

A meeting of the **REFERRALS (ASSESSMENT) SUB COMMITTEE** will be held in **ROOM CVSO 1A, CIVIC SUITE, PATHFINDER HOUSE, ST. MARY'S STREET, HUNTINGDON, CAMBS, PE29 3TN** on **FRIDAY, 22 OCTOBER 2010** on the rising of the **Standards (Review) Sub-Committee** and you are requested to attend for the transaction of the following business:-

APOLOGIES

1. MINUTES (Pages 1 - 4)

To approve as a correct record the Minutes of the meetings held on 28th July and 10th September 2010.

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 Item. Please See Notes 1 and 2 below.

3. GUIDANCE TO ASSIST ASSESSMENT OF CASE (Pages 5 - 8)

- ◆ Local Assessment Case Handling Chart; and
- ◆ Guidance received from "Standards for England" on the conduct of an assessment.

4. EXCLUSION OF THE PRESS AND PUBLIC

To resolve:-

that the public be excluded from the meeting because the business to be transacted contains exempt information under paragraph 7(c) relating to the deliberations of a Sub-Committee established under the provisions of Part 3 of the Local Government Act 2000.

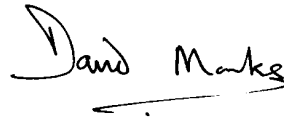
5. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 35 (Pages 9 - 30)

Enclosed, pre-assessment report by the Monitoring Officer to which is attached various other correspondence/information to assist Members in assessing the case.

6. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 36 (Pages 31 - 50)

Enclosed, pre-assessment report by the Monitoring Officer to which is attached various other correspondence/information to assist Members in assessing the case.

Dated this 4 day of October 2011



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 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 Sub-Committee.

Specific enquiries 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 (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.

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Agenda Item 1

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the REFERRALS (ASSESSMENT) SUB COMMITTEE held in Training Room 2, One Leisure (St Ivo Leisure Centre) on Wednesday, 28 July 2010.

PRESENT: Mr M Lynch – Chairman.

Councillor A Hansard and Mr J B Alexander.

1. MINUTES

The Minutes of the meeting of the Sub-Committee held on 24th June 2010 were approved as a correct record and signed by the Chairman.

2. MEMBERS' INTERESTS

No interests were declared.

3. GUIDANCE TO ASSIST ASSESSMENT OF CASE

The guidance produced by Standards for England and collated by the Monitoring Officer to assist the Sub-Committee in their assessment of the case submitted was received and noted.

4. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

that the public be excluded from the meeting because the business to be transacted contains exempt information under paragraph 7 (c) relating to the deliberations of the Sub-Committee of the Standards Committee established under the provisions of Part 3 of the Local Government Act 2000.

5. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 33

The Sub-Committee considered the following documents collated by the Monitoring Officer (copies of which are appended in the Minute Book) to assist their deliberations in respect of a complaint received against a Councillor serving on Bluntisham Parish Council:-

- ◆ original complaint form including letters dated 22nd and 25th March 2010 from the Parish Clerk to Bluntisham Parish Council to the complainant;
- ◆ letters to the Monitoring Officer from the complainant dated 14th and 17th July 2010; and
- ◆ declaration of interest form - Councillor N Mair.

6. INITIAL ASSESSMENT - CASE NO. 33

Having considered the allegation made in the case of Councillor N Mair of Bluntisham Parish Council seeking the advice of the

Monitoring Officer as necessary, it was

RESOLVED

that no further action be taken in respect of the allegation against Councillor N Mair for the reasons set out in the "Decision Notice - No Further Action" appended to these Minutes as no potential breach of the Code of Conduct was disclosed by the complaint.

Chairman

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the REFERRALS (ASSESSMENT) SUB COMMITTEE held in Room MR3.1, Pathfinder House, St. Mary's Street, Huntingdon, Cambs, PE29 3TN on Friday, 10 September 2010.

PRESENT: Mr P Boothman – Chairman.

Councillor Mrs B E Boddington and Mr G Watkins.

7. MINUTES

As those present were not in attendance at the last meeting they were of the view that it would not be appropriate for them to confirm the Minutes and therefore these were deferred for signature to the next meeting.

8. MEMBERS' INTERESTS

No interests were declared.

9. GUIDANCE TO ASSIST ASSESSMENT OF CASE

The guidance produced by Standards for England, and collated by the Monitoring Officer to assist the Sub-Committee in their assessment of the case submitted was received and noted.

10. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED

that the public be excluded from the meeting because the business to be transacted contains exempt information under paragraph 7 (c) relating to the deliberations of the Sub-Committee of the Standards Committee established under the provisions of Part 3 of the Local Government Act 2000.

11. PRE-ASSESSMENT REPORT AND ENQUIRIES - CASE NO. 34

The Sub-Committee considered the following documents collated by the Monitoring Officer (copies of which are appended in the Minute Book) to assist their deliberations in respect of a complaint received against a Councillor serving on Huntingdonshire District Council -

- ◆ original complaint form;
- ◆ e-mails dated 26th July to 2nd August 2010;
- ◆ copies of photographs;

- ◆ news item on website - support St. Neots.org.uk; and
- ◆ registration of interest form - Councillor K Churchill.

12. INITIAL ASSESSMENT - CASE NO. 34

Having considered the allegations made in the case of Councillor S M Van De Kerkhove of Huntingdonshire District Council seeking the advice of the Monitoring Officer as appropriate, it was

RESOLVED

that no further action be taken in respect of the allegation against Councillor S M Van De Kerkhove for the reasons set out in the "Decision Notice - No Further Action" appended to these Minutes as no potential breach of the Code of Conduct was disclosed by the complaint.

Chairman

DECISION NOTICE: NO FURTHER ACTION

Reference: Case No. 33

The Referrals (Assessment) Sub-Committee appointed by Huntingdonshire District Council resolved to exclude the public from the Sub-Committee's proceedings under paragraph 7(c) of Schedule 12A to the Local Government Act 1972 and paragraph 8(b) of the Standards Committee (England) Regulations 2008. In these circumstances, parties associated with the complaint are requested to exercise caution when discussing or passing on information that is in the notice or about the notice.

Complaint

On 28th July 2010, the Referrals (Assessment) Sub-Committee of this authority comprising Mr M Lynch (Chairman), Councillor A Hansard and Mr J B Alexander considered a complaint concerning the conduct of Councillor N Mair of Bluntisham Parish Council.

The complaint alleged that Councillor N Mair had breached paragraphs 3 (1), 3 (2), 3 (2) (b) and (c) and 6 (a) of the Parish Council's Code of Conduct which state that –

- "3 (1) - You must treat others with respect;
- 3 (2) - You must not do anything which may cause your Authority to breach any equality laws;
- 3 (2) (b) and (c) - You must not bully any person including other Councillors, Council Officers or members of the public;
- 6 (a) - You must not use, or attempt to use, your position improperly to the advantage or disadvantage of yourself or anyone else."

It was alleged that Councillor Mair had failed to treat the complainant and her late disabled husband with respect by parking his car in a bay reserved for disabled people in the car park adjacent to the sports/football field in Bluntisham. It also was suggested that by his actions, Councillor Mair had caused his Parish Council to breach the equality laws, that he had bullied the complainant and used his position as a Parish Councillor to his own advantage.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Referrals (Assessment) Sub-Committee of the Standards Committee decided that no further action should be taken on the allegations.

Reasons for Decision

In reaching their conclusion the Sub-Committee was reminded that the Code of Conduct is applicable whenever an individual acts in his/her official capacity as a Councillor, whenever he/she conducts the business of the authority of which he is a Member, or acts, claims to act or gives the impression that they are acting in an official capacity or as a representative of the Parish Council. The Sub-Committee also observed from information contained within his

Registration of Financial or Other Interests that Councillor Mair had an association with a local theatre group and that his actions in unloading pieces of scenery from his car for the purposes of a performance were, in all probability, connected with his involvement with that group and not his position as a Parish Councillor.

Whilst sympathetic to the complainant in terms of the alleged misuse of parking spaces reserved for the disabled, the Sub-Committee concluded that there was no evidence to suggest that Councillor Mair was acting or purporting to act as a Councillor when parking inappropriately in the disabled bay and therefore given the requirement of the Code of Conduct in this respect, that he had no case to answer.

This Decision Notice is sent to the person making the allegation.

Right of Review

At the written request of the complainant, the authority can review and change a decision not to refer an allegation for investigation or other action. A different Sub-Committee to that involved in the original decision will undertake the review.

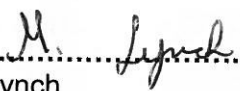
We must receive the complainant's written request within 30 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will deal with it within a maximum of three months of receipt.

Terms of Reference

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that Members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of local authority Members and the requirements for dealing with this.

The Regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by Members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities (Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

Signed:  **Date:** 2/8/10

Mr M Lynch
Chairman of Sub-Committee

DECISION NOTICE: NO FURTHER ACTION

Reference: Case No. 34

The Referrals (Assessment) Sub-Committee appointed by Huntingdonshire District Council resolved to exclude the public from the Sub-Committee's proceedings under paragraph 7(c) of Schedule 12A to the Local Government Act 1972 and paragraph 8(b) of the Standards Committee (England) Regulations 2008. In these circumstances, parties associated with the complaint are requested to exercise caution when discussing or passing on information that is in the notice or about the notice.

Complaint

On 10th September 2010, the Referrals (Assessment) Sub-Committee of this authority comprising Mr P Boothman (Chairman), Councillor Mrs B E Boddington and Mr G Watkins considered a complaint from Councillor K Churchill concerning the alleged conduct of Councillor S Van De Kerkhove of Huntingdonshire District Council.

The complaint alleged that Councillor Van De Kerkhove had breached paragraphs 5 and 6 (b) of the District Council's Code of Conduct which states that –

- "5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute; and
6. (b) You must when using or authorising the use by others of the resources of your authority –
- (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)".

It was alleged that Councillor Van De Kerkhove had by his actions in not completing the required events application form, and by not undertaking a risk assessment for a proposed event at St Neots Riverside Park on 1st August 2010, conducted himself in a manner which could be regarded as bringing his office and authority into disrepute. Given these omissions, it was further suggested that Councillor Van De Kerkhove had failed to comply with the Council's reasonable requirements when using the resources of the authority and that these resources were used improperly for political purposes. The complainant also suggested that the Councillor had used the District Council's logo inappropriately on placards, banners and the website: www.savestneots.org.uk

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Referrals (Assessment) Sub-Committee of the Standards Committee decided that no further action should be taken on the allegations.

Reasons for Decision

In reaching their conclusion the Sub-Committee noted that the Code of Conduct only applies whenever an individual acts in his/her official capacity as a Councillor, including whenever he/she conducts the business of the authority of which he/she is a Member, or acts, claims to act or gives the impression that they are acting in an official capacity or as a representative of the District Council. With this in mind and whilst expressing some concern, the Sub Committee considered that insufficient definitive evidence had been presented which proved, on balance, that Councillor Van De Kerkhove was acting in his official capacity as a District Councillor when participating in the organisation of and attending the march and rally in St Neots Riverside Park on 1st August 2010 (as opposed to a private or general political capacity).

Members were, however, disappointed at the behavior displayed by Councillor Van De Kerkhove in appearing to disregard the Council's procedures for the organisation of a public event. The Sub-Committee also considered that Councillor Van De Kerkhove had acted unwisely in his communications with District Council officers and could have placed them in an invidious position, by refusing to submit the event application and follow the Council's requirements, should serious difficulties have arisen during the march and rally event.

In terms of the inappropriate use of the District Council's logo, the Sub-Committee concluded that the website from which the images used on the posters and placards had been drawn, was established by another individual so responsibility in this respect could not be attributed to Councillor Van De Kerkhove.

Lastly, it had become apparent during the course of the Sub-Committee's deliberations that Councillor Van De Kerkhove had overlooked the necessity to declare his membership of St Neots Town Council and the Liberal Democrat Association on his declaration of financial and other interests and that he may not have declared any expenses he may have received in assisting his election to the office of District Councillor. The Sub-Committee requested that these matters also be drawn to the Councillor's attention for action as necessary.

This Decision Notice is sent to the person making the allegation.

Right of Review

At the written request of the complainant, the authority can review and change a decision not to refer an allegation for investigation or other action. A different sub-committee to that involved in the original decision will undertake the review.

We must receive the complainant's written request within 30 days from the date of this notice, explaining in detail on what grounds the decision should be reviewed.

If we receive a request for a review, we will deal with it within a maximum of three months of receipt.

Terms of Reference

The Local Government and Public Involvement in Health Act 2007 amends the Local Government Act 2000, which now provides for the local assessment of new complaints that Members of relevant authorities may have breached the Code of Conduct. The Standards Committee (England) Regulations 2008 relate to the conduct of local authority Members and the requirements for dealing with this.

The Regulations set out the framework for the operation of a locally based system for the assessment, referral and investigation of complaints of misconduct by Members of authorities. They amend and re-enact existing provisions in both the Relevant Authorities

(Standards Committees) Regulations 2001, as amended, and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003, as amended.

Signed:  **Date:** 16.9.2010
Mr P Boothman
Chairman of Sub-Committee

GUIDANCE TO ASSIST ASSESSMENT OF CASE

EARLY GUIDANCE RECEIVED FROM THE STANDARDS BOARD ON THE CONDUCT OF AN ASSESSMENT

Which complaints will we refer for investigation?

We decide that a matter should be investigated when we believe that it meets one of the following criteria:-

- It is serious enough, if proven, to justify the range of sanctions available to the Adjudication Panel for England or local Standards Committees;
- It is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and there is no other avenue left to deal with it, short of investigation;
- In considering this, we will take into account the time that has passed since the alleged conduct has occurred.

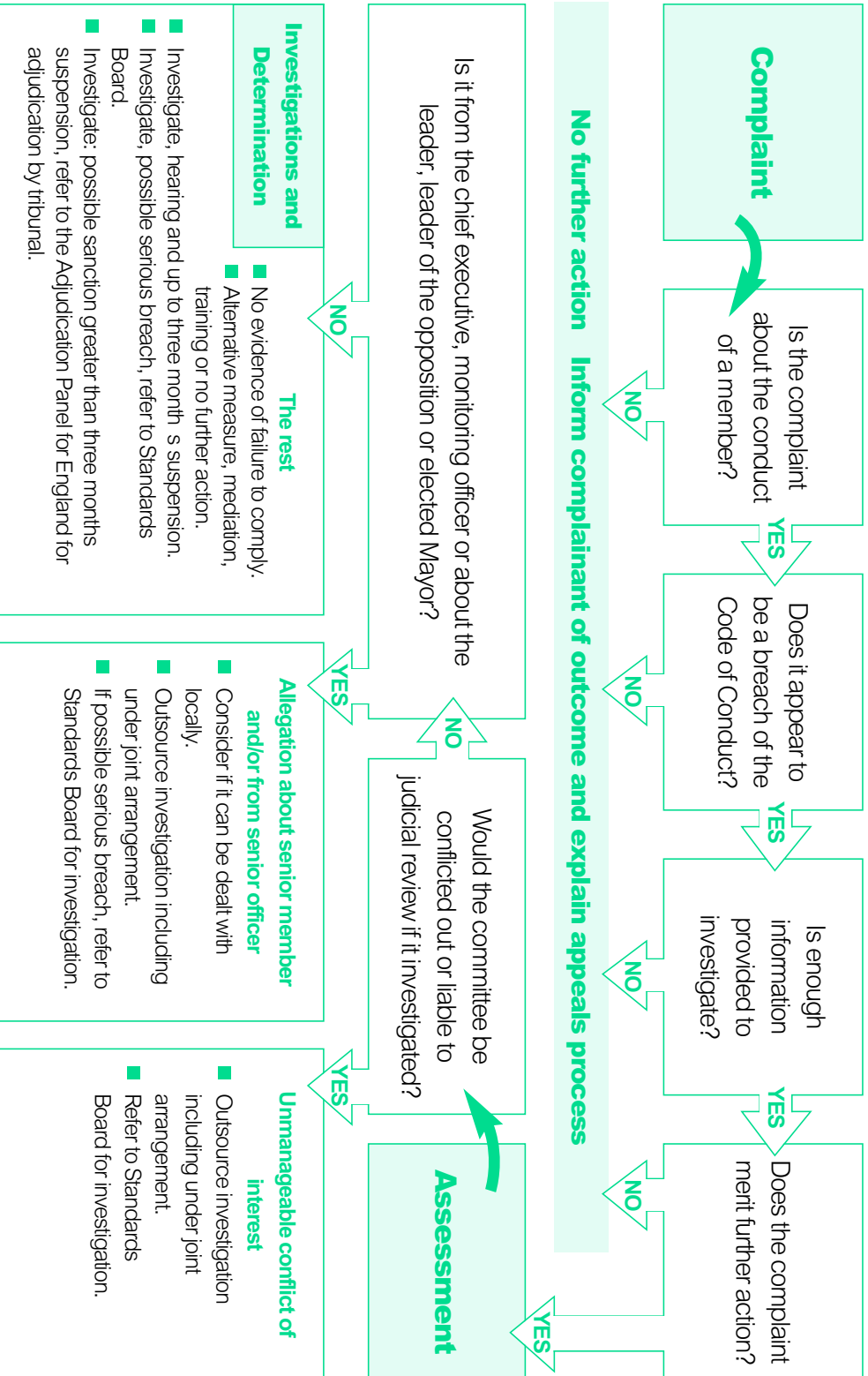
Which complaints are we unlikely to refer for investigation?

We are unlikely to decide that a complaint should be investigated if it falls into any of the following categories:-

- We believe it to be malicious, relatively minor or tit-for-tat;
- The same, or substantially similar, complaint has already been the subject of an investigation or enquiry and there is nothing further to be gained by seeking the sanctions available to the Adjudication Panel or the local Standards Committee;
- The complaint concerns acts carried out in the Members' private life when they are not carrying out the work of the Authority or have not misused their position as a Member;
- It appears that the complaint is really about dissatisfaction with a Council decision;
- There is not enough information currently available to justify a decision to refer the matter for investigation.

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Local assessment complaint handling chart



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Agenda Item 5

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Agenda Item 6

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Agenda Item 7

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