meeting, and no present or future council business was discussed. On 17 September,

Councillor Peter Callow, the Conservative Group Leader, asked the councillors present if they knew about two political donations to Blackpool South Conservative Association. At the end of the meeting on 21 September, a document was passed around the group members to sign. It stated:

"We the undersigned wish it to be known that we did not know that the two donations given to Blackpool South Conservative Association were from Kensington Developments Ltd".

Councillor Houldsworth did not sign the document. He said that he was not aware that Kensington Developments was the donor until 11 August 2009 at a political group meeting. He said that he did not know the source of the donation when he participated in the development control committee meeting on 8 June 2009.

The ethical standards officer found that the donations were paid into the Association's fighting fund account for the use of the prospective parliamentary candidate. There is no evidence that these donations were available to any ward candidates, ward members or other members of the Association. The ethical standards officer therefore considered that it was not necessary to resolve any conflicts in the evidence about whether Councillor Houldsworth was aware of source of the political donation when he participated in the development control committee meeting on 8 June 2009.

The ethical standards officer considered that the donations do not amount to an interest that Councillor Houldsworth was required to register. The development control meeting was not considering business which related to or was likely to affect the Association. The business under consideration was an application by Kensington Developments. Kensington Developments would be affected by any decision made by the committee but not the Conservative Association.

Councillor Houldsworth would have had a personal interest if the decision could have affected his well-being or financial position or that of a member of his family or someone else with whom Councillor Houldsworth has a close association, more than that of the majority of the Council's ratepayers, taxpayers and inhabitants. The ethical standards officer found no evidence of this.

In the absence of a personal interest, it is not possible for Councillor Houldsworth to have had a prejudicial interest.

The ethical standards officer therefore considered that Councillor Houldsworth did not fail to comply with paragraph 12 of the Code of Conduct in respect of his conduct at the development control meeting.

## Relevant paragraphs of the Code of Conduct


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The allegations in this case relate to paragraphs 5, 9, and 12 of the Code of Conduct.

Paragraph 5 states that "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

Paragraph 9 states that "...where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest...".

Paragraph 12 states that "...where you have a prejudicial interest in any business of your authority you must...withdraw from the room or chamber where a meeting considering the business is being held....".

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## Case Summary - Blackpool Council

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**Case no.** SBE-07899-MRSE4  
**Member(s):** Councillor A Lee  
**Date received:** 04 Nov 2009  
**Date completed:** 07 Jan 2010

### Allegation:

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### Standards Board outcome:

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The ethical standards officer found that the member did not breach the Code of Conduct

### Case Summary

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The complainants alleged that Councillor Lee failed to declare a personal or a prejudicial interest at a development control committee meeting on 8 June 2009 during consideration of a planning application by Kensington Developments Limited. The application was to build housing in the Marton Moss area of Blackpool.

The complainant alleged that Councillor Lee brought his office or authority into disrepute when he signed a letter stating that he did not know about two donations which had been made to Blackpool South Conservative Association by Kensington Developments. The complainant alleged that Kensington Developments had made the donations to the general election fighting fund for Councillor Ron Bell, who is the Conservative Party's prospective parliamentary candidate for Blackpool South. The complainant alleged that Councillor Lee knew about the two donations when he signed the letter, because his wife was the treasurer for Blackpool South Conservative Association and because Councillor Lee had received one of the cheques which he had passed to his wife.

On 22 July 2008, Kensington Developments submitted an outline planning application for the large scale development of parts of the Marton Moss area of Blackpool. On 14 May 2009 they appealed to the planning inspectorate against the council's non-determination of that application. On 3 June 2009, Kensington Developments submitted a further planning application to the council.

On 8 June 2009, the Council's development control committee considered the first planning application because of the appeal. The committee was asked to say whether the application would have been rejected or approved if it had come before the committee for determination. Councillor Lee was at the meeting and did not declare a personal or prejudicial interest in the application.

Councillor Lee is a member of Blackpool South Conservative Association. The Association maintains a "fighting fund" account. Donations for the prospective parliamentary candidate were put in the fighting fund and were for the exclusive use of the parliamentary candidate's election expenses. No payments are made from the fighting fund to ward members or other candidates.

The ethical standards officer considered that the donations do not amount to an interest that Councillor Lee was required to register. The development control meeting was not considering business which related to or was likely to affect the Association. The business under consideration was an application by Kensington Developments. Kensington Developments would be affected by any decision made by the committee but not the Conservative Association.

Councillor Lee would have had a personal interest if the decision could have affected his well-being or financial position or that of a member of his family or someone else with whom Councillor Lee has a close association, more than that of the majority of the Council's ratepayers, taxpayers and inhabitants. The ethical standards officer found no evidence of this.

In the absence of a personal interest, it is not possible for Councillor Lee to have had a prejudicial interest.

The ethical standards officer therefore considered that Councillor Lee did not fail to comply with paragraph 12 of the Code of Conduct in respect of his conduct at the development control meeting.

The Conservative Group members of Blackpool Council met on 17 September 2009 and 21 September 2009. On 17 September, Councillor Peter Callow, the Conservative Group Leader, asked the councillors present if they knew about two political donations to Blackpool South Conservative Association. At the end of the meeting on 21 September, a document was passed around the group members to sign. It stated:

"We the undersigned wish it to be known that we did not know that the two donations given to Blackpool South Conservative Association were from Kensington Developments Ltd"

No council officers were present at either meeting and no present or future council business was discussed. The title 'Councillor' is not used in the document. Named individuals signed the document. Councillor Lee has printed his name and signed.

Group members who were not at the 21 September group meeting were given the opportunity to sign the document after the full council meeting on 23 September. The document was not discussed in the full council meeting on 23 September 2009.

The effect of paragraph 5 of the Code of Conduct is that a member must not bring his office or authority into disrepute while acting in his official capacity. At present the Code does not apply to members conduct in their private capacity.

The meetings on 17 and 21 September 2009 were political meetings. There is no evidence which suggested that the document was signed as part of council business. Neither was the document considered as council business at the full council meeting on 23 September.

Those who signed the document were not acting, claiming to act or giving the impression that they were acting as representatives of their authority when they signed the document. Councillor Lee identified himself with his party and political ward. In common with the other members he wished to "clear his name" with the electorate in relation to the donations. He was not describing his involvement in any actions the political group had taken as councillors. The local conservative association is not the political group to which Councillor Lee belongs at the council.

The ethical standards officer considered that in signing the document Councillor Lee was not acting as a councillor and, therefore, was not covered by the Code. Therefore, whether or not he knew of the donations is not an issue about which she needs to form a view.

## Relevant paragraphs of the Code of Conduct

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The allegations in this case relate to paragraphs 5, 9, and 12 of the Code of Conduct.

Paragraph 5 states that "you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute".

Paragraph 9 states that "...where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest...".

Paragraph 12 states that "...where you have a prejudicial interest in any business of your authority you must...withdraw from the room or chamber where a meeting considering the business is being held....".

## Case Summary - Daventry District Council

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**Case no.** 07649  
**Member(s):** Councillor John Golding  
**Date received:** 15 Oct 2009  
**Date completed:** 11 Feb 2010

### Allegation:

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### Standards Board outcome:

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The ethical standards officer found that the member did not breach the Code of Conduct. The ethical standards officer recommended that training be made available to Staverton Parish Councillors.

### Case Summary

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#### The complainant alleged that Councillor Golding:

- Was verbally abusive to a fellow Parish Councillor after viewing a tree the morning after a Parish Council meeting at which the issue of a planning application relating to the tree had been discussed;
- Forced a Parish Councillor to reveal confidential information during a meeting of the Parish Council;
- Invented two complaints that he stated he had received from residents and raised these at a meeting of the Parish Council; and
- Through consistent disagreements and confrontations had forced a clerk to the Parish Council to resign.

#### The ethical standards officer investigated the circumstances surrounding the allegations and interviewed relevant witnesses. The ethical standards officer found that:


- The altercation during where Councillor Golding was allegedly abusive did not occur while he was acting or claiming to act in his official capacity as a Councillor and therefore was not subject to the Code of Conduct.
- Councillor Golding did not unduly force a fellow Councillor to reveal confidential information and there was no evidence that his behaviour in Parish Council meetings had been inappropriate;
- Councillor Golding had received two expressions of concern from local residents which he subsequently raised as complaints at a meeting of the Parish Council.
- Whilst there was a series of disagreements between a former clerk and Councillor Golding, Councillor Golding's conduct towards the clerk was never disrespectful or bullying.

Accordingly, the ethical standards officer found that Councillor Golding did not breach the Code of Conduct. The ethical standards officer recommended that the monitoring officer of Daventry District Council make

training on the code of conduct available to Staverton Parish Council members in order to improve the running of the Parish Council.

### Relevant paragraphs of the Code of Conduct

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