

A meeting of the **STANDARDS COMMITTEE** will be held in the **CIVIC SUITE, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **THURSDAY, 26 JUNE 2014** at **4:00 PM** and you are requested to attend for the transaction of the following business:-

A G E N D A

APOLOGIES

1. MINUTES (Pages 1 - 8)

To approve as a correct record the Minutes of the meetings held on 6th March and 4th June 2014.

2. MEMBERS' INTERESTS

To receive from Members, declarations as to disclosable pecuniary or other interests in relation to any Agenda Item. See Notes below.

3. STANDARDS - UPDATE (Pages 9 - 20)

Report by the Head of Legal and Democratic Services and Monitoring Officer enclosed.

4. REQUEST FOR DISPENSATION (Pages 21 - 26)

Report by the Head of Legal and Democratic Services and Monitoring Officer.

5. STANDARDS CASES

For the information of Members, four articles involving alleged breaches of the Code of Conduct.

(a) Cardiff City Council (Pages 27 - 28)

(b) Stockton On Tees Borough Council (Pages 29 - 32)

Articles published by editions of the Local Government Lawyer and Practical Case Public Sector Law.

(c) Ombudsman For Wales (Pages 33 - 36)

6. DATE OF NEXT MEETING

The next meeting of the Committee is scheduled to take place on Thursday 11th September 2014 at 4pm in the Civic Suite, Pathfinder House.

Dated this 18 day of June 2014



Head of Paid Service

1. FIELD_TITLE FIELD_PAGE_RANGE

FIELD_SUMMARY

FIELD_AI_COMMENT1

Notes

1. Disclosable Pecuniary Interests

- (1) *Members are required to declare any disclosable pecuniary interests and unless you have obtained dispensation, cannot discuss or vote on the matter at the meeting and must also leave the room whilst the matter is being debated or voted on.*
- (2) *A Member has a disclosable pecuniary interest if it -*
 - (a) *relates to you, or*
 - (b) *is an interest of -*
 - (i) *your spouse or civil partner; or*
 - (ii) *a person with whom you are living as husband and wife; or*
 - (iii) *a person with whom you are living as if you were civil partners*

and you are aware that the other person has the interest.
- (3) *Disclosable pecuniary interests includes -*
 - (a) *any employment or profession carried out for profit or gain;*
 - (b) *any financial benefit received by the Member in respect of expenses incurred carrying out his or her duties as a Member (except from the Council);*
 - (c) *any current contracts with the Council;*
 - (d) *any beneficial interest in land/property within the Council's area;*
 - (e) *any licence for a month or longer to occupy land in the Council's area;*
 - (f) *any tenancy where the Council is landlord and the Member (or person in (2)(b) above) has a beneficial interest; or*
 - (g) *a beneficial interest (above the specified level) in the shares of any body which has a place of business or land in the Council's area.*

Non-Statutory Disclosable Interests

- (4) *If a Member has a non-statutory disclosable interest then you are required to declare that interest, but may remain to discuss and vote providing you do not breach the overall Nolan principles.*
- (5) *A Member has a non-statutory disclosable interest where -*
 - (a) *a decision in relation to the business being considered might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area*

- for which you have been elected or otherwise of the authority's administrative area, or
- (b) it relates to or is likely to affect a disclosable pecuniary interest, but in respect of a member of your family (other than specified in (2)(b) above) or a person with whom you have a close association, or
- (c) it relates to or is likely to affect any body –
- (i) exercising functions of a public nature; or
 - (ii) directed to charitable purposes; or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of control or management.

and that interest is not a disclosable pecuniary interest.

2. Filming, Photography and Recording at Council Meetings

The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (such as Twitter and Facebook) to communicate with people about what is happening at meetings. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and available via the following link [filming, photography and recording at council meetings.pdf](#) or on request from the Democratic Services Team. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chairman of the meeting will facilitate this preference by ensuring that any such request not to be recorded is respected.

Please contact Ms C Deller, Democratic Services Manager, Tel No 01480 388007/e-mail: Christine.Deller@huntingdonshire.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 Committee/Panel.

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.

Agenda Item 1

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held in Room 1A, Civic Suite, Pathfinder House, St. Mary's Street, Huntingdon PE29 3TN on Thursday, 6 March 2014.

PRESENT: Councillor A Hansard – Chairman.

Councillors K M Baker, Mrs B E Boddington and G J Harlock.

APOLOGIES Apologies for absence from the meeting were submitted on behalf of Councillors W T Clough and T D Sanderson.

IN ATTENDANCE Mr P McCloskey and Mrs D Townsend.

(The Independent Persons, Mr P Baker and Mrs G Holmes attended the meeting as observers.)

21. MINUTES

The Minutes of the meeting of the Committee held on 5th December 2013 were approved as a correct record and signed by the Chairman.

22. MEMBERS' INTERESTS

As parish council representatives, Councillors P McCloskey and Mrs D Townsend declared a non-pecuniary interest in Minute No 25.

23. PROPOSED AMENDMENTS TO THE CODE OF CONDUCT

Further to Minute No 15, the Committee was reminded via a report by the Head of Legal & Democratic Services and Monitoring Officer (a copy of which is appended in the Minute Book) that the Department of Communities and Local Government (DCLG) had published guidance entitled 'Openness & transparency on personal interests' which had suggested that the interests to be registered and declared by Councillors should include membership of a trade union. This advice had not been specified in the Regulations issued by the Government following the Localism Act 2011.

Given the publication of the Guidance, the Committee was of the opinion that the Council should take the opportunity to review the Code more generally, in the light of experience since adoption of the original Code in July 2012 and potentially extend the Code to include the new interests referred to. Accordingly, the Monitoring Officer presented a series of proposed changes that he wished to make to the Code and the Committee discussed the action that would be required to be taken as a result of the introduction of these changes. Having distinguished between DPI's and other interests and confirmed that the new Code would take effect from 4th June 2014, the date of the commencement of the new Municipal Year, the Committee

RESOLVED

that the Council be recommended to approve proposed changes to the Code of Conduct as set out in Annex 1 to the report now submitted and the consequential new Code be adopted by the Council with effect from the 4th June 2014 i.e. the date of the Annual Council meeting.

24. REVIEW OF THE TERMS OF REFERENCE OF THE COMMITTEE

By way of a report by the Head of Legal and Democratic Services and Monitoring Officer (a copy of which is appended in the Minute Book), the Committee was reminded that the Corporate Governance Panel had been requested to consider both its own constitution and that of the Committee. There was a view that the terms of reference and title of the Corporate Governance Panel might be varied perhaps to an Audit and Accounts Committee so that its functions relate specifically to Risk Management, Audit, Accounts and Resources, for example, with governance, constitutional and possibly complaints responsibilities transferred to the Committee or to a potentially re-named Standards and Governance Panel.

This suggestion had arisen because of the contrast in the workload of each. Members were reminded that the Corporate Governance Panel had become increasingly busy in recent years as greater emphasis had been placed on governance issues. The demise of "Standards for England" and the impact of the Localism Act 2011 had resulted in a less procedurally prescriptive standards regime and a subsequent reduction in the level of business considered by the Committee.

It was reported that the Chairmen had met to consider several options for change together with the current arrangements made by other Cambridgeshire Authorities dealing with Corporate Governance and Standards issues and the outcome of their discussion and their preferred approach was presented to the Committee.

During discussion, Members indicated that they would wish the Committee and the Corporate Governance Panel to continue to operate as separate principal bodies and that were the Panel/Committee to be re-named to reflect any new functions but it should retain the words "Standards" within its title in order to promote and maintain the profile of the Code of Conduct and the continuing importance of high standards of conduct by Councillors and other related protocols within the Constitution. The Committee also expressed support for a limited transfer of functions from the Corporate Governance Panel and the Elections Working Group.

Having regard to the current terms of reference of the Panel and the Committee, Members were of the view that the following functions could be transferred and be undertaken, in future, by the Committee rather than the Corporate Governance Panel –

- ◆ Considering proposals to change the Council's Constitutional arrangements and making appropriate recommendations to the Council (a function formerly undertaken by Standards);

- ◆ Determining the Council's customer feedback procedure, monitoring compliance with the procedure, compensatory payments to complainants and formulation of recommendations to the Cabinet or Council on any action to be taken as a consequence; and
- ◆ Considering reports by the Local Government Ombudsman, approval of compensatory payments to complainants and formulation of recommendations to the Cabinet or Council on any remedial action to be taken as a consequence.

Although ultimately, certain issues still would be reserved to Council as part of the policy and statutory framework, Members supported the suggestion that matters relating to electoral arrangements also could fall to be dealt with by the Committee rather than the Elections Working Group as at present. Whereupon, it was

RESOLVED

that the foregoing reviews of the Committee be conveyed to the Corporate Governance Panel in conjunction with the current review of the Constitution.

25. MEMBERSHIP OF THE COMMITTEE

A report by the Head of Legal and Democratic Services and Monitoring Officer was submitted (a copy of which is appended in the Minute Book) in which the Committee was reminded of the arrangements made to appoint, and the term of office of both, the Parish Council representatives and the Lead and Deputy Independent persons.

Members noted that the terms of office of the Parish Council representatives were due to expire on 30th April 2014 having been appointed by the Monitoring Officer after consultation with the Chairman in December 2012. The appointments of the Lead and Deputy Independent Persons would require to be reaffirmed by the Council at its annual meeting.

In view of the valuable contributions made by the Parish Council representatives to the Committee and training events and the excellent working relationship established by the Monitoring Officer with the Lead and Deputy Independent Persons in the period since their appointments, the Committee considered a proposal for the terms of office of both to be extended to 30th April 2016 (equivalent to a four-year and three-year term respectively) without the requirement in the case of the Independent Persons for any further ratification by the Council. It was clarified that, in the case of the current Parish Council representatives, that they would continue to serve for a further two years to 30th April 2016 or until such time as their Parish Council office expired, if earlier. As the appointment of the Lead and Deputy Independent Persons were required to be confirmed by the Council, the Committee

RESOLVED

(a) that, the term of office of the Parish Council

representatives be extended for a further two year period to 30th April 2016 or until such time as their Parish Council office expired, if earlier; and

- (b) that the Council be recommended to reaffirm the appointment of Mrs Gillian Holmes and Mr Peter Baker to the posts of Lead and Deputy Independent Persons respectively for the remainder of a three-year term to 30th April 2016 without the requirement for further annual ratification.

26. UPDATE ON CODE OF CONDUCT AND REGISTER OF DISCLOSABLE PECUNIARY INTERESTS

By reference to his report, (a copy of which is appended in the Minute Book) the Monitoring Officer updated the Committee on the adoption of the Code of Conduct by Town and Parish Councils and the receipt and publication of register of interests forms on behalf of District and Town and Parish Councillors.

Members were reminded that the Monitoring Officer had a duty to establish and maintain a register of disclosable pecuniary interests and that matters relating to breaches of the Code of Conduct remain under the auspices of the Committee.

The Committee was pleased to note that all 71 Town and Parish Councils had now adopted a Code of Conduct, with 56 based on that adopted by the District Council and 10 opting for the Code promoted by NALC. Of the remaining Councils, 4 had adopted their own version of the Code but the Monitoring Officer was satisfied that these were adequate for the purpose. Of 71 town and parish councils, 58 had had their full register and 11 part registers published (which comprised the disclosable pecuniary interests (DPI) forms of all Councillors). The Committee was informed that where part registers had been published, this could reflect where changes were in progress. In terms of individual DPis, 594 of a total of 650 had been received from Parish Councillors, 35 were outstanding and 27 were vacancies. The forms of all District Councillors had been published.

Having expressed its appreciation to the Monitoring Officer and the Democratic Services Manager on their success in having achieved such a comprehensive return, the Committee

RESOLVED

that the report and information now submitted be received and noted.

27. TRAINING UPDATE

The Monitoring Officer reported that since the last meeting in December, a training session had been held at Perry Parish Council. Eight Members of the Council and the Clerk had been in attendance together with members of Great Staughton Parish and the Clerk to Great Paxton Parish. The Committee was pleased to note that the session had appeared to have been well-received and had generated

questions and interest.

28. EXTRACT FROM "LOCAL GOVERNMENT LAWYER" - JANUARY 2014

The Committee discussed and noted two articles describing the outcome of two Code of Conduct complaints which had occurred in mid-Devon and Kent.

29. DATE OF NEXT MEETING

Members noted that the next meeting of the Committee was scheduled to take place on Thursday 26th June 2014 in the Civic Suite, Pathfinder House, Huntingdon.

Chairman

This page is intentionally left blank

HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the STANDARDS COMMITTEE held in the Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 4 June 2014.

PRESENT: Councillors Mrs B E Boddington,
Mrs L A Duffy, A Hansard, G J Harlock,
S M Van De Kerkhove and T D Sanderson.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors K M Baker and P K Ursell.

1. ELECTION OF CHAIRMAN

RESOLVED

that Councillor A Hansard be elected Chairman of the Committee for the ensuing Municipal Year.

Councillor A Hansard in the Chair.

2. MEMBERS' INTERESTS

No declarations were received.

3. APPOINTMENT OF VICE - CHAIRMAN

RESOLVED

that Councillor K M Baker be elected Vice-Chairman of the Committee for the ensuing Municipal Year.

Chairman

This page is intentionally left blank

Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Standards Update

Meeting/Date: Standards Committee – 26th June 2014

Executive Portfolio: Strategic Economic Development & Legal

Report by: Head of Legal and Democratic Services and
Monitoring Officer

Ward(s) affected: All

Executive Summary:

At the meeting in March, Members made a series of recommendations to the Council in respect of changes to the Code of Conduct and membership of the Committee and to the Corporate Governance Panel in respect of its terms of reference. This report updates the Committee on the response to these recommendations.

The opportunity also is taken to advise the Committee on an impending change to the position of the District Council's Monitoring Officer and update the Committee on recent complaints received.

Recommendation:

That the report and information be received and noted.

This page is intentionally left blank

1. WHAT IS THIS REPORT ABOUT/PURPOSE?

- 1.1 It is the purpose of this report to bring Members up to date on the response of the Council and the Corporate Governance Panel to recommendations made by the Committee at its last meeting in March and any action taken subsequently.

2. BACKGROUND AND UPDATE

- 2.1 **Changes to the Code of Conduct** – The Committee may recall that it had recommended to Council a series of changes to the Members' Code of Conduct to take into account general matters that had arisen since it was first introduced in 2012 and other interests, similar to those included in the previous National Code, which had been promoted by guidance issued by the Government entitled 'Openness & transparency on personal interests'.

- 2.2 At its meeting on 30th April, the Council endorsed the recommendation of the Committee and adopted a revised (new) Code of Conduct to take effect from the date of the Annual Council meeting on 4th June 2014.

- 2.3 As a consequence, the Monitoring Officer has –

- ◆ Issued a new Code of Conduct and advised all Parish Councils who previously had adopted the HDC Code to adopt the new Code of Conduct at its first available meeting in the new municipal year;
- ◆ Revised the declaration of interests form to include the new category of 'Non-Statutory Disclosable Interests' relating to bodies exercising functions of a public nature, those directed towards charitable purposes and those whose principal purposes included the influence of public opinion or policy;
- ◆ Issued revised forms to all District and relevant Parish Councillors to complete; and
- ◆ Updated the Briefing Note for Members and Frequently Asked Questions advice and included this on the updated 'Standards & Conduct' pages on the District Council's website.

- 2.4 Although very early days in the process, the Monitoring Officer will update the meeting on the number of completed DPI forms received from District and Parish Councillors so far and the position in respect of the adoption of the new HDC Code by Parish Councils.

- 2.5 **Membership of the Committee** – The terms of office of the Parish Council representatives were due to expire on 30th April 2014 and the appointments of the Lead and Deputy Independent Persons were required to be reaffirmed annually by the Council. Whilst these requirements had originally been imposed for good reason, the Committee was of the view that that the terms of office of both the Parish Council representatives and the Lead and Deputy Independent Persons should be extended to 30th April 2016 (equivalent to a four year and three year term respectively) without the requirement in the case of the Independent Persons for any further ratification by the Council. Whilst the Committee had the authority to vary the term of office of the Parish Council representatives, it was for the Council to make the decision in respect of the appointment of the Independent Persons. Therefore, on the recommendation of the Committee, the Council, on 30th April, reaffirmed the appointment of Mrs Gillian Holmes and Mr Peter Baker to the posts of Lead and Deputy Independent Persons respectively for the remainder of their three year term to 30th April 2016 without the requirement for further annual ratification.

- 2.6 **Terms of Reference** – The Committee was of the view that its terms of reference could be extended by the transfer of functions from the Corporate Governance Panel and Elections Working Group.

The Corporate Governance Panel acknowledged that whilst there was merit in transferring some functions to the Committee, it was felt that oversight of the Constitution should remain with the Panel given its association with the Codes of Financial Management and Procurement. On the recommendation of the Panel, the Council approved the transfer to the Committee of the following functions from the Panel and the Elections Working Group –

- (i) determination of the Council's Customer Feedback Procedure, monitoring compliance with the procedure, compensatory payments to complainants and formulation of recommendations to the Cabinet or Council on any action to be taken as a consequence;
- (ii) consideration of reports by the Local Government Ombudsman, approval of compensatory payments to complainants and formulation of recommendations to the Cabinet or Council or any remedial action to be taken as a consequence;
- (iii) review of the District and Parish electoral arrangements including boundaries;
- (iv) matters relating to the powers of a Parish Council, number of Parish Councillors and new Parish Councils and Parish Wards;
- (v) District and District Ward boundaries arising from any review; and
- (vi) the periodic electoral review.

A copy of Article 9 – Standards Committee and the Committee's new terms of reference are enclosed as Appendices A and B.

3. ROLE OF THE MONITORING OFFICER

- 3.1 Relevant local authorities, including the District Council, have a duty to designate one of their Officers to be known as the Monitoring Officer. This Officer cannot be the Head of Paid Service nor the S151 Officer/Chief Finance Officer. In terms of standards issues, it is the function of the Monitoring Officer to support the Standards Committee, to assess Code of Conduct complaints and to conduct investigations. As the Committee is aware, the Head of Legal and Democratic Services is currently the District Council's Monitoring Officer. The present incumbent is due to retire from the Council's service on 31st July. The District Council will be required to appoint a replacement Monitoring Officer at its meeting to be held on 30th July. Recent changes to the Council's senior management structure and ongoing discussions on the potential for legal services to be shared with another authority has meant the source of any future appointment to the Monitoring Officer post is not yet known and that the issue remains outstanding. It may be possible to give a further update on the position at the meeting.

4. COMPLAINTS UPDATE

- 4.1 Since the last meeting 4 complaints have been received. One against a parish councillor was withdrawn by the complainant pending the outcome of the

recent elections. Another was rejected by the Monitoring Officer in accordance with the Council's assessment criteria, as the alleged incidents were over 12 and 18 months ago and no special circumstances were put forward by the complainant to justify the delay. Two others are very recent and have been referred to the Members in question for their comments.

5. LIST OF APPENDICES INCLUDED

Appendix 1 – Article 9 - Standards Committee
Appendix 2 – Extract from Constitution – Table 2

BACKGROUND PAPERS

Council Minutes – 30th April 2014
District Council's Constitution

CONTACT OFFICER

Christine Deller – Democratic Services Manager
Tel No. 01480 388007

This page is intentionally left blank

ARTICLE 9 - STANDARDS COMMITTEE

1. STANDARDS COMMITTEE

The Council shall at the annual meeting establish a Standards Committee under Section 102 of the Local Government Act. Its composition shall be governed by proportionality and it shall be subject to the same requirements on confidential and exempt information as any other Committee.

2. MEMBERSHIP

The Standards Committee shall comprise -

- ◆ Eight members of the Council (to include one member who is a Member of the Executive).
- ◆ Two town or parish councillors, representing town and parish councils in the District who shall be co-opted and non-voting members of the Committee. Current representatives have been appointed to 30th April 2016 or until such time as their Parish Council office expires if earlier.

The Independent Person (and deputy) shall be appointed to serve on the Committee for a term of three years from the date of their appointment as required under Section 28 (7) of the Localism Act. In the case of the current appointees – to 30th April 2016.

The Chairman and Vice-Chairman of the Committee will be elected by the Committee and the Chairman, or in his/her absence, the Vice-Chairman should present the report of the Committee at Council meetings.

3. VALIDITY OF PROCEEDINGS

Town or parish councillor representatives will be entitled to attend meetings as non-voting co-optees. The Independent Person (and deputy) can attend meetings of the Committee to observe proceedings but are not formally members of the Committee. The quorum for a meeting of the Committee is at least three members of the Council.

4. FUNCTIONS AND ROLE

The Standards Committee will have the following functions and roles in respect of the District Council and its members and town and parish councils and their members -

- ◆ promoting and maintaining high standards of conduct by members;
- ◆ assisting members and co-opted members to observe their authority's code of conduct;
- ◆ advising the Council on the adoption or revision of a Code of Conduct and monitoring the operation of the Code;
- ◆ advising, training or arranging to train members and co-opted members on matters relating to the Code;
- ◆ granting dispensations to District councillors and co-opted members from the requirements relating to interests in the Members' Code of Conduct;

APPENDIX A

- ◆ consider reports arising from any investigation of alleged misconduct and to make a decision on the findings of the investigator;
- ◆ undertake hearings into alleged breaches of the Code of Conduct;
- ◆ determining appropriate sanctions or actions in response to breaches of the Code of Conduct;
- ◆ maintain an overview of dispensations granted to parish councillors from requirements relating to interests set out in their Code of Conduct;
- ◆ the exercise of the above in relation to parish councils in Huntingdonshire and members of those parish councils;
- ◆ to select candidates and make recommendations to Council on the appointment of independent persons.
- ◆ consider matters relating to the Council's Customer Feedback Procedure and the Local Government Ombudsman;
- ◆ consider the periodic electoral review and review District and Parish electoral arrangements including boundaries and other electoral matters relating to the powers of a Parish Council, number of Parish Councillors and new Parish Councils and Parish Wards.

The Standards Committee shall have the following other functions in respect of the District Council and its members -

- ◆ to formulate and recommend to the Council for adoption a Protocol for Member/Officer Relations and monitor the operation of the Protocol; and
- ◆ to adopt Codes of Conduct for Planning and Licensing and monitor the operation of the Codes.

5. SUB-COMMITTEE OF THE STANDARDS COMMITTEE

The Committee may appoint a Sub-Committee comprising three members to -

- ◆ consider reports from an investigator appointed to investigate an alleged breach of the Code of Conduct;
- ◆ to act as a Hearings Panel to consider determinations following an investigation on an alleged breach of the Code of Conduct;
- ◆ to consider urgent requests for dispensations from District Council members.

The Head of Legal and Democratic Services shall be authorised to convene meetings of the appointed Sub-Committee when necessary.

RESPONSIBILITY FOR COUNCIL FUNCTIONS
(Extract from Constitution)

Committee/Panel	Membership	Functions	Delegation of Functions
Standards Committee	8 members of the Council to include 1 member of the Executive. 2 parish councillors appointed as co-opted and non-voting members of the Committee to 30th April 2016 to represent the interests of town and parish councils in Huntingdonshire.	<p>The promotion and maintenance of high standards of conduct within the Council</p> <p>To advise the Council on the adoption or revision of its Codes of Conduct for Members.</p> <p>To monitor and advise the Council about the operation of its Code of Conduct for Members in the light of best practice and changes in the law.</p> <p>Assistance to members and co-opted members of the Council</p> <p>To ensure that all members and co-opted members of the Council have access to training in all aspects of the Members Code of Conduct, that this training is actively promoted and that members are aware of the standards expected from them under the Code.</p>	As set out in Table 4 (Delegation of Powers to Officers).
		Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Localism Act 2011.	

Committee/Panel	Membership	Functions	Delegation of Functions
Standards Committee (cont'd)		<p>To advise the Council on the adoption or revision of a Protocol for Member/Officer relations.</p> <p>To advise the Council on the adoption of a Code of Conduct for Planning and monitoring operation of the Code. (See Article 9 for further detail.)</p>	
		<p>Parish Councils</p> <p>The promotion and maintenance of high standards of conduct within the town and parish councils within Huntingdonshire</p> <p>To ensure that all members of town and parish councils in Huntingdonshire have access to training in all aspects of their relevant Codes of Conduct, that this training is actively promoted and that members are aware of the standards expected from them under their Codes.</p>	
		<p>Complaints</p> <p>Determination of the Council's Customer Feedback Procedure, monitoring compliance with the procedure, compensatory payments to complainants and formulation of recommendations to the Cabinet or Council on any action to be taken as a consequence;</p>	

Committee/Panel	Membership	Functions	Delegation of Functions
Standards Committee (cont'd)		<p>Consideration of reports by the Local Government Ombudsman, approval of compensatory payments to complainants and formulation of recommendations to the Cabinet or Council or any remedial action to be taken as a consequence</p>	
		<p>Electoral Arrangements</p> <p>To review the District and Parish electoral arrangements including boundaries.</p> <p>Matters relating to the powers of a Parish Council, number of Parish Councillors and new Parish Councils and Parish Wards.</p> <p>District and District Ward boundaries arising from any review.</p> <p>The periodic electoral review</p>	

This page is intentionally left blank

Public
Key Decision - No

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Request For Dispensation

Meeting/Date: Standards Committee – 26th June 2014

Executive Portfolio: Councillor T D Sanderson
Strategic Economic Development and Legal

Report by: Head of Legal and Democratic Services and Monitoring
Officer

Ward(s) affected: All

Executive Summary:

Section 33(1) of the Localism Act 2011 states that ‘a relevant authority may, on a written request made to the proper officer of the authority by a member or co opted member of the authority, grant a dispensation relieving the member or co opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation’. Section 31(4) of the Act indicates that a Member with a DPI may not participate in discussion nor vote on a matter at a meeting unless a dispensation has been granted to enable that Member to do so.

The Monitoring Officer has received a request for a dispensation from District Councillor Mrs P A Jordan. Councillor Mrs Jordan is required to declare a Disclosable Pecuniary Interest by virtue of her employment with the National Health Service and is precluded from taking part in discussion when business relating to her employer arises at meetings of the Overview & Scrutiny Panel (Social Well Being).

A copy of the application received from Councillor Mrs Jordan is appended hereto.

Recommendation:

That, should the Committee look favourably on this application, dispensation be granted to Councillor Mrs P A Jordan with immediate effect, and for the period ending 30th April 2015, to enable her to speak and vote at meetings of the Overview & Scrutiny Panel (Social Well Being) when business relating to the work/services of the NHS arise at Panel meetings.

This page is intentionally left blank

1. WHAT IS THIS REPORT ABOUT/PURPOSE?

1.1 The Committee is reminded that the circumstances in which a Standards Committee (or Monitoring Officer) may grant dispensations to a District Councillor are prescribed in Section 33(2) of the Localism Act 2011. The Act provides that a member with a Disclosable Pecuniary Interest in a matter which is coming before the Authority can apply to the Standards Committee (or in certain circumstances, the Monitoring Officer) for a dispensation to allow the member to speak and vote on the matter at meetings.

1.2 'A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority -

- a. considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- b. considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- c. considers that granting the dispensation is in the interests of persons living in the authority's area;
- d. if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive; or
- e. considers that it is otherwise appropriate to grant a dispensation'.

1.3 A dispensation under this section must specify the period for which it has effect and the period specified may not exceed four years.

2. WHY IS THIS REPORT NECESSARY/BACKGROUND/REASONS FOR RECOMMENDATION

2.1 Councillor Mrs Jordan is employed in the Children's and Young Person's Unit of Cambridgeshire Community Services under the umbrella of the NHS Trust. The services care for and support children aged up to 19 and include routine care delivered by health visitors, child health services and school nursing, through to specialist care in hospitals and community.

2.2 Councillor Mrs Jordan is an experienced and valuable member of the Overview & Scrutiny Panel (Social Well Being) and lends her expertise on health issues to the deliberations of the Panel generally and in particular to study groups on which she has been appointed during her term of office. For example, the Panel has recently responded to consultation on proposals published by the Cambridgeshire and Peterborough Clinical Commissioning Group, on ways to improve older peoples healthcare and adult community services. To allow Councillor Mrs Jordan to participate fully in discussion on matters such as these and to continue to bring her expertise on the Health

Service to meetings, the Committee may consider that it is appropriate to grant dispensation to Councillor Mrs Jordan to enable her to participate and vote at meetings of the Overview and Scrutiny Panel (Social Well Being).

2.3 Looking at the specific criteria and should the Committee feel minded to support the request, it could be contended that the following grounds are relevant –

- that the dispensation is in the interests of persons living in the authority's area; and
- It is otherwise appropriate to grant a dispensation.

2.4 Councillor Mrs Jordan's term of office expires in May 2015. It is suggested therefore, that should her request be supported, that the dispensation be granted for the period ending 30th April 2015. Should Councillor Mrs Jordan be re elected to office and should she be appointed to serve on the Overview & Scrutiny Panel (Social Well Being) or its equivalent then an new application for dispensation would need to be submitted at that time

CONTACT OFFICER

Christine Deller, Democratic Services Manager
Tel No. 01480 388007

DISPENSATION REQUEST FORM

To: The Monitoring Officer (*email - codeofconduct@huntingdonshire.gov.uk*)

If you need any help completing this form please refer to the accompanying 'Dispensations Guidance' or contact Colin Meadowcroft (ext 8021) or Christine Deller (ext 8007).

Your name	PATRICIA ANN JORDAN.
The business for which you require a dispensation (refer to agenda item number if appropriate)	Overview + Scrutiny Panel (Social Well-Being).
Details of your interest in that business	I am employed in the NHS, Cambridgeshire Community Services.
Date of meeting or time period (up to 4 years) for which dispensation is sought	One year.
Dispensation requested to participate in any discussion of that business by that body	Yes/No*
Dispensation requested to participate in any vote taken on that business by that body	Yes/No*
Specify which of the following ground(s) you consider relevant to your request -	Relevant grounds: (a)/(b)/(c)/(d)/(e)*
<p>(a) so many Members of the Council/Committee have disclosable pecuniary interests that it would impede the transaction of the business (i.e. meeting would be inquorate); or</p> <p>(b) without the dispensation the representation of different political groups on the Council would be so upset as to alter the likely outcome of any particular vote; or</p> <p>(c) the dispensation is in the interests of persons living in the authority's area; or</p> <p>(d) without the dispensation no member of the Cabinet would be able to participate in the matter; or</p> <p>(e) it is otherwise appropriate to grant a dispensation.</p>	<p>Reason(s) for application:</p> <p style="text-align: center;">✓</p> <p style="text-align: center;">✓</p>
<p>AND please provide full reasons why you consider a dispensation is necessary (use a continuation sheet if necessary)</p>	

Signed: *Patricia Jordan*

Dated: 9th June 2014.

* Delete as appropriate

This page is intentionally left blank

Agenda Item 5a

Two senior councillors are involved in an expensive libel battle that partly hinges on whether one of them overstepped the mark by depicting the other as Del Boy from TV's Only Fools and Horses.

Councillor Neil McEvoy, leader of the Plaid Cymru group on Cardiff council and the authority's former deputy leader, is suing Labour Councillor Michael Michael, who chairs the planning committee, over the contents of a leaflet distributed in Fairwater.

The leaflet, which carried an imprint saying it was "printed and promoted" by Councillor Michael, included a cartoon of Del Boy with Councillor McEvoy's face superimposed on it.

Barristers representing the two rivals put forward legal arguments at a High Court hearing in Cardiff Civil Justice Centre on whether it is defamatory to refer to a public figure as "Del Boy".

David Hughes, for Councillor McEvoy, said: "We all know who Del Boy is. He's not to be trusted. He's a rogue. Which of us would like to be compared to Del Boy?"

But Hugh Tomlinson QC, for Councillor Michael, who said he was perhaps in a minority of one for not having previously known who Del Boy was, never having watched the programme, said: "The comparison between Del Boy and the claimant wouldn't be taken literally by readers of the leaflet. Suggesting that Councillor McEvoy is like Del Boy Trotter because he is a roguish character and a fantasist is obviously a comment rather than a statement of fact and can't be read in any other way."

The court heard the leaflet had been approved by local AM Mark Drakeford, the Health Minister, before it was distributed. Judge Andrew Keyser QC reserved judgement.

This page is intentionally left blank

A UKIP councillor will be banned from receiving any confidential information unless he undertakes to follow Stockton-on-Tees Borough Council's code of conduct on disclosures.

This followed an incident in which the councillor, Mark Chatburn, published on his blog a counsel's opinion provided in confidence to members of the planning committee.

The council said the document was legally privileged advice with a covering letter that stated it "must not be shared with anyone who is not also a member of the planning committee as this would be a breach of the members' code of conduct".

In a blog post titled *How Stockton Council is trying to manipulate its own Planning Committee*, an un-redacted copy of the advice appeared with a link from Cllr Chatburn's Twitter account.

Stockton's standards panel ruled that Cllr Chatburn had knowingly disclosed legally privileged advice and noted his "unwillingness or refusal to accept responsibility for the breach of the code, and his unwillingness or refusal to agreed to abide by the code in the future, in similar or the same circumstances".

The panel said Cllr Chatburn had shown no remorse, "but rather to the contrary had indicated that he would do it again without hesitation", and had not attended the hearing.

It asked him to provide an assurance within two weeks that he would not make similar disclosures and that if he failed to do so would be barred from receiving any exempt, confidential, or legally privileged council information for the remainder of his term of office.

The panel added that Cllr Chatburn should be provided with appropriate advice and guidance regarding paragraph 6 of Stockton's code of conduct, including a copy of the authority's confidential information protocol.

The protocol should also be re-issued and re-circulated to all members of the council in light of the councillor's breach, the panel said.

Cllr Chatburn [told the Northern Echo](#) that he had only been acting in residents' interests in publishing the document, and accused the council of being "seemingly incapable" of acting in a transparent manner.

Mark Smulian

[Are the sanctions for poor behaviour by members sufficient?](#)

Posted by *Practical Law Public Sector Law* on 21st May 2014.

Following on from [recent](#) press reports on the sanction that was imposed by Stockton-on-Tees Borough Council



(council) on one of its councillors who published a legally privileged document, this week's post looks at the local government standards regime and the effectiveness of sanctions for poor behaviour under the regime.

Changes to the existing standards regime made by the Localism Act 2011

In many ways, the reported incident appears to demonstrate the concerns that have been raised by many, including the [Committee on Standards in Public Life](#), about the effectiveness of the changes to the previous standards regime effected by the Localism Act 2011 (LA 2011) requiring local authorities to draw up their own local codes of conduct. Since the LA 2011 does not give a relevant authority (or its standards committee) any power to impose sanctions for breach of its code, such as disqualification from office or withdrawal of monetary allowances payable under the Local Authorities (Members' Allowances) (England) Regulations 2003, sanctions likely to be imposed are:

- A formal letter to the member.
- Formal censure by motion.
- Removal of the member from a committee/committees.
- Adverse publicity.

The legislative framework for the handling of confidential information and reports, which is set out in the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985, does not include any sanction if a member (or an officer) releases information without the consent of the council. However, an authority's code of conduct for members will deal with the disclosure of information. For example, the template code produced by the Local Government Association refers to the principle that a member will "restrict access to information when the wider public interest or the law requires it" (see [Local government: general principles of conduct for members and the consequences of a breach of conduct](#)).

Councillor misconduct case: Stockton-on-Tees Borough Council

Publishing a legally privileged document

In relation to the councillor's actions in publishing a legally privileged document, appears to us that the council's standards panel would have had little difficulty in concluding that he was guilty of a breach of its code of conduct. Indeed, all members of the council's planning committee, who received a copy of the barrister's legal advice, did so under cover of a letter stating that the document had been provided to them in confidence and that sharing the document with anyone who was not a member of the planning committee would be a breach of the member's code of conduct. Therefore, all planning committee members were on notice of the implications of disclosing the legally privileged document. However, despite this

explicit warning, the councillor in question went ahead and published the document in an un-redacted form on a blog post, claiming to be acting in the best interests of residents and showing how councillors on the planning committee were being influenced in their votes. (According to press reports, the barrister's opinion apparently advised that approval of a scheme for new homes within the borough "would probably result in a withdrawal" of an appeal by developers after the developer's first planning application was thrown out.)

Sanctions imposed

The council's standards panel concluded that the councillor's actions represented unacceptable behaviour and he was criticised for his lack of remorse for breach of the code and his unwillingness to agree to abide by the code in the future. Having failed to attend the hearing, he was instructed by the standards panel to provide written reassurance that he would not leak any more confidential information and it was proposed that he would receive "advice and guidance" on the council's code of conduct.

If the councillor fails to provide the required reassurance to the panel within the specified two-week timeframe, it appears that he will be banned from receiving any confidential information (which will undoubtedly limit the continuing effectiveness of his role as a member). Presumably, if he gives the reassurance sought but then subsequently breaches it, the council could remove him from committee membership.

In contrast, disclosure of a confidential report by an officer is likely to be covered by the officer's code of conduct contained in a local authority's constitution (and is therefore an implied contractual term). This means that if a council officer had published the same legally privileged document, it is likely that the council would have invoked its disciplinary procedures against the officer and possible that the officer would have been eventually dismissed.

Restrictions on Freedom of Expression

Standards - [James Goudie QC](#)

May 21, 2014

Heesom v Public Service Ombudsman for Wales [2014] EWHC 1504 (Admin) is a statutory appeal to the Administrative Court in Wales from the Adjudication Panel for Wales. It concerns a long standing Councillor about whose conduct a complaint was submitted to the Ombudsman by all Flintshire County Council's Senior Officers. The Ombudsman referred to the Panel alleged breaches of the Council's Codes of Conduct. A Case Tribunal found 14 breaches established and imposed a sanction of disqualification.

Mr Heesom challenged the Tribunal's decision on three grounds, namely:-

1. The Tribunal erred in adopting the wrong standard of proof, i.e. the civil as opposed to the criminal standard;
2. The Tribunal erred in its findings as to breaches of the Codes of Conduct; and
3. Insofar as its findings of breach were properly made, the Tribunal erred in finding that they were such as to justify the sanction imposed.

The appeal thus gives rise to the following important issues:-

1. The appropriate standard of proof in an adjudication by a Case Tribunal of the Adjudication Panel for Wales; and
2. The scope of and legitimate restrictions to a politician's right of freedom of expression under Article 10 of the European Convention for Human Rights ("the ECHR") and at common law, particularly in relation to officers' rights and interests which might be adversely affected by the purported exercise of those rights.

As to (1), Hickinbottom J held that the appropriate standard of proof was the civil standard.

As to (2), Hickinbottom J formulated the following propositions:-

1. The enhanced protection accorded to freedom of expression in the political sphere applies to all levels of politics, including local.
2. Article 10 protects not only the substance of what is said, but also the form in which it is conveyed. Therefore, in the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated. Whilst, in a political context, Article 10 protects the right to make incorrect but honestly made statements, it does not protect statements which the publisher knows to be false.
3. Politicians have enhanced protection as to what they say in the political arena; but Strasbourg also recognises that, because they are public servants engaged in politics, who voluntarily enter that arena and have the right and ability to respond to commentators (any response, too, having the advantage of enhanced protection), politicians are subject to "wider limits of acceptable criticism". They are expected and

required to have thicker skins and have more tolerance to comment than ordinary citizens.

4. Enhanced protection therefore applies, not only to politicians, but also to those who comment upon politics and politicians, notably the press; because the right protects, more broadly, the public interest in a democracy of open discussion of matters of public concern. Thus, so far as freedom of speech is concerned, many of the cases concern the protection of, not a politician's right, but the right of those who criticise politicians.
5. The protection goes to "political expression"; but that is a broad concept in this context. It is not limited to expressions of or critiques of political views, but rather extends to all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others. The cases are careful not unduly to restrict the concept; although gratuitous personal comments do not fall within it.
6. The cases draw a distinction between fact on the one hand, and comment on matters of public interest involving value judgment on the other. As the latter is unsusceptible of proof, comments in the political context amounting to value judgments are tolerated even if untrue, so long as they have some – any – factual basis. What amounts to a value judgment as opposed to fact will be generously construed in favour of the former; and, even where something expressed is not a value judgment but a statement of fact (e.g. that a council has not consulted on a project), that will be tolerated if what is expressed is said in good faith and there is some reasonable (even if incorrect) factual basis for saying it, "reasonableness" here taking account of the political context in which the thing was said.
7. As Article 10(2) expressly recognises, the right to freedom of speech brings with it duties and responsibilities. In most instances, where the State seeks to impose a restriction on the right under Article 10(2), the determinative question is whether the restriction is "necessary in a democratic society". This requires the restriction to respond to a "pressing social need", for relevant and sufficient reasons; and to be proportionate to the legitimate aim pursued by the State.
8. As with all Convention rights that are not absolute, the State has a margin of appreciation in how it protects the right of freedom of expression and how it restricts that right. However, that margin must be construed narrowly in this context. There is little scope under Article 10(2) for restrictions on political speech or on debate on questions of public interest.
9. Similarly, because of the importance of freedom of expression in the political arena, any interference with that right (either of politicians or in criticism of them) calls for the closest scrutiny by the Court.

As regards the position of non-elected public servants, Hickinbottom J observed as follows:-

1. They are, of course, open to criticism, including public criticism; but they are involved in assisting with and implementing policies, not (like politicians) making them. As well as in their own private interests in terms of honour, dignity and reputation, it is in the public interest that they are not subject to unwarranted comments that disenable them from performing their public duties and undermine public confidence in the administration. Therefore, in the public interest, it is a legitimate aim of the State to protect public servants from unwarranted comments that have, or may have, that adverse effect on good administration.

2. Nevertheless, the acceptable limits of criticism are wider for non-elected public servants acting in an official capacity than for private individuals, because, as a result of their being in public service, it is appropriate that their actions and behaviour are subject to more thorough scrutiny. However, the limits are not as wide as for elected politicians, who come to the arena voluntarily and have the ability to respond in kind which non-elected public servants do not.
3. Where critical comment is made of a non-elected public servant, such that the public interest in protecting him as well as his private interests are in play, the requirement to protect that public servant must be weighed against the interest of open discussion of matters of public concern and, if the relevant comment was made by a politician in political expression, the enhanced protection given to his right of freedom of expression.

This page is intentionally left blank