

NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

Your attendance is requested at a meeting to be held at the Guildhall on Tuesday, 9 March 2004 at 5:00 pm.

RJB MORRIS
Chief Executive and Town Clerk

AGENDA

1. APOLOGIES
2. MINUTES
3. DEPUTATIONS / PUBLIC ADDRESSES
4. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
- 5. REPORT ON INITIAL OPERATION P.
Newham
x 7119
Report of Borough Solicitor (copy herewith)
- 6. PROTOCOL: MEMBER/ OFFICER RELATIONS P.
Newham
x 7119
Report of Borough Solicitor (copy herewith)
7. LOCAL DETERMINATION- DRAFT FURTHER REGULATIONS P.
Newham
x 7119
Report of Borough Solicitor (copy to follow)
- 8. STANDARDS BOARD- UPDATE J. Buckler
x 7341
Report of Borough Solicitor and Information (copy herewith)
- 9. ON- GOING TRAINING/ NEWSHEET J. Buckler
x 7341
Report of Borough Solicitor (copy herewith)
- 10. CONFIDENTIALITY P.
Newham
x 7119
Report of the Borough Solicitor (copy herewith)
11. EXCLUSION OF PUBLIC AND PRESS
THE CHAIR TO MOVE:
"THAT THE PUBLIC AND PRESS BE EXCLUDED FROM THE REMAINDER OF THE MEETING ON THE GROUNDS THAT THERE IS LIKELY TO BE DISCLOSURE TO THEM OF SUCH CATEGORIES OF EXEMPT INFORMATION AS DEFINED BY SECTION 100(1) OF THE LOCAL GOVERNMENT ACT 1972 AS LISTED AGAINST SUCH ITEMS OF BUSINESS BY REFERENCE TO THE APPROPRIATE PARAGRAPH OF SCHEDULE 12A TO SUCH ACT."

SUPPLEMENTARY AGENDA

**Exempted Under Schedule
12A of L.Govt Act 1972
Para No:-**

<TRAILER_SECTION>
A3243



NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE
9 March 2004

Item No.

5

Report of Borough Solicitor

Directorate:
Chief Executive and Town Clerk

Author/Contact Officer:
Peter Newham Borough Solicitor
Tel: 01604 837119 ext 7119

**Standards – Report on initial
operation**

Recommendations

That the report be noted.

1. In its first period of operation the Standards Committee has completed all of its initial procedural and statutory functions, though Members may perhaps have experienced some frustration that little of substance has recently emerged, (hence the cancellation of the last meeting). This is however perhaps inevitable in so far as the Committee is largely a regulatory Committee at the mercy of external events, and also that the on-going national Regulations have been very much slower in emerging than has been promised.

In fact, the second stage of the Section 66 Regulations giving greater power to Standards Committees in relation to local adjudication has at the time of writing this report (January 2004) still not emerged, although it is thought that a consultation Draft will be available in draft in advance of the Committee meeting, and, if so, will be reported on.

2. It would also perhaps be inappropriate to regard this lack of activity in a critical way in that hopefully it may be thought that, (without tempting fate), undeniable Member tensions which arise from time to time have been contained at Northampton within normal political bounds, and not been the subject of reference to the Standards Board.

The experience of many of my colleagues elsewhere has been that this is not the case, and in many authorities the Standards Board have been "deluged" by references, which no doubt in due course they will pass back in due course to Local Standards Committees.

3. So far as the Board is concerned, whilst they are no doubt doing their best within a difficult statutory framework not of their choosing, there have been nationally a considerable number of complaints about timescales, - delays, - failure to understand relatively trivial local issues and to deal with these without exacerbating the problem, and of also Members being upset by insensitive handling of cases. (The attached copy Articles from Municipal Journal reflect these concerns.)
4. ACSeS, (the Association of Council Secretaries and Solicitors) of which I am a member, has taken these up with the Standards Board, and it is further understood that the office of the Deputy Prime Minister is carrying out a Review of the National Code of Conduct which we have adopted, which is also not very clear in many respects.

It is difficult however to see how any revised form of words in the Code could give conclusive clarity in difficult cases of Declaration of Interest, which must always depend on individual circumstances and interpretation.
5. The experience elsewhere of the limited local jurisdiction which is possible under the exiting Regulations is that the time and effort involved in any local references is very considerable, both for Members and support staff, and that the procedures for Hearings are complex and legalistic, (Members will recall that these were agreed at the previous meeting, following national Standards Board Guidelines.)
6. Regrettably the Legislation and Procedures perhaps fail to recognise that on occasion that there are a great variety of matters in the cut and thrust of Council life where Members of different persuasions are unhappy about their perceived treatment and the public also may have an apparent or real grievance are not wholly suitable for evaluation by a rather bureaucratic Board in London, nor is it sometimes perhaps fair to accept that a local Committee can effectively to adjudicate on what is often not a black and white situation. Obviously however there are occasions when Member conduct could exceed the boundaries of normal conduct, and consideration of these is necessary.
7. In the foregoing cases it is hoped that the standard Procedures adopted for consideration by the Committee will provide a balance between the need to provide a fair and judicial hearing, and the danger of producing an over-legalistic framework which would exacerbate and magnify those relatively minor matters where the Committee will have jurisdiction.
8. In conclusion I am conscious that the views expressed in this report are my own; (although the Chair has been consulted), and Members may have differing or contrary views. Nevertheless it is hopefully helpful to provide the report to enable Members to air the position generally.

Author and Contact Officer

Peter Newham Solicitor Tel 01604 837119 ext 7119

25 February 2004

Standards Board called in over Kingston Lib Dems

Conservative councillors at Kingston upon Thames LBC have referred the entire ruling Liberal Democrat executive to the Standards Board for England.

They complained that secret executive meetings have taken place with officers present, contrary to council policy.

Backbench Liberal Democrats have been involved improperly in forming executive decisions that they are supposed to scrutinise, the Tories also claimed.

Opposition leader Kevin Davis (Con) said: "This is an extremely serious complaint. Liberal Democrat councillors have knowingly broken the council's own rules."

But leader Derek Osbourne (Lib Dem) said the meetings concerned dealt only with the composition of council agendas.

"It is not in contravention of council rules, which say the executive must not meet in secret as a decision-making body," he said.

"Our executive does meet in public and

has real debates, whereas the old Tory cabinet did everything in half an hour."

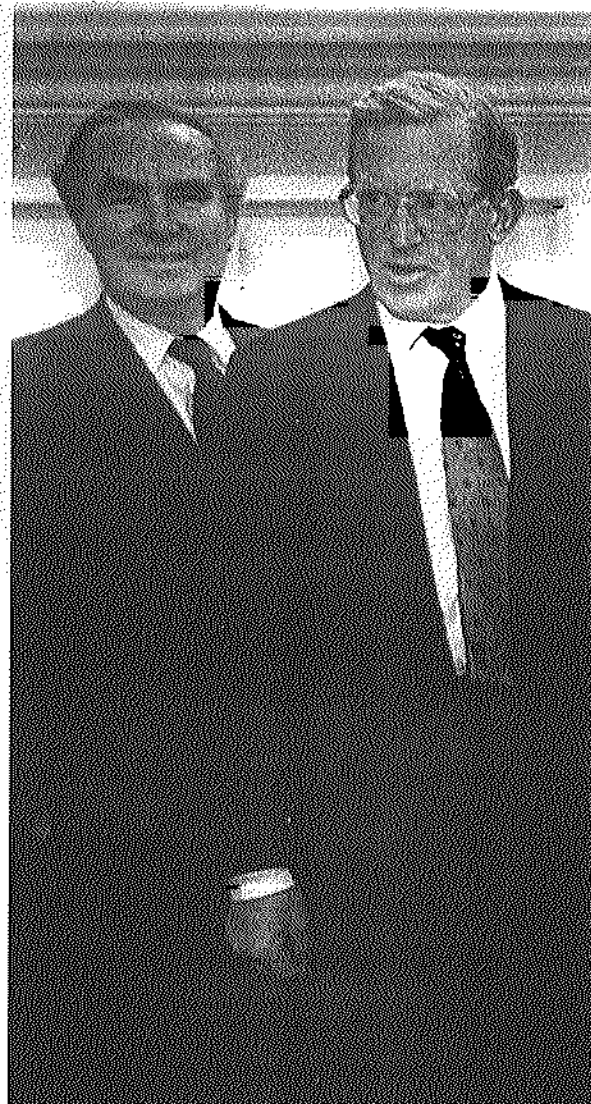
Mr Osbourne said backbenchers were involved in discussing draft schemes at group meetings in order to bring all members of the administration "into the information loop". This did not affect the Tory-chaired scrutiny committee.

"Our lawyers don't believe this is a problem, or they would have asked us to stop and we would have done so," he said.

■ A Wigan MBC councillor Robert Bleakley (Lib Dem) has been disqualified for three years by the Adjudication Panel for England for "aggressive" conduct towards members of the public, after a probe by the Standards Board for England.

The board itself faces investigation by the Committee on Standards in Public Life after widespread allegations it wastes time and resources on trivial cases and on complaints about remarks that are merely part of normal political exchanges.

Falling standards



Standards committee members have attacked the Standards Board for England for being slow, arrogant and lacking credibility. Claer Lloyd-Jones calls for immediate action

THE PURPOSE OF IMPLEMENTING the new ethical framework through the Local Government Act 2000 was to rebuild confidence in local democracy and to reconnect councils with their communities. To what extent is this being achieved in practice? These are early days and the new ethical framework is still not fully implemented due to delays by government. But we now have a sufficient body of local experience to make an initial assessment.

Each council has its own standards committee — with independent members drawn from local communities charged with maintaining high standards of behaviour among councillors — as well as a new code of conduct for councillors. A national organisation, the Standards Board for England, has been in operation since November 2001, investigating complaints about breaches of the code. The role of the monitoring officer is to ensure it all works locally.

Lord Nolan recommended councils should have local standards committees, but that they should be self-regulating. He did not consider the scale of the problem justified a national solution. Local government was also concerned a national organisation would not be able to properly reflect local concerns and would be unable to judge behavioural matters in a way which would rebuild confidence in local democracy. There were also concerns that the cost to the taxpayer of this national structure would be out of proportion to its ultimate potential effectiveness. So is current practice vindicating those concerns or confounding them?

To get an insight into the emerging picture of local experiences, the Association of Council Secretaries & Solicitors has gathered views from its members.

One of the major problems highlighted relates to delays. In many cases it can take months to discover whether a complaint is being investigated by the Standards Board. One monitoring officer reported that a serious complaint about a councillor's outrageous and insulting remarks, reported both nationally and internationally and referred to the board last July, has still not yet been investigated. Despite her efforts, the board would not speed up the investigation. As a result the local party expelled the councillor.

A monitoring officer who has been waiting more than six months for a response from the Standards Board in relation to five local councillors reminds us of the legal maxim that "justice delayed is justice denied".

Particular concerns about delay and the backlog of cases were expressed by an independent member of a standards committee with extensive experience of parish councils. His concern is that once the regulations are implemented which allow cases to be referred back for investigation, those councils with the least resources will be deluged with trivial but often complex matters.

A further factor raised is the failure to take account of local circumstances. One independent chair of a local standards committee was concerned about slackly drafted legislation and a top-down approach that ignored

local knowledge, understanding and urgency. He felt there was a reluctance to criticise the trivial, malicious or politically motivated, which he attributed directly to a lack of local knowledge.

Another independent chair described her independent member colleagues as "purposeful people looking for a purpose" in the absence of being able to use their local knowledge and experience to determine complaints. The much-delayed and yet-to-be-published regulations allowing local investigations when referred back by board ethical standards officers may help to clarify the role of local members.

However, cases that have been referred back with findings made by ethical standards officers for determination by local standards committees have not been greeted with universal support. One standards committee member said the way the case was presented to them by the Standards Board representative did not leave them room to exercise their own judgment. A failure to take account of local expertise was described by one monitoring officer: "I feel they treat us as something approaching simpletons by being overly prescriptive."

However, communications are seen as a more positive

THE STANDARDS BOARD TREATS US LIKE SIMPLETONS



Lord Nolan (centre) and his committee recommended council standards be self-regulating

area. Many supportive views were expressed of the training material and guidance documents produced by the Standards Board. One independent member who sits on a number of standards committees praised the board for trying to ensure everyone from the smallest parish council to the largest unitary was included in training and information about the code of conduct. Many monitoring officers and councillors have welcomed the board's annual conference. However, there have been concerns about the way individual cases have been dealt with.

"The reasons why the Standards Board investigates or doesn't investigate in what seems to be identical cases is not communicated," said one monitoring officer. This complaint, echoed by others, calls into question the credibility of the system and causes difficulties between a council and its citizens where the council is obliged to advise the complainant to go to the Standards Board.

Another monitoring officer described how she only discovered by chance that one of her councillors had been complained against and referred to the adjudication panel. The board told her that monitoring officers are not automatically notified of a complaint unless they are being called to give evidence.

One correspondent described discovering that one of his councillors' cases was summarised on the Standards Board website without him knowing a complaint had been made. The board apologised.

Lack of communication and information undermines

and disempowers local standards committees and monitoring officers who are responsible for ensuring high standards of conduct by their councillors.

An independent chair of one standards committee felt strongly that the board should have a greater lobbying role and should be an advocate on local government's behalf, putting pressure on the government to reform the code of conduct, correct inconsistencies in the legislation and speedily put outstanding elements of the new ethical framework into place.

So what conclusions can be drawn from the survey? It is clear that inherent within the new ethical framework introduced by the Local Government Act is a tension between the role of a national body dealing with complaints about breaches of the code of conduct and the role of local standards committees and monitoring officers who have responsibility for maintaining the ethical standards of their councils.

Early experience indicates that some of the original misgivings about the scheme were correct. The system, instead of rebuilding confidence in local democracy, may be undermining it. However, if the emerging problems are rapidly recognised and effectively addressed, this need not be the case. This will need tough action by both the government and management at the Standards Board.

CLAER LLOYD-JONES

Director of law & democratic services, Hackney LBC, and past-president, Association of Council Secretaries and Solicitors

THE VIEW FROM THE COMMITTEES DELAYS

"There is a need for the Standards Board to focus on timeliness in relation to complaints." Monitoring officer
 "The local interest will always require that a matter is expedited." Chair of standards committee
 "Once it is out in the local press the case needs to be dealt with speedily. That is the local expectation." Monitoring officer

FAILURE TO TAKE ACCOUNT OF LOCAL CIRCUMSTANCES

"The lack of local knowledge means that frivolous cases are not filtered out early." Monitoring officer

OTHER CONCERNS

"The ombudsman has a credibility with local people; the Standards Board hasn't established this." Monitoring officer
 "I am keen to work with the Standards Board, but to date I have found it to be a difficult and, unfortunately, arrogant organisation to deal with." Monitoring officer
 "I would like the Standards Board to be more accessible to local standards committees. We have asked it to come and talk about our concerns and it has refused." Independent chair
 "I have concerns about the professionalism of the approach of officers at the board and their processes and procedures." Monitoring officer

CONCLUSIONS

"There is still time for the Standards Board to rescue its credibility, however, I think it needs to take swift action to inject some sense of urgency into the processing of complaints before people become completely disillusioned." Monitoring officer



**NORTHAMPTON
BOROUGH COUNCIL**

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STANDARDS COMMITTEE
9 March 2004

Item No.

Report of Borough Solicitor

Directorate:
Chief Executive and Town Clerk

Author/Contact Officer:
Peter Newham Borough Solicitor
Tel: 01604 837119 ext 7119

**PROTOCOL – MEMBER-OFFICER
RELATIONS**

Recommendations

That Members examine and consider whether to recommend to the Council the adoption of the revised Member/Officer Protocol attached to this report.

1. The Council has for many years had in place a rather truncated Member/Officer Protocol, even prior to the Constitution in which it is now enshrined, which helps to assist Members and Officers in their dealings with one another and to provide a clear structure and guidance to them in interrelationships with Members during the course of the day to day business of the Council. It has been appreciated for some time that this has needed amplifying and updating and I have accordingly canvassed the documentation used by several of my colleagues in other Authorities.

A copy of revised and expanded draft Protocol is now attached, which hopefully is neither controversial nor intrudes into the political sphere, and it is recommended that the Committee consider this and decide whether it can appropriately be recommended to the Council for adoption and inclusion within the Constitution.

Consultees

Chief Executive and Town Clerk

Author and Contact Officer

Peter Newham Solicitor Tel 01604 837119 ext 7119

23 January 2004

**NORTHAMPTON BOROUGH COUNCIL
PROTOCOL
MEMBER/EMPLOYEE RELATIONS
AND RELATED ISSUES**

A INTRODUCTION

1. As an adjunct to the Northampton Code of Conduct for Members this Protocol seeks to update the limited Protocol previously in the Constitution in respect of Member/Employee Relations to provide greater clarity in the current Local Government Environment.
2. Given the variety and complexity of Member/employee relations, this updated Protocol, which is intended as hybrid guidance and explanation, does not seek to cover everything or to be prescriptive in its application. General guidance is offered on some of the issues which most commonly arise or cause concern. It is hoped, however, that the approach which this Protocol adopts will serve as a guide to dealing with other related issues which may arise from time to time.
3. The Protocol seeks to encourage best practice and to promote greater clarity and certainty. If any Member is unsure about any matter they should contact the relevant Chief Whip and/or the Chief Executive and Town Clerk for appropriate advice and assistance. If any employee is unsure about any matter, they should initially contact the relevant Director.

NB A separate specific Code also exists in respect of conduct on planning matters and it is also anticipated that a National Code will shortly be introduced in respect of employee conduct.

B GENERAL MEMBER/EMPLOYEE ISSUES

Key Issues

- (i) In order to ensure the business of the Council is transacted in an effective and efficient manner and with a view to ensuring that the Council is not brought into disrepute, the **key guiding principle** for Members and employees is one of "**engendering mutual trust, openness, honesty, fairness, transparency and treating everyone with respect**";
- (ii) **Employees must act in the best interests of the Council as a whole**, and must not give politically partisan advice. Anyone breaching this requirement could face disciplinary action.

- (iii) Political Group meetings, while they perform an important part in the preliminaries to Council decision-making, are **not** formal decision-making bodies of the Council and, as such, are **not empowered, to make decisions** on behalf of the Council. Conclusions reached at such meetings do not, therefore, **rank as Council decisions**.
- (iv) Employee support to Political Groups must **not** extend beyond providing information and advice in relation to **Council business**
- (v) it is good practice for Party political debates and decision-making to take place **in the absence of employees**, in order to avoid any suspicion of impropriety or misunderstanding;
- (vi) Employees must respect the confidentiality of any Political Group discussions at which they were present; and
- (vii) any breach of this part of the Protocol by an employee must be brought to the attention of the Chief Executive and Town Clerk for consideration.

Legal and District Audit Considerations:

- 5.2 Members of the Council do not, as elected Members, have any special immunity from civil or criminal wrongs involving fellow Members, employees or members of the public. Members must abide by the Code of Conduct for Members and ensure they do not, for example, slander or libel another person.
- 5.3 Members must also not pressurise any employee to change their professional opinion on any Council business matter or do anything that compromises, or which is likely to compromise, the impartiality those who work for, or on behalf of, the Council. It is also essential that Members are clear about their roles and the roles of employees, so as to avoid getting inappropriately involved in, for example, the internal office management, discipline and/or other employment related issues, as the actions of a Member may be held to be the actions of the Council as an "employer".

Standards Board for England Issues:

- 5.4 Any member of the public (including employees) can complain to the Standards Board for England in respect of any alleged breach of the Code of Conduct for Members and/or bring private civil litigation proceedings against an elected Member. The External Auditor can also take legal action against an elected Member and/or the Council as a whole, for any breaches of the law.

Public Relations Issues:

- 5.5 The Council's Public Relations Team are, subject to the direction of the Executive of the Council, responsible for dealing with the Press and other media organisations on behalf of the Council. It is important, therefore, that all official communications relating to the Council (but not party political or private matters) are dealt with by this Team, so as to ensure the proactive, effective and efficient management of the Council's public image, relations and interface with the community.

C SPECIFIC POINTS ON MEMBER/EMPLOYEE RELATIONS

- 6.1 The relationship between Members and Employees generally is characterised by **mutual trust, respect and courtesy**. These are **essential** for good local government and serve to enhance local democracy.
- 6.2 Close personal familiarity between individual Members and Employees can damage professional relationships and can prove embarrassing to other Members and Employees. Situations should be avoided, therefore, which could give rise to suspicion and/or appearance of improper conduct or behaviour.

6.3 Chief Executive and Town Clerk

- 6.3.1 The Chief Executive & Town Clerk is the employee of the Council as a whole with overriding responsibility to the Council, and not to any party political group.

The Chief Executive & Town Clerk is nevertheless expected to work closely with the Administration for the time being and to give them information, assistance, and advice. Subject to maintaining political neutrality he/she may develop a special relationship with the Administration leadership and will not without consent disclose to the other Groups any matters discussed with that leadership.

The political neutrality of the Chief Executive & Town Clerk should be respected by everyone. The holder of the post should not be asked to play any role or undertake any task which is likely to prejudice that neutrality, or make it difficult to serve a different majority political party at some future time in the Council.

- 6.3.2 All Members of the Council have a right of access to the Chief Executive and Town Clerk. Where a Member requires information, it will be provided if it is readily available, for example, in Executive or Committee papers or material published on behalf of the Council. The Chief Executive & Town Clerk is free to give advice on a confidential basis about procedural matters to any Member. In doubtful cases, the Chief Executive & Town Clerk is entitled to seek the instructions of the Leader or a Chair, Portfolio Holder, the Executive or a Committee before responding to a request from a Member.

6.3.3 The following principles govern the relationship between the Chief Executive & Town Clerk and Groups not comprising all or part of the Administration:

It is proper for the Chief Executive & Town Clerk to develop a working relationship with such other Groups on the Council.

The Chief Executive & Town Clerk is free to provide information and answer procedural inquiries to Members of any Group, and will not advise as to the policies which any Group should pursue.

The Chief Executive & Town Clerk will ensure that the Leadership of the Administration is aware of information provided by him/her to representatives of other Groups, unless it either be of a routine or trivial nature or to do so would be a breach of confidence or other statutory, formal or Guideline requirement.

Because the Chief Executive & Town Clerk is the employee of the whole Council, he/she accordingly will draw the attention of the Leader to any case where consideration should be given to affording information, consultation, or representation to the Minority Parties.

In applying these principles to any given situation, the Chief Executive & Town Clerk will have regard to the perceived customs of the Authority, to any established traditions, and to any statutory or accepted procedural rules governing the rights of other Groups to information, consultation or representation.

- 6.3.4** If the Chief Executive & Town Clerk attends a meeting of any Group, the leadership of the other Parties on the Council need not be informed. The Chief Executive & Town Clerk will ensure that the part played in the proceedings is consistent with the political neutrality of the Chief Executive & Town Clerk's post and will not attend Group meetings at which there are persons present who are neither elected Members nor employees of the Council.

Other Employees

- 6.4** The foregoing principles apply similarly to all Directors (and employees acting under their direction), all of whom shall act under the general direction and after seeking the advice of the Chief Executive & Town Clerk as statutory Head of Paid Service.

- 6.5** In pursuance of the requirement that any dealing between Members and employees should be conducted with mutual trust, respect and courtesy, neither party should seek to take an unfair advantage of his/her position. In particular, Members should recognise and pay due regard to their role as an employer in their dealings with employees, as inappropriate behaviour and conduct of Members could have repercussions for employment cases against the Council. In particular, it is quite proper for a Member to make written/oral representations about his/her constituent employee to the relevant Director, but the Member should avoid taking a proactive part to represent or in any

other way advocate on behalf of any such employee in any disciplinary procedures.

- 6.6 In seeking advice and support, Members should have due regard to the seniority of the employees with whom they are dealing and recognise that, while those employees owe an overriding duty to the Council as a whole, such duties are first owed to their respective line managers and to the Chief Executive and Town Clerk, and not to any individual Member. For this reason, Members should not give direct instructions to employees unless they are specifically authorised to do so by the Council's Constitution. If so authorised, instructions should, under normal circumstances, still be given to the relevant Director and not to a less senior employee.
- 6.7 Members must guard against putting inappropriate pressure in particular on junior employees, and must ensure that all communication between them (including written communication) does not bring the Council into disrepute, or lead to the breakdown of mutual trust, respect and courtesy in Member/employee relations.

Equality Issues:

- 6.8 The Council has statutory duties in respect of equality issues and, in accordance with the Code of Conduct for Members, Members must also promote equality by not discriminating against others. Members and employees should not, therefore, by their behaviour or speech act discriminatorily with regard to a person's gender, race, age, disability, religion, ethnicity, nationality or sexual orientation.

Employee Conduct or Capability Issues:

- 6.9 Members should not raise matters relating to the conduct or capability of an employee (or of employees collectively) at meetings held in public or before the Press, as employees have no means of responding publicly. If any Member feels that s/he has not been treated with the proper mutual trust, respect or courtesy or has any concern about the conduct or capability of an employee, s/he should raise the matter privately with the relevant employee and, if necessary, with the Director concerned. Any concerns with regard to a Director should be discussed privately with the Chief Executive and Town Clerk and/or the Leader of the relevant Political Group.

Political Groups

- 6.11 Members of the Executive, Scrutiny and Regulatory Committees shall at all times respect the political impartiality of employees, and must not expect or encourage them to give a political view on any matter.
- 6.12 Employees may properly be called upon to support and contribute to the deliberations of Groups but they must at all times maintain political neutrality. This applies in particular to politically restricted posts, where employees are governed by the Local Government and Housing Act 1989. All employees must, in their dealings with Groups and individual Members, treat them in a fair and even-handed manner.

- 6.13 Any request for advice given to a Group or Member will be treated with the strictest of confidence by the employees concerned, and will not be accessible to any other Group(s). Factual information upon which any advice is based will, if requested, be available to all Groups.
- 6.14 When attendance is requested for Group meetings:
- 6.14.1 the request to attend a Group meeting must normally be made through the Chief Executive and Town Clerk, unless previously agreed by him/her;
- 6.14.2 such a request can only be made in relation to **Council business**; and
- 6.14.3 Employees will:-
- (i) provide relevant factual advice and assistance;
 - (ii) normally leave during the deliberations of the Group on the issue;
 - (iii) respect the confidentiality of any Group decision at which they are present; and
 - (iv) not champion, defend, action or spend any resources of the Council, or be held responsible for actioning in any way whatsoever the decisions of the Group(s), unless and until such decisions have become the formal decisions of the Council.

D SPECIFIC POINTS ON OVERVIEW AND SCRUTINY ARRANGEMENTS

- 7.1 When considering calling employees to give evidence to any Overview & Scrutiny Committee, the Chair of the relevant Overview and Scrutiny Committee should call the relevant Director (or his/her nominee, which may include a junior employee) to give evidence to the Committee.
- 7.2 When asking employees to give evidence before any Overview and Scrutiny Committee, questions should be confined, so far as possible, to questions of fact and explanation of any professional opinion relating to policies and decisions. Employees must respond to questions from Members in an open, constructive and helpful manner, and must not mislead or be economical with the truth.
- 7.3 Where they consider it appropriate, the Chairs of the relevant Overview and Scrutiny Committee may ask Directors to explain any advice given by them to the Executive or its members. For the avoidance of doubt, any private or confidential matter must be dealt with in a private or confidential manner.

Unacceptable or Inappropriate Behaviour:

- 7.4 The relevant Chair of the Overview and Scrutiny Committee shall ensure that Members of the Executive and employees are not questioned (whether through the nature, tone or language used), in such a manner as could be considered by a reasonable person to be hostile, offensive, derogatory, harassing, bullying, victimising, discriminatory or otherwise unacceptable or inappropriate behaviour by a Member. Equally, such Committees have no jurisdiction to deal with matters which are of a disciplinary nature for the relevant Group (in respect of Members) or the relevant Director/Chief Executive and Town Clerk (in respect of employees).

NB NOTE ON USE OF LOCAL AUTHORITY RESOURCES

8. The only basis on which the Council can lawfully provide support services to Members (eg computers, or other IT software, stationery, typing, printing, photo-copying, transport etc.) is to assist them in the effective and efficient discharge of their duties and role as Members of the Council. Such support services must, therefore be only used for Council business. The same should not be used for, or in connection with, party political or campaigning activities, or for private purposes.

JANUARY 2004



NORTHAMPTON
BOROUGH COUNCIL

STANDARDS COMMITTEE
9 March 2004

Item No.

8

Report of Borough Solicitor

Directorate:
Chief Executive and Town Clerk

Author/Contact Officer:
Jackie Buckler – Executive Manager
Tel: 01604 837341 ext 7341

**STANDARDS – REPORT ON THE
NATIONAL POSITION AND
COMPLAINTS**

Recommendations

1. Bulletins 15 and 16 issued by the Standards Board are attached for the information of Members of the Committee.
2. That the report be noted.

1. GENERAL

The Bulletins attached provide an update on the Standards Board work and advice.

2. COMPLAINTS

- 2.1 Statistics generally serve to confuse and can be deemed meaningless, however, it is perhaps useful to be aware of the national position regarding the number of allegations received in respect of breaches of the Code of Conduct and also to understand the workload of the Standards Board, particularly given the recent criticisms regarding the time investigations of complaints are taking.
- 2.2 The total number of allegations received for 2002/2003 (financial year) was 2948, the running total for this year (10 months) is 2813, so the total is likely to exceed 3000.

2.3 The figures listed below are cumulative from 1 April 2003 up to the 31 January 2004.

Allegations received by type of authority
Source of allegations

County Council	4%
District Council	27%
Unitary Council	8%
Parish/Town Council	49%
London Borough	4%
Metropolitan Borough	6%
Other	2%

Fellow Councillor	42%
Council Employees	5%
Members of the public	50%
Other	3%

Percentage of allegations referred for investigation

Percentage referred	35%
Percentage not referred	65%

Allegations referred for investigation by type of authority

County Council	2%
District Council	26%
London Borough	3%
Metropolitan	4%
National Parks	0.5%
Parish/Town Council	55%
Police Authority	0.5%
Unitary	9%

Nature of allegations referred for investigation

Bring authority into disrepute	15%
Failure to register financial interests	14%
Failure to register other interests	15%
Failure to disclose personal interest	12%
Failure to treat others with respect	13%
Prejudicial interest	13%
Other	18%

Completed cases by final findings

No evidence of breach	23%
No further action	58%
Referred to Monitoring Officer	6%
Referred to Adjudication Panel for England	12%

2.4 It is difficult to provide a concise summary, much can be read in to the above statistics however, the national position appears not to have altered greatly since the implementation of the Code and the establishment of the Standards Board. The areas of most interest to members of this Committee relate more particularly to District Councils. It is perhaps interesting to note 49% of the total allegations received relate to Parish Councillors and of these 55% have been referred for investigation, District Councils account for 27% of the allegations and 26% of these have been referred for investigation.

2.5 Those matters referred for investigation generally revolve around the failure to register interests, although three cases have had a higher profile in the media due to the disqualification of members in respect of the following:-

- 2.5.1 A Councillor of Restormel Borough Council was disqualified for 3 years for making racist comments at a council event and to the local media. He further admitted to being a racist.
- 2.5.2 A Councillor of Stratford on Avon District Council was disqualified for five years for using a council computer to search for and downloading indecent images of children. He had already a police caution for the possession of indecent images of children under 16 years of age and his name was on the sex offences register.
- 2.5.3 A Councillor of Wigan Council was disqualified for three years relating to his behaviour being aggressive domineering and intimidating which involved him being aggressive to a member of the public raising an objection to a planning application, he published false allegations in a leaflet claiming that other Councillors had threatened an Officer of the Council, he threatened to sack a woman from her job as a cleaner at the Council following a minor traffic incident and sent aggressive and inappropriate e-mails to the Council's Head of Legal Services.

3. SUMMARY

- 3.1 Some of the information in this Report (which was prepared prior to the receipt of Bulletin 16) replicates the statistics within the Bulletin and it is difficult to prepare any further analysis which would be locally useful but it is hoped the information provided is a useful background.

J Buckler
27 February 2004



**NORTHAMPTON
BOROUGH COUNCIL**

**STANDARDS COMMITTEE
9 March 2004**

Item No.

9

Report of Borough Solicitor

Directorate:
Chief Executive and Town Clerk

Author/Contact Officer:
**Jackie Buckler Executive Officer
Tel: 01604 837341 ext 7341**

**STANDARDS – ON-GOING
TRAINING**

Recommendations

That the Committee consider the position.

At the September meeting of the Committee I presented a report by way of feedback on the training for new Council Members which took place last year and the somewhat disappointing response to the formal Training Session.

Nevertheless supplemental information had been also circulated to Members and it was understood that there have not been and major problems in practice about Declarations of Interest and the necessity to declare. Members of this Committee did reflect however as to whether any further training, reminder, or documentation would be necessary or of assistance. The possibility of presenting a session at the 2004 Local Parish Councils' AGM was also explored.

It was indicated that on-going training should be further considered on the Agenda for the next meeting, hence this report, although inspiration has regrettably deserted us to date in putting forward any more "snappy" or eye-catching way of keeping the relevant issues before those concerned. Another formal session is probably not necessary given the many demands on Members' time and the resources involved, though this is obviously a matter for the Committee.

Thought has however been given to the production, possibly biannually of a local Newsletter (rather in similar mode to the Standards Board Bulletin) for all members and parish Councillors covering initially the Code of Conduct and Declarations of interest to reinforce the training previously given and to remind members of their obligations in respect of these matters. It could also be the vehicle to update members on the national position and to provide updated advice on matters in relation to Standards generally.

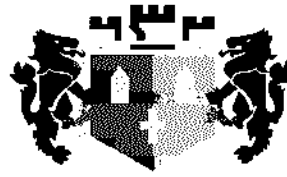
Given the amount of paper members already have to deal with and read, it is appreciated a further typed sheet is not going to go down very well, let alone have any impact. It is therefore suggested that the Newsletter is a little more eye catching and consists of no more than one or two sides of A4, providing headline information without too much detail, but the Committees views are further sought. The attached draft represents a skeleton format.

In many ways the card from the Standards Board (which was distributed to the Committee some considerable while ago) is perhaps also the most useful aide-memoir to the somewhat complex permutations of Personal and Prejudicial Interests. I have, accordingly obtained additional copies and will distribute them to all Members of the Council.

J Buckler
27th February 2004

SPECIMEN

**STANDARDS
COMMITTEE
NEWSLETTER**



**NORTHAMPTON
BOROUGH COUNCIL**

CODE OF CONDUCT

REGISTERING GIFTS

DECLARATION OF INTERESTS

FREEMASONS
Membership must be declared

COMPLAINTS

NEW REGULATIONS

URGENT REFORM

The Standards Board of England needs urgent reform because it is too slow at completing investigations



**NORTHAMPTON
BOROUGH COUNCIL**

**STANDARDS COMMITTEE
9 March 2004**

Item No.

Report of Borough Solicitor

Directorate:
Chief Executive and Town Clerk

Author/Contact Officer:
**Peter Newham Borough Solicitor
Tel: 01604 837119 ext 7119**

**Code of Conduct – Confidential
Information**

Recommendations

That the Committee note the report, and consider whether to further clarify the position for Members generally, either individually, or by incorporation of a reference in the proposed Newsletter referred to in the previous Agenda item.

Background:

1. Recent press reports, and consequent comments by Members as to the ground rules on Confidentiality of information obtained by Members has perhaps emphasised the need to re-state the Code of Conduct in respect of disclosure of confidential information received by Members in their capacity as members of the Council either from other Councillors, or from Officers reports or correspondence.
2. It is a clear breach of the National Code of Conduct (which is re-stated in the Local Northampton Code) for a Member to commit a breach of confidentiality, (whether to the press or otherwise).

The relevant paragraph of the Code is as follows: -

“A Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes is of a confidential nature without consent...”

3. Breach of this or other aspects of the Code can result in a complaint, initially to the Standards Board for England who have extensive powers to investigate, and at the end of an investigation the case may be referred to either the Council's Standards Committee or an independent tribunal known as The Adjudication Panel for England.

They have a number of sanctions at their disposal, up to and including disqualification of a Member from holding office for five years. If they decide that the matter can be dealt with at a local level it may be referred back, and the Local Standards Committee then would have powers of suspension for up to three months in these circumstances.

4. Questions are on occasion received from Members as to the position in relation to this particular aspect of the Code and it may be helpful to circulate a reminder in the form of this Report, or alternatively to include a similar reference in a more general bulletin or newsheet to Members as indicated.

5. **"Inappropriate Language"**

As a post-script to this Report reference has also been made to what may perhaps be called in parliamentary terms "unparliamentary language" used between Members on occasion in heated political discussion.

The Code does also provide that Members should not "in his or her Office bring the Council into disrepute" and the Standards Board nationally has generally considered the position as to this. Whilst deploring any such language or expressions they have recognised that the cut and thrust of local discussion and debate can on occasion lead to overheated remarks which may be totally inappropriate, but only in very exceptional circumstances would they justify formal action.

Normally in the absence of formal action this would be a matter for the Whips of the relevant local parties to have the appropriate discussions with Members to contain political and personal disagreements within a level which enables civilised debate to take place without rancour. It may therefore also be helpful to restate this.

P A Newham
Borough Solicitor
20 February 2004