

**NORTHAMPTON BOROUGH COUNCIL**

**STANDARDS COMMITTEE**

Your attendance is requested at a meeting to be held at the Jeffery Room,  
Guildhall on Monday, 10 March 2008 at 5:00 pm.

**D Kennedy**  
**Chief Executive**

**AGENDA**

1. APOLOGIES
2. MINUTES OF MEETING HELD ON 17 DECEMBER 2008
3. DEPUTATIONS / PUBLIC ADDRESSES
4. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
5. UPDATE ON THE LOCAL ETHICAL FRAMEWORK (APRIL 2008) AS CONSULTATION F Fernandes  
Monitoring Officer  
and Solicitor to  
the Council
6. WORK PLAN 2007 ONWARDS: UPDATE F Fernandes  
Monitoring Officer  
and Solicitor to  
the Council  
(A) Anti-Fraud and Corruption Policy and Whistleblowing Policy
7. APPOINTMENT OF INDEPENDENT MEMBERS: VERBAL UPDATE F Fernandes  
Monitoring Officer  
and Solicitor to  
the Council
8. STANDARDS BOARD UPDATE Jackie Buckler  
Legal  
Procurement  
Manager
9. ATTENDANCE AT THE OCTOBER 2008 ANNUAL ASSEMBLY EVENT
10. 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."

# Agenda Item 2

## NORTHAMPTON BOROUGH COUNCIL

### STANDARDS COMMITTEE

Monday, 17 December 2007

**PRESENT:** Mr I Harley (Independent Chair); Mrs Edwards (Parish Council Representative); Councillor Capstick, Hawkins, Matthews

#### 1. APOLOGIES

Apology for absence was received from D Hughes (Parish Council representative).

#### 2. MINUTES OF THE MEETING HELD ON 18 SEPTEMBER 2007

Minutes of the meeting held on 18 September 2007 were agreed and signed by the Chair.

#### 3. DEPUTATIONS / PUBLIC ADDRESSES

There were none.

#### 4. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED

There were none.

#### 5. INDEPENDENT MEMBER RECRUITMENT

F Fernandes, Solicitor to the Council presented the report stating that the Council had undergone a recruitment exercise for 3 independent members, however only one member had been recruited at the time. The other two were placed in a 'pool', out of which one candidate had withdrawn their application. Another recruitment drive had been undertaken, and only 5 applications out of 200 invitations had been received. He proposed that the 6 candidates be interviewed, out of which two be immediately appointed and a further two be reserved for post April 2008 requirements.

The Committee discussed the initial turnout of applications. It was noted that although high expression of interest was received, the commitment required from the members, especially after April 2008 had disinterested some candidates, as did the evening meetings of the Committee.

The Committee discussed financial remuneration for independent members, should they be required to undertake additional work. They felt that members undertaking additional work and the unsociable hours would be another factor that would cause disinterest.

The Committee discussed the current timing of the Standards Committee. Some members felt that the 5pm meeting time was considered to be neither evening nor daytime. The Committee agreed that the Standards Committee timing could be reviewed once it reached its full membership. F Fernandes, Solicitor to the Council commented that with the new structure, and the requirement of sub-committees from April 2008, the

panels could meet at the convenience of individuals, as they would be arranged on an adhoc basis.

**RESOLVED: That the recommendations outlined in the report be agreed.**

## **6. STANDARDS BOARD UPDATE**

F Fernandes, Solicitor to the Council presented the report and the Standards Board bulletin that had just been published.

The Committee noted that the Local Government and Public Involvement in Health Act 2007 had been passed. The Department for Communities and Local Government was expected to commence the consultation in December 2007 on the proposed new regulations and orders that followed from the Act. It was suggested that the Committee might wish to respond as a group.

The Committee noted the findings of the pilot Local assessment of complaints, in which 38 standards committees took part.

The Bulletin provided a checklist and a good practice guide for local authorities in the run up to April 2008. This included the size, structure of the committee, training needs and role of the monitoring officer. It was noted that this Committee was working towards some of the requirements, and had already elected an Independent Chair, and two Parish Council representatives.

F Fernandes, Solicitor to the Council commented that there was currently a difference of opinion between the legal profession and the Standards Board in relation to the involvement of a member both at the assessment and the hearing stage. The Standards Board did not see any reason why a member could not to be involved at both stages whilst the legal profession reviewed it as a potential conflict of interest. He advised that they should have three sub-committee to avoid any conflict of interest.

In response to a query about appointing a Deputy Monitoring Officer, it was anticipated that Legal Services was in the process of recruiting a number of positions. The post would be in place by the requirement date, however failing recruitment of the post they would look for an interim solution in-house.

The Committee discussed the training aspects and the need for a comprehensive induction for newly appointed members. It was noted that further training for Standards Committee members would take place around March 2008.

The Committee noted that at the next Annual Assembly would take place on 13<sup>th</sup> and 14<sup>th</sup> October 2008 in Birmingham. In light of the last event being fully booked, it was suggested that the Committee consider at their next meeting who would be attending the event.

**ACTION: That the Committee at their next meeting consider attendance at the October 2008 Annual Assembly event.**

[All]

**RESOLVED: That the report and comments be noted.**

## **7. STANDARDS COMMITTEE NEWSLETTER**

F Fernandes, Solicitor to the Council presented the report and the draft newsletter for the Committees approval. It was noted that the newsletter would be circulated to the Northampton Borough Councillors and Northampton Parish Councils.

The Committee had a discussion on the content and length of the newsletter. There was a discussion of whether there should be a fourth page added to the newsletter, rather than leaving it blank. The Committee agreed that as it was the first newsletter and the information outlined was vital, they should have a three-page newsletter, including another page would make it too lengthy and the impact of some of the key issues might be lost.

The Chair read out his introductory speech that would be included in the newsletter. The Committee felt that whilst the introductory paragraph clearly set out the role of the committee, there needed to be a paragraph about the Chair's personal background emphasising the 'independent' aspect of the Committee. The Chair commented that the current membership of the Committee comprised a variety of backgrounds and personal experiences that enabled them to carry out their role on the Committee. He requested that members if possible could provide information about their experiences, so that they could be included in the newsletter.

The Committee agreed with the layout of the newsletter and commented that it was excellent short and sharp. It was agreed that the newsletter with the inclusion of the introduction from the Chair be published.

The Chair suggested that a humorous page on 'things that got members into trouble' could be looked into to raise awareness amongst Members and Parish Councillors.. It was agreed that this could be considered for inclusion in the next newsletter.

**RESOLVED: That the newsletter, subject to the inclusion of the introductory paragraph from the Chair be approved and published.**

## **8. WORK PLAN 2007 ONWARDS: UPDATE**

### **(A) REVIEW OF REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY FOR EMPLOYEES AND MEMBERS**

F Fernandes, Solicitor to the Council presented the report stating that they had conducted a review of the Register of Interest and Gifts and Hospitality. In order to ensure that Members had a clear understanding of the requirements, various training sessions had been arranged for them to raise any issues.

The review meant that all members had to sign up to the new code. The deadline to complete their new declarations was 18<sup>th</sup> September 2007. To date there were two outstanding declarations.

The Committee queried if the non-completed forms had an impact on being a Councillor. F Fernandes, Solicitor to the Council confirmed that it would have an impact, however Councillors normally signed up to it at the time of election, so technically they had signed

up, and it was a matter of updating their declarations. He added that the two outstanding cases did have exceptional reasons, and that the matter had been brought to the Chief Executive, group leaders and whips attention.

The Committee discussed their role in this matter. It was noted that whilst the Committee could monitor the progress on returns, the responsibility rested with the Monitoring Officer.

It was agreed that F Fernandes, Solicitor to the Council would update the Committee members, on the progress for two outstanding declarations.

**ACTION: 1. That the Committee members be updated on the progress of the two outstanding declarations**

**[F Fernandes]**

**RESOLVED: 1. That the report be noted and**

**2. The recommendations below be accepted:**

**(a) That the Monitoring Officer write to all Parish Councils to remind them of the requirements to register gifts and hospitality**

**(b) That a further review of the register be included in Standards Committee's work plan for 2008/2009**

## **9. STANDARDS BOARD DVD**

F Fernandes, Solicitor to the Council proposed that the Committee could set aside some time prior to the next meeting to see and discuss the Standards DVD. The Committee agreed to meet at 3.30pm prior to their next meeting.

**RESOLVED: That the Committee meet to view and discuss the Standards DVD prior to their next meeting on 10<sup>th</sup> March 2008.**

## **10. EXCLUSION OF PUBLIC AND PRESS**

There were no items for discussion in private.

The meeting concluded at 18:40

## Standards Committee

### AGENDA STATUS: PUBLIC

<b>Report Title</b>	<b>Update on the Local Ethical Framework (April 2008) and consultation</b>
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<b>Date of Meeting:</b>	10 March 2008
<b>Directorate:</b>	Chief Executives
<b>Ward(s)</b>	ALL

### 1. Summary

The report provides an update on the consultation undertaken by The Department for Communities and Local Government on the "Orders and Regulations Relating to the Conduct of Local Authority Members in England".

### 2. Recommendations

- 2.1 That the response to the consultation made by the Council be noted.
- 2.2 That details of the constitutional changes required to comply with the regulation be provided to a special meeting of Standards Committee in May 2008.

### 3. Report Background

- 3.1 At its meeting of 17 December 2007 Standards Committee were updated on the, then, forthcoming consultation to be undertaken by The Department of Communities and Local government in respect of the Local Ethical Framework.
- 3.2 The planned consultation has now been undertaken. Copies of the consultation document were sent to Members of the Standards Committee and the group leaders.
- 3.3 ACSES (the Association of Council Secretaries and Solicitors) the body that represents senior officers made a comprehensive response on behalf of the association's members, a copy of that response is attached The relevant responses from the consultation and the ACSES response provided the basis of the council's response to the consultation.
- 3.4 Whilst the target date for implementation of the changes proposed by the Local Government and Public Involvement in Health Act 2007 is April 2008 the necessary regulations have not as yet been made and not date for their publication has been confirmed.
- 3.5 On publication of the regulations constitutional changes will be required for the committee to address the Local Ethical Framework, it is recommended that a detailed report on the necessary changes be made to the Standards Committee meeting in May 2008.

#### **4. Implications (including financial implications)**

##### 4.1 Resources and Risk

The full implication of the regulations will be reported to standards committee in May 2008

##### 4.2 Legal

None specifically but the regulations, once enacted, will have legal force.

##### 4.3 Other Implications

None

#### **5. Background Papers**

ACSES 'Response to the government on its "Consultation on Orders and Regulations Relating to the conduct of Local Authority Members in England"' copy attached.

**Report Author and Title:** Francis Fernandes, Solicitor to the Council and Monitoring Officer

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## **Response to the Government on its “Consultation on Orders and Regulations Relating to the Conduct of Local Authority Members in England”**

### **Preamble**

The Association of Council Secretaries and Solicitors represents all Monitoring Officers and Deputy Monitoring Officers of local authorities in England and Wales. This Response is the result of contributions from various members of ACSeS and has been led by Mirza Ahmad, our 2<sup>nd</sup> Vice-President and Lead Officer on Ethical Governance Issues. If you require any clarification of this Response, please contact Mirza Ahmad directly (his details can be found at the end of this Response).

ACSeS has no objection to the Government publishing all or any part of this Response for the purpose of the next stage in the process.

We welcome the Consultation on the “Orders and Regulations Relating to the Conduct of Local Authority Members in England” and, in particular, welcome the proposal to have all complaints against elected (and co-opted) Members initially considered by relevant local Standards Committees instead of citizens having to refer all such complaints to the National Standards Board for England.

This Response builds upon the constructive stakeholder meeting that was arranged at the Local Government Association offices on 6 February 2008, at which ACSeS was represented by Mirza Ahmad, Kirsty Cole (a Past President of ACSeS) and Tony Kilner (ACSeS' Policy Officer).

It is noted that many local authorities advocate the need for strong local enforcement and we see the proposed “local assessment” regime change as a necessary development to ensure due credibility of the ethical governance framework within local government and so as to ensure principals of proportionate decision-making on elected / co-opted Member conduct in light of local circumstances.

Q 1 Does our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?



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A 1 We believe that the initial assessment of a misconduct allegation received by the Standards Committee should, in practical terms, have been delegated in the Local Government and Public Involvement in Health Act 2007 to the Monitoring Officer in consultation with the Chairman of the Standards Committee. We recognise that this is not the model that has been adopted by the Government and, as such, we will have to ensure that our members and local authorities understand that more Standards Committees (or sub-committees) will need to be scheduled to consider any complaints of misconduct against elected / co-opted Members.

This additional burden on local government, without additional resources from central Government to local government, may prove ineffective, in the long term and we hope that at the next available review, the opportunity is taken to amend the legislation so as to permit the Monitoring Officer to deal with the initial assessment in consultation with the Chairman of the Standards Committee. This would have the effect of streamlining processes, obviate the need for organising initial assessment meetings, reduce costs and delays. In the process it would also obviate unnecessary anxiety for relevant Members, Officers and complainants.

We recognise that the initial assessment will now need to be dealt with, in accordance with the legislation, by a sub-committee chaired by an Independent Member. The sub-committee will consist of three Members, and we recommend a quorum of two (not three) Members, as this is consistent with most local authority Standing Orders, with the Chairman of such Committees / Sub-Committees of three Members also having a casting vote in order to avoid a stalemate.

Any request to review the decision of the initial assessment sub-committee will be by another sub-committee of the Standards Committee consisting of three other Members, chaired by another Independent Member and we recommend, again, a quorum of two (not three) members for the same Standing Order and casting vote of Chairman reasons mentioned in the last paragraph. To do so, otherwise, will prove unworkable unless the membership of the sub-committee exceeds three and appropriate safeguards are also provided to allow for substitute members.

In terms of any subsequent hearing, we believe it appropriate that any member of the Standards Committee who was involved in the initial assessment should be allowed to take part in the hearing so long as the individual or the Monitoring Officer / Chairman of the Committee do not believe s/he has or is likely in anyway to have “predetermined” the matters.

We came to that view on the basis that the initial assessment has a different threshold for determination (as to whether or not there is likely to be a breach and if the sanctions are likely to be sufficient for the sub-committee and the Monitoring officer to deal with) and there should, therefore, be no reason why Standards Committee members should be disenfranchised from taking part in the hearing just because the member dealt with the initial assessment.

The parallel system appears to work exceptionally well in Judicial Review type proceedings before a single Judge, and we see no reason why hearings of the Standards Committee or Sub-Committee cannot also include those members involved in the initial assessment. Accordingly, we do not agree to the establishment of three separate sub-committees or see the need to increase the

size of the Standards Committee to more than nine Members. This is a real practical consideration for some local authorities who struggle to obtain a sufficient number of high calibre Independent Members despite open adverts and other open recruitment processes.

Q 2 Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

A 2 It is recognised that where a member is “dual or multi-hatted,” – i.e. covered by two or more Codes of Conduct - the allegations should be dealt with by the relevant Standards Committees as the two or more Codes of Conduct may be quite separate and distinct from each other. Where, however, the allegations are on similar paragraphs of the Code of Conduct and arise from the same or similar facts, it would be appropriate for the two Standards Committees to consider establishing a joint committee arrangement, if the same was permissible in law and by their constitutional / governance arrangements. The Government lawyers should look at this closely as there is legal opinion to the effect that the current legislation may not be robust or enabling enough to permit a joint Standards Committee type approach being adopted, even though there are good value for money arguments to create the same. The legal logic advocated by some in private law firms being that only one Standards Committee can be established to deal with that authority's functions and not for any other local authority's functions.

If a joint committee arrangement was not permissible, the relevant Standards Committees will also need to ensure that there was no "double jeopardy" on the issues and the Standards Committees would have to be mindful of any “sentences” or actions of the other(s) so as to ensure consistency of treatment and to avoid any perception of double penalties in cases where a double penalty was clearly not appropriate. Some form of synchronisation of Standards Committees may prove necessary and that will have an impact on time limits – the 20 working days and the three month limit for conducting a local hearing. Accordingly, there must be sufficient flexibility in Regulations / Guidance for Standards Committees with regard to time limits for local investigating, hearings and determinations.

In the event that the relevant Standards Committees are unable to agree on suitable arrangements, it should be permissible for relevant Standards Committees to look to refer the matters to the Standards Board for England to arbitrate or otherwise determine the matter itself with a view to avoiding double sanctions.

Q 3 Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

A 3 We are content that the proposals for timescales for making initial assessment decisions should be a matter for guidance by the Standards Board but believe that the 20 working days proposed to be tight as committee cycles are, invariably, on six-weekly basis and some Districts which have many Parish issues to deal with may well struggle to meet such timescales. In addition, the pressures on Councillors are such that flexibility is more important than rigid 20 day deadlines.

One also needs to be mindful of holiday/election periods which may make the 20 working days difficult to achieve.

Furthermore, if the five clear days Access to information requirements are not to be applied by law to such "meetings" of the initial assessment, this will speed the process and ensure a light touch approach to the initial assessment decisions. If, however, the five clear days is to be applied to such "meetings," the 20 working days timescale will be difficult to maintain, especially in complex or difficult cases involving many Members. Clarity over the applicability or otherwise of the five clear days Access to Information requirements to the initial and review "meetings" of the Standards Committee / Sub-Committee will be most helpful.

As respects publicity by Standards Committees, we recommend that this remains an obligation for the relevant local authority and not imposed on Standards Committees. In addition, local authorities will use all methods already in their possession (including websites and its own publications) and the imposition of an advertisement rule in local newspapers will prove quite costly for many local authorities. So long as appropriate communication channels are used, the Standards Board for England - as a Strategic Regulator – and the Government should leave the discretion of 'how' to communicate to the relevant local authority concerned and not interfere in 'how' the local authority decides to deal with the issue. To do otherwise would be to suggest the SBE is not serious about being a Strategic Regulator or the Government is not serious about local determinations.

Q 4	Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?
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A 4 In terms of natural justice, it is appropriate for the Member who is the subject of the complaint to have relevant details of the complaint, for information purposes, but not so as to influence and inform the initial assessment. We do not, therefore, consider that there will be many occasions (if at all) whereby the Standards Committee would form the judgement that it would not be in the public interest to provide a written summary to the relevant member. Guidance on this from the Standards Board would be helpful but it should not be prescribed by Regulations, as what is important is the need to ensure open, fair and transparent local decision-making and not the creation of over bureaucratic or disproportionate procedures at the local level.

A more appropriate method would be to ensure that, at the relevant time, the relevant Councillor is reminded by the Monitoring Officer to ensure that s/he does not do anything which is likely to compromise any investigation or otherwise do anything to intimidate the complainant or witnesses. Issues, of course, already the subject of some control under the existing Code of Conduct for Members. Alternatively, Standards Committees should be encouraged to devise local Protocols for handing such matters, which could include initial informal considerations / action by Monitoring Officers. This would obviate the need for all formal written complaints to be referred to the Standards Committee for an initial

assessment, as the objective must be to improve local governance and the ethical governance arrangements at the local level and not to produce, as highlighted above, a bureaucratic approach to the same.

The provision of appropriate redacting information may also be used by the Monitoring Officer / Standards Committee to protect the identity of the complainant(s) or any witnesses in the event of there being potential for further breaches of the Code of Conduct should be permitted by Guidance, but it should not be by Regulatory prescription. Accordingly, we do not believe that a summary should be withheld until the Monitoring Officer or Ethical Standards Officer is of the view that a sufficient investigation has been undertaken.

Q 5	Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?
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A 5 As indicated above, we believe that it is essential for the Monitoring Officer to exercise his or her inherent jurisdiction and to have “up front flexibility” to liaise, as necessary, with the complainant and the relevant elected Member(s) to see whether or not any formal written complaint(s) to the Standards Committee can be avoided or some other steps taken to protect, safeguard or promote the ethical standing of the Council. The Standards Board for England Guidance must, therefore, clearly state this as best practice for Standards Committees so as to ensure that existing informal arrangements by the Monitoring Officer are not compromised as the current legislation requires that all written complaints against Members must be referred to the Standards Committee for consideration.

Where the Standards Board has referred the matter to the relevant Standards Committee, it is only right and proper that the Standards Board also inform the relevant complainant of such an event. It should not have to wait to be actioned once the Standards Committee has considered the issue at the initial assessment.

Where the Standards Committee decides to refer a matter to another local authority Standards Committee, to the Standards Board or to the Monitoring Officer for investigation, it would be appropriate for the relevant Monitoring Officer - not the Standards Committee - to inform the complainant and the subject Member accordingly.

Equally, where the Monitoring Officer has concluded any investigations referred to him/her and s/he has referred the matter back to the Standards Committee for determination / hearing or some other action (e.g. recommendation to refer to the SBE), it is only right and proper that the Monitoring Officer advises the complainant and the relevant Member accordingly.

In terms of any reference to the Monitoring Officer by the Standards Committee (otherwise than by investigation), it would be appropriate for the Standards Committee to resolve, in overall not specific terms, the necessary action required of the Monitoring Officer to resolve the complaint through, for example, training or mediation.

Making amendments to the Authority’s internal procedures are likely to be of a general nature and not specific to the Member subject of the complaint and, as such, should be taken outside of any complaints procedure. This would be equally

applicable in matters that the Standards Committee – outside of any specific complaints against elected Members – wanted the Monitoring Officer to take appropriate action with regard to improving or otherwise safeguarding or promoting the ethical governance arrangements of the Council.

With specific reference to Monitoring Officers referring allegations back to a Standards Committee in the light of :-

- (a) serious or less serious allegations becoming apparent;
- (b) a potential misconduct allegation arising; or
- (c) where a Member the subject of allegation has resigned, is terminally ill or has died,

these appear to be suitable examples for referral back. On common sense principals, the relevant Monitoring Officer would refer such matters back to the relevant Standards Committee and we are not persuaded that common sense needs necessarily to be specifically “prescribed” in the proposed Regulations. It would be far better for this matter to be dealt with by means of Guidance, as opposed to Regulation.

This is further exposed in paragraph 21 of the Consultation paper where the Monitoring Officer is required to write back to the Standards Committee with a written notification of his / her decision to refer a case back and the reasons for the same. These appear to be bureaucratic and likely to be cumbersome in practice, as a good Monitoring Officer will always keep the Standards Committee informed of relevant matters.

It should be noted that concern has been expressed that the 2007 Act makes no express provision for local resolution of allegations, and we would encourage the Standards Board for England to issue guidance on how this may be achieved in appropriate cases. Not all cases are susceptible to local resolution, but given the cost of formal investigations and hearings, it clearly makes sense to seek amicable local resolution where possible. For example, it may be possible for a Monitoring Officer on receipt of an allegation to suggest to the member concerned that his/her conduct may not have been appropriate and that he/she may wish to consider making an apology to the complainant, and to see whether the complainant would be satisfied by such an apology. Where that was the case, the Monitoring Officer might be able to report to the Committee at initial assessment stage and advise that the member has apologised and that the complainant no longer wishes the complaint to proceed, in which case the Committee may feel able to decide that the allegation no longer merits investigation. However, this would be a pragmatic solution which finds no support in the 2007 Act, and it would be very helpful if the Standards Board for England were to endorse such a role for Monitoring Officers.

Q 6	Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?
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A 6 The suggestion of increasing the sanctions available to Standards Committee from three months partial suspension or suspension to six months (although acceptable, in principal), we believe that for local assessment to work effectively at the local level, there is a strong case for the maximum sanction being increased from three months to 12 or 9 months. This will provide real ownership at the local level and also provide real teeth for Standards Committee.

With regard to the referral of matters from a Standards Committee to the Adjudication Panel for England for determination, there should be a right for the Standards Committee to refer such matters directly to the Panel where the Standards Committee considers that a breach of the Code may merit a sanction higher than that available to it. As indicated in the Consultation paper, such a provision would also ensure that the Member who was the subject of the allegation would not be required to face a Standards Committee hearing and then a separate hearing of the Adjudication Panel. We accept that the Adjudication Panel would have a right to refuse to accept a referral under circumstances highlighted in the proposed Regulations.

Q 7	Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?
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A 7 Many Standards Committees in England and Wales have been chaired by an Independent Member. This is a matter of recognised best practice and we, therefore, welcome the need for the Chairman of the Standards Committee being an Independent Member.

In terms of sub-committees discharging the functions of the Standards Committee, we believe that these should also be chaired by Independent Members of the Committee but we do not believe that it is appropriate to prescribe, in Regulations, this requirement as it is a matter of best practice best left to local authorities to determine, who will no doubt also take into account the relevant skills and experience of the Independent Member before determining whether or not to ask such a person to chair meetings.

As respects the size and composition of Standards Committees, this appears to be acceptable although for sub-committees, we believe that the quorum provision should be reduced to two members as most local authority Standing Orders allow for this number in relation to Committees / Sub-Committees consisting of three Members. This would also obviate the need to cancel sub-committee meetings in the event that the quorum is not obtained and lead to a more effective and efficient use of Council resources.

Q 8	Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?
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A 8 As indicated above, we welcome the local assessment provisions and agree that it is appropriate for the initial assessments and review to be conducted in private without having to deal with any Access to Information requirements and the five clear days notice requirement. This is also fair and appropriate for the complainant and the relevant Member as the matter should be the subject of contemplation by the Standards Committee or sub-committee and not be the subject of pressure brought to bear by frivolous complaints being considered in the public arena and thereby discrediting elected / co-opted members unnecessarily.

We agree, therefore, that it would not be appropriate to give such allegations of misconduct any publicity during the initial assessment phase or during the review process. Regulations should encapsulate this and may also need to amend or add another paragraph to the Access to Information schedule requirements to permit this to happen as the meetings of the initial assessment and the review sub-committees will, as indicated earlier, be “meetings” covered by the Local Government Act 1972 provisions.

Q 9	Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee’s powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?
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A 9 We are broadly comfortable with the Standards Board’s new strategic monitoring function and circumstances where it may suspend a Standards Committees functions or undertake the initial assessment of misconduct allegations. We do, however, see this as a position of last resort for the Standards Board and only to be used after appropriate notice and final notice procedures have been followed by the SBE. We would urge the SBE to ensure that it is only taken after very strenuous attempts have been made to improve the authority’s performance and after some form of "notice" regime.

This is important as Standards Committees will know what is in the best interests of the Council and the Standards Board for England must think very carefully before it imposes its interpretation of the public interest onto a local authority. Unless the Standards Board is careful with the application of such requirements, it may face opposition from local authorities, which are elected to serve the public interest, whereas the Standards Board for England is a national body with no directly elected mandate from the people.

In terms of the criteria, these appear to be appropriate although we would, as indicated above, advocate six weeks instead of the proposed 20 working days deadline for making an initial assessment of an allegation. Again, we see this time limit as a matter of guidance and should not be prescribed by Regulations.

As a further point, we would welcome an addition to the Regulations and Guidance to enable the Standards Committee to group allegations together for joint investigation. An authority may receive a number of allegations against a particular member, each of which may not merit investigation, but which together indicate a serious course of conduct amounting, for example, to bullying (see APE case decision number 322, Councillor Janik at Slough Borough Council as an example of a number of minor events amounting to serious bullying). If each case has to be dealt with separately, then such cases will be missed. But if the Committee can instruct that they be taken together and be subject of a single investigation, and if appropriate a single hearing, they can be dealt with much more appropriately. This goes back to the issue of admission of press and public, as a Committee undertaking initial assessment in public will be constrained to taking each item of business separately, taking a discreet decision on each item, whereas a Committee undertaking the same task in private can go back over its initial reaction in the light of later items on the same agenda.

There is still an outstanding issue in that there is no statutory confidentiality for Monitoring Officer reports, and particularly draft reports, unlike the position for Ethical Standards Officers' report. It would be appropriate that the opportunity be taken to remedy this omission and bring local investigation reports into line with national reports.

Q 10 Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

A 10 Following on from our answer to question 9, it is clear that any charging regime to allow Standards Board and local authorities to recover the costs incurred by them must be very carefully thought through as there are no "additional costs" being provided by central Government to local authorities for the functions being delegated to local authorities from 1 April 2008.

We see this as a recipe for conflict and under no circumstances should the Standards Board for England use such powers to return to a national complaint body / investigative role. Clearly where there are additional costs between local authorities – (i.e. one is asked to carry out work for the other), the "polluter pays" principle should be applied and it would be in the best long term interests of the Standards Board if it did not interfere or be perceived to be interfering in local determination by Standards Committees. If the Standards Board has to exercise such rights, it is best advised to allow the relevant Standards Committees to make their own arrangements so that neighbouring authorities could deal with any local difficulties.

It should also be borne in mind that in the event of there being a suspension of powers, the suspension should allow for it being in part or for the whole of the ethical governance regime, as the adoption by the SBE of the total exclusion of the Standards Committee from its ethical governance role could be quite counter-productive, in the long term, for the Standards Board and ethical governance within the local authority itself. Accordingly, this option should, as mentioned earlier, be exercised in very exceptional circumstances.

We also note that the Consultation Paper refers, at paragraph 43 (page 17 of the document) to "undertakings". We believe the same could be confusing with particular reference to undertakings for court and solicitors and, as such, suggest the use of the words "suitable allowances" in any Regulations / Statutory or other Guidance.

Q 11 Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?



A 11 In terms of the proposed procedure we note that the Standards Board would send the authority's Chief Executive a written notice of intention to suspend the functions of the Standards Committee. We believe that to be acceptable; however, we would also insist that the letter is addressed to the Leader of the Council (with a copy to the Chairman of the Standards Committees and the Monitoring Officer), so that there is a clear and combined political and managerial prerogative brought to bear to address the concerns raised by the Standards Board for England.

In terms of the Standards Committee being required to publicise the fact that their powers to make initial assessments (and other powers) have been suspended and what alternative arrangements will apply for the handling of misconduct allegations, we believe that, as these are the actions of the Standards Board and not of the Standards Committee, the appropriate notice(s) should also be from the Standards Board for England and not from the Standards Committee.

In terms of any Action Plan to address the difficulties, the Chairman of the Standards Committee and the Monitoring Officer should, of course, be duly consulted by the Leader of the Council and the Chief Executive on the improvements necessary with a view to getting to a position where the suspension could be lifted. Provision of necessary support throughout the process by the Standards Board is welcome so long as it is done in a supportive manner to return legitimate local governance to Standards Committees.

With regard to joint working, permitting Standards Committees to work jointly with one or more other Standards Committees is to be welcome and is consistent with the Shared Services Agenda if the legislative provisions allow the same. It might not be enough, therefore, for it to be a Standards Board for England Guidance issue. Either way, what is important is to ensure that there is local flexibility in any arrangement established between joint Standards Committees. What is important is that these are matters of local choice and local determination. The Government and the Standards Board for England should avoid being prescriptive in these areas.

As respects Parish Council representation on any such joint committee, that again should be a matter for the relevant joint authorities to determine in light of what is most appropriate for their local circumstances and not through prescriptive Guidance / Regulations.

Q 12	Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committee?
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A 12 It makes sense for the Adjudication Panel Tribunals to have a full range of sanctions available to it. We support, therefore, the wider range of less onerous sanctions equivalent to those already ( or due to be made) available to Standards Committees.

In the spirit of delegation, we would ask that consideration be given to an amendment to the remit of Appeals Tribunals under Regulation 13 of the Local Determination Regulations, to make it clear that an Appeals Tribunal should not re-conduct the hearing and substitute its discretion for that of the Standards Committee, but should only overturn the decision or part of the decision of a

Standards Committee where it is of the opinion that that decision was either outside the powers of the Standards Committee or was unreasonable. If we are going to trust Standards Committees with more cases and more powers, they cannot operate if their decisions are to be overturned too frequently because the Appeals Tribunal comes to a different value judgement.

Q 13 Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

A 13 It is important to ensure that there is flexibility in any hearing processes and, if it is inappropriate to pursue any case before the Adjudication Panel, then there should be the flexibility to withdraw references to the same. There needs, however, to be greater clarity in any Guidance in the event the Member simply resigns and, at a later time, decides to stand for election again as that may only serve to "avoid" the complaints against that Member.

We also welcome the fact the decision notices of case tribunals of the Adjudication Panel will, in future, have effect without the notice requiring any further action by the relevant Local Authorities. This would appear to make procedural sense and will obviate duplication of effort at the local level. Any suspension decisions should, of course, trigger after any time allowed for appeal against the decision of the Standards Committee or the Panel have expired

Q 14 Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

A 14 Some ACSeS members have experienced problems and issues arising from the dispensation Regulations and as such we support any additional clarifications to assist local authorities.

It would be desirable for SBE guidance on the issue of a dispensation to include the caveat that members having the benefit of a relaxation need to come to a view on the subject matter for which the dispensation is given on the merits/relevant considerations in order to avoid the risk of challenge due to bias. Considerable care will be necessary in issuing dispensations in relation to regulatory decision making, having regard to the increased risk of bias challenge.

The proposal may have its difficulties. Should a dispensation be granted in circumstances where it is known that a vote will not be on party lines? (Where members have indicated that they are minded to vote contrary to a party line) In other words the motive for an application for dispensation may have nothing to do with party political balance, but be due to anticipated voting balance. Could an application be refused if an applicant has publicly expressed an intention to vote a particular way? (giving rise to high risk of bias and consequential challenge)

In relation to Regulation 3(1)(a)(ii), providing for a dispensation where the authority is unable to comply with its duty to secure proportionality, we would ask the Department to address the issue that, as presently drafted, this only applies when the Council is appointing a Committee, or a Committee is appointing a Sub-Committee, as proportionality relates to the composition of the members of the Committee as appointed, rather than those who attend and vote on any particular occasion.

Accordingly, if this provision is to be amended to give effect to the Department's intention as set out in the Consultation Paper, it must apply where "such members of the decision-making body would be precluded from voting on the particular matter by reason of prejudicial interest, that the number of members of a party group which has a majority of the total membership of that decision-making body and who are not so precluded from voting on the matter do not comprise a majority of the total number of members of that decision-making body who are not precluded from voting on that particular matter."

In addition, we would ask that the same power of dispensation be applied to Sub-Committees as to Committees.

We would also query whether the dispensation must be limited to that number of members of the majority party necessary to re-establish a bare majority for the majority party, or should apply to all members of the majority party. Relaxation which enables only members of the majority party to vote where they have clear prejudicial interests is likely to give rise to a lack of parity in treatment and possible dissatisfaction among members of minority parties subject to similar or lesser prejudicial interests, and accordingly that in such circumstances all members with prejudicial interest should be given a dispensation irrespective of party.

It should however be borne in mind that even if the proposal overcomes the issue of prejudicial interests, it is likely that in many cases the particular members' participation in the decision may give rise to allegations of apparent bias and/or predetermination. As the participation of these members will in all probability (indeed is intended to) alter the outcome of the Committee's decision, the members with prejudicial interests are likely to be precluded from participating because their participation is likely to vitiate the decision of the Committee. For example, a planning application is made for a major sporting development by a society/club which society/club is well supported by Members from different parties on the committee – obtaining a dispensation in this instance may not remove the issues pertaining to possible bias and pre-determination.

It should be noted that many authorities operate systems of "substitute members" on Committees and Sub-Committees. The result is that on committees and Sub-Committees a party group can often withdraw a member with a prejudicial interest and substitute another member who is not subject to such a restriction, without recourse to dispensations.

Q 15	Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regards to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under
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section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

- A 15 ACSeS is not aware of any other cases, other than the ones flagged up in the Consultation Paper, and as ethical governance issues are important across the whole of the public sector, we have no objection to the same if it improves flexibility and efficiency at the local level.

It may not be possible for waste disposal authorities to use Section 101 of the Local Government Act 1972 to arrange for the function of granting exemptions from political restrictions to be discharged by another authority. Section 202 of the 2007 Act (inserting a new Section 3A to the Local Government and Housing Act 1989) confers this power specifically on the Standards Committee of each authority. For waste disposal authorities, which do not have standards committees, this purpose is simply frustrated and the power is therefore not so conferred, and so cannot be transferred by the authority.

Q 16 Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?

- A 16 We are disappointed that the Government has still not issued its Code of Conduct for Employees despite there being an extensive consultation in 2004/2005. We would urge the Government to conclude that matter as a matter of urgency so that there is consistency between the Members Code of Conduct and the Code of Conduct for Employees.

As respects the maximum pay of Local Authority Political Assistants - where these are appointed - we believe that the spinal point column should be increased. Spinal point 49 appears to be reasonable.

Otherwise, ACSeS is comfortable in supporting the implementation of the reformed conduct regime from 1 April 2008; although it is recognised that the Government is quickly running out of time to introduce the necessary Regulations. If there is going to be any delay, therefore, we suggest it is a short one with implementation soon after the local elections so as to ensure the new regime beds in appropriately and promptly.

Finally, there is a need for changes to the Code of Conduct itself, amongst other things to pick up issues in the present Code, to deal with Ward Councillor decision-making and to reconcile the Code and the new Act on the application of the Code to private life. No proposals for such changes have yet emerged for consultation. It would be sensible to introduce the changes to the Code at the same time as changes to the system for enforcing the Code.

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## Standards Committee

### AGENDA STATUS: PUBLIC

<b>Report Title</b>	<b>Anti-Fraud and Corruption Policy and Whistleblowing Policy</b>
<b>Date of Meeting:</b>	10 March 2008
<b>Directorate:</b>	Chief Executive's
<b>Ward(s)</b>	ALL

#### 1. Summary

Following a review the Anti-fraud and Corruption and the Confidential Reporting Code ("Whistleblowing") Policy and Procedure, which form part of the Employee Handbook has been in the process of being updated. The policy will need to be approved by the Council in the normal way. Copies of both policies are attached.

#### 2. Recommendations

1. That the policies be noted
2. That the updated policies be widely publicised to Members and employees by the Monitoring Officer.

#### 3. Report Background

As part of the on going monitoring of Employee Handbook policies the Anti-fraud and Corruption and the Confidential Reporting Code ("Whistleblowing") policies were identified for review and updating.

The Monitoring Officer has reviewed both policies in conjunction with the Corporate Manager for Human Resources.

#### 4. Implications (including financial implications)

##### 4.1 Resources and Risk

The updating of these policies will assist in reducing the risk of fraud and corruption by promoting awareness of and early response to circumstances in which fraud or corruption may exist.

The updating of the Confidential Reporting Code ("Whistleblowing") policy restates Council's commitment to support staff in the identification deficiencies in Council services.

##### 4.2 Legal

Legal Services has advised, to ensure compliance with relevant legislation and supports a renewed communication to all parties concerned to serve as a necessary reminder to Members and Employees.

#### 4.3 Other Implications

Both policies apply equally to all employees.

#### **5. Background Papers**

Anti-fraud and Corruption and the Confidential Reporting Code (“Whistleblowing”) Policy and Procedure, copies attached.

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## CONFIDENTIAL REPORTING CODE (“Whistleblowing”)

### POLICY STATEMENT AND PROCEDURE

This policy statement and procedure is based on the model code developed by the Local Government Management Board. It complements the “Code of Conduct for Local Government Employees” Paragraph 1.1 of the Code of Conduct for Local Government Employees states: “Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager, any impropriety or breach of procedure.”. It should not be used to deal with matters more properly addressed by the Council’s [Grievance Procedure](#). Nor should this policy be used in cases where there has been a failure of service delivery, which should be dealt with using the Council’s standard Complaints Procedure.

Throughout this procedure there is an assumption that in the first instance concerns will be raised internally either through line managers or other senior managers designated for the purpose. It is recognised, however, that in some circumstances employees may be reluctant for a variety of reasons to deal with the matter in this way (despite the safeguards described below). For that reason, an alternative, external reporting option has been provided. The various means by which you can raise concerns are set out within the procedure.

#### 1. POLICY STATEMENT

1.1 As an employer of around 1600 people and serving a population of nearly 200,000 people, Northampton Borough Council is committed to the establishment of an effective Anti-Fraud and Corruption Strategy, designed to:

- \* encourage prevention
- \* promote detection; and
- \* provide an effective means of confidential reporting and investigation.

1.2 The Council is determined to create an environment in which honesty and opposition to fraud can flourish. Any employee or Member suspected of fraudulent or corrupt activity may expect those suspicions to be reported, investigated and acted upon as appropriate.

1.3 It is the Council’s expectation that Members and employees will lead by example, acting in a proper manner at all times and abiding by the procedures, rules and safeguards put in place to protect the interests of the Council and those it serves. This expectation extends to contractors, suppliers and other external agencies with which the Council deals and any failures by such agencies to meet the standards required by the Council in this respect will be dealt with in the most rigorous manner.

1.4 The activities of the Council are subject already to a high level of external scrutiny by a number of bodies including:

- \* The Local Government Ombudsman
- \* Audit Commission and the District Auditor
- \* Central Government departments
- \* HM Customs and Excise
- \* Inland Revenue
- \* Service Users
- \* Voluntary Groups

1.5 However, it is in the interests of all concerned that further arrangements are put in hand to enable the disclosure of wrongdoing, malpractice, irregularity, fraud or corruption to be dealt with properly, quickly and effectively.

1.6 This Confidential Reporting Code is designed to enable employees to disclose allegations of malpractice. It is of course preferable, in the first instance at least, that such concerns be raised and dealt with effectively internally as this is more likely to strengthen the reputation of local government than either public disclosure or allowing malpractice. It is difficult to give an unambiguous definition of malpractice, but for the purposes of this Code, it includes a reasonable belief that one or more of the following has occurred or is likely to do so:

- \* conduct which is a criminal offence or a breach of law;
- \* disclosures related to miscarriages of justice;
- \* dangerous procedures risking the health, safety or welfare of other employees or members of the public;
- \* damage to the environment;
- \* unauthorised use of public funds;
- \* fraud or corruption;
- \* sexual or physical abuse of clients (such abuses of other employees is also addressed under the Council's [Bullying and Harassment policies](#))
- \* other unethical conduct.

1.7 Any employee who suspects malpractice is being, or is likely to be committed, must feel able to raise those concerns in the clear and certain knowledge that the matter will be quickly and effectively investigated and without fear that "blowing the whistle" will leave them vulnerable to victimisation. It has to be borne in mind, however, that anybody lodging malicious and unfounded allegations may themselves be subject to disciplinary action subsequently.

1.8 A new range of protection is now provided to "whistleblowers" through the Public Interest Disclosure Act 1998. In summary the Act gives protection for employees disclosing information in the following circumstances:

- Internal disclosure:                    -            where the discloser has an honest and reasonable suspicion that malpractice has occurred, is occurring or is likely to occur.



Regulatory disclosure: - to bodies with regulatory obligations such as the Health and Safety Executive, Inland Revenue and so forth. Here the test of reasonableness includes a requirement that the discloser must honestly and reasonably believe the information and any allegations in it to be substantially true.

Wider disclosure: - for example to the police, media, MPs and so forth. In addition to the conditions set out above, the discloser must also not be making the allegations for personal gain. Also, other than in cases where the discloser reasonably believed they would be victimised or that the matter would be covered up, the matter should first have been raised with the employer or a regulator (where one exists) under this policy.

1.9 If, having reported their concerns, an employee is victimised in breach of the Act they may bring a claim for compensation to an Employment Tribunal. Such compensation will be uncapped and based on losses suffered.

## **2. PROCEDURE - PART 1 (Employee Reporting)**

2.1 The Council recognises that the decision to report a concern can be a difficult one. If what you are saying is true, you have nothing to fear as you will be acting properly on behalf of the Council and those who use its services.

2.2 You are encouraged to put your name to any allegation you may make as this brings a greater degree of credibility to the complaint than if made anonymously. The Council may, however, consider anonymous complaints at its discretion. That discretion will take account of:

- \* the seriousness of the issues raised
- \* the credibility of the concern
- \* the likelihood of being able to confirm the allegation from attributable sources.

2.3 All concerns will be treated in confidence. So far as is reasonably practicable your identity will be protected should you so wish. It has to be recognised, however, that in some circumstances (legal proceedings for example) you may be required to give formal evidence.

2.4 As a first step, you should normally raise concerns through standard line management (starting with your immediate supervisor/manager). However, if you believe your managers are involved in the activity in question you may approach the Chief Executive, Borough Treasurer, Borough Solicitor, Audit Services or one of the Council's Directors.

- 2.5 If for some reason you feel uncomfortable dealing directly with these colleagues you may want to seek support from a colleague, friend or trade union representative. Similarly, if you are required to attend any meetings or interviews to discuss your concerns you may wish one of this latter group to accompany you.
- 2.6 Although you are not required to prove beyond doubt that your concerns are well-founded, the more supporting evidence you can produce (diary of events for example) the more likely it is that further investigations can be conducted effectively and quickly.
- 2.7 Should circumstances be such that you feel wholly unable to raise your concerns internally there is a list of alternative routes set out in Appendix A to this procedure. These external bodies are well aware of the issues involved and will act as mediators in communication with the Borough Council.

### **3. PROCEDURE - PART 2 (The Council's Response)**

- 3.1 As appropriate to the nature of the complaint, the Council may:
- \* begin an investigation by management;
  - \* initiate the disciplinary process;
  - \* refer the matter to the police;
  - \* refer the matter to the external auditors;
  - \* initiate an independent inquiry.
- 3.2 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required, this will be taken before any investigation is conducted.
- 3.3 Assuming you have not reported the matter anonymously or have not requested an external agency to withhold your name from the Borough Council you will receive within ten working days written confirmation that details of your concern have been received. You will also be advised as to:
- \* whether or not further information is required from you;
  - \* how the Council proposes to deal with the matter;
  - \* how long the Council estimates it will take to provide a final response;
  - \* whether any initial enquiries have been made;
  - \* whether further investigations will take place and, if not, why not.
- 3.4 The amount of contact you might expect to have with the person(s) considering the issues will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, you will be contacted for further information.
- 3.5 Where you are required to attend a meeting or interview this can be arranged away from your workplace if you wish and you may be accompanied by your trade union or professional association representative, colleague or friend.

- 3.6 In the event that you are required to give evidence in any disciplinary or criminal proceedings you will be given advice about the procedure.
- 3.7 Subject to any legal constraints you will be advised of the outcome of proceedings in order that you may be satisfied that the matter has been dealt with properly.

#### **4. CONCLUSION**

- 4.1 The Council obviously hopes that you will be satisfied with the outcome of its investigations under this procedure. However, if you are not, you may wish to consider taking the matter further. See Appendix A for a suggested list of external contact points you can approach.
- 4.2 If you do decide to take the matter outside the Council, you should ensure that you do not disclose confidential information irrelevant to the matter(s) at hand. Check (or have checked on your behalf) with the Monitoring Officer (Borough Solicitor) if you have any doubts.

## **APPENDIX A**

### **CONFIDENTIAL REPORTING CODE**

District Auditor/Audit Commission

Trade Unions

CAB

Relevant professional bodies

Relevant voluntary organisations

Police

National Fraud hot-line

Members of Parliament

Regional political parties

Health and Safety Executive

Environment Agency

Department of Trade and Industry

Public body 'Concern at Work'

Members of European Parliament

## ANTI-FRAUD AND CORRUPTION POLICY AND STRATEGY

### POLICY

*Northampton Borough Council is committed to the prevention, deterrence, detection and investigation of all forms of fraud and corruption.*

#### 1 INTRODUCTION

1.1 This document sets out Northampton's commitment to the prevention and detection of fraud and corruption. The Strategy is designed to:

- Encourage prevention
- . Promote detection, and
- . Provide an effective means of investigation.

1.2 The Council expects that members and employees, at all levels, will lead by example in ensuring adherence to legal requirements, rules, procedure, practices and best behaviour.

1.3 The Council also expects that individuals and organisations (suppliers, contractors and service providers) that it comes into contact with will act towards the Council with integrity and without thoughts or actions involving fraud and corruption.

1.4 Management is expected to deal swiftly and firmly with those who defraud the Council or who are corrupt. The Council, including Members, should be robust in dealing with malpractice.

#### Definition of Fraud and Corruption

1.5 Fraud is defined as:

“The intentional distortion of financial statements or other records by persons internal or external to the authority which is carried out to conceal the misappropriation of assets or otherwise for gain.”

This definition does not include misappropriation or petty theft without the distortion of financial statements or other records. This document, however, is intended to cover all financial irregularities, which may affect the authority, including theft.

1.6 Corruption is defined as:

“The offering, giving, soliciting or acceptance of an inducement or reward which may influence the action of any person.”

These definitions conform to those used by the Audit Commission.

## **2 STRATEGY**

2.1 The following headings briefly summaries the approach to be adopted in order to achieve the policy stated as above. They are each dealt with in the body of this document.

### 2.2 Prevention

- . The role and responsibilities of member;
- . The role and responsibilities of management;
- . Responsibilities of employees;
- . Official guidance;
- . Role of internal audit.
- . Role of external audit.

### 2.3 Deterrence

- . Prosecution;
- . Disciplinary Action:
- . Publicity.

### 2.4 Detection

- . Role of management;
- . Role of employees;
- . Role of internal audit;
- . Public Interest Disclosure Act and Employee Confidential Reporting Code;
- . Hotline.

### 2.5 Investigation

- . Role of internal audit;
- . Role of benefit fraud team;
- . Role of external audit.

## **3 PREVENTION**

### **The role of members**

3.1 As elected representatives, all members of the council have a duty to the citizens of Northampton, to protect the assets of the council from all forms of abuse. This is done through the adoption of the anti fraud and corruption policy statement and by compliance with the national code of conduct for members.

3.2 In addition, members have a duty to provide sufficient resources to allow the Council to fulfil its obligation under the Accounts and Audit Regulations 1996, to provide an adequate and effective internal audit of the accounting records and control systems.

- 3.3 Members have a duty to record any interests associated with the dealings of the Council in a register kept by the Committee Services Manager. Members should also comply with paragraphs 27-29 of the National Code of Local Government Conduct, which refers to gifts and hospitality.

### **The role of management.**

- 3.4 Directors are responsible for the accountability and control of employees and the security, custody and control of other resources under their control (F.R.1 (3)).
- 3.5 The Council is committed to continuing with systems and procedures that incorporate efficient and effective internal controls and which include adequate separation of duties and that up to date procedure notes are maintained for all financial, management and operational systems.
- 3.6 Directors may delegate responsibility to managers, but it remains essential that management at all levels issue clear and precise written instructions in how financial work must be done, which should say who should do it (and who should not do it, if this applies). They are also responsible for ensuring that appropriate procedures are in place to safeguard the resources for which they are responsible.
- 3.7 Managers should also strive to create an environment in which their employees feel able to approach them with any concerns they may have about suspect irregularities. The employee confidential reporting code has been introduced for situations where it is not possible to discuss with line management.
- 3.8 Managers should ensure that adequate and appropriate training is provided for employees and that checks are carried out from time to time to ensure procedures are being followed.
- 3.9 The Council's [Recruitment and Selection Policy](#) (w.e.f. 1.12.99) requires that references and qualifications of all proposed new employees will be thoroughly checked prior to a position being offered. Effective steps at the recruitment stage should establish the prospective employee's honesty and integrity.

### **The responsibility of employees.**

- 3.10 Employees are responsible for ensuring that they follow the instructions given to them by management particularly in relation to the safekeeping of the assets of the authority.
- 3.11 Employees should always be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management. Where this is not possible the employee reporting code is designed to assist.

- 3.12 Employees are expected to abide by the Council's [Standards of Conduct](#). They are also expected to follow any Code of Conduct related to their Professional Institute and they may be required to disclose information about their personal circumstances.
- 3.13 Employees should comply with the requirements regarding hospitality as outlined in the Employee Handbook, (paragraph 12 of [Standards of Conduct](#)), and if appropriate inform their line manager. The Committee Services Manager also maintains various registers to record gifts received, and disclosures by employees.

### **Official guidance**

- 3.14 In addition to Financial Regulations and Standing Orders directorates will have their own procedures to prevent and deter fraud. There may also be audit reports, which recommend methods to minimise losses to the authority. Managers and employees should be aware of these and ensure that their working practices are in accordance with official guidelines.

### **Role of Internal Audit.**

- 3.15 Internal Audit plays a preventative role in trying to ensure that systems and procedures are in place to prevent and deter fraud. However it must be recognised that the actual responsibility lies with management, not Internal Audit. Internal Audit may recommend changes in procedures to prevent losses to the authority as well as giving advice and assistance to all departments.

### **Role of External Audit.**

- 3.16 Independent external audit, which is a key role for the district auditor, is an essential safeguard of the stewardship of public money. This role is delivered through carrying out of specific reviews that are designed to examine (amongst other things) the adequacy of the council's financial systems and arrangements for preventing and detecting fraud and corruption. It is not external auditor's function to prevent or detect fraud and irregularity, but the integrity of public funds is at all times a matter of general concern. External auditors are always alert to the possibility of fraud and irregularity and will act without delay if grounds for suspicion come to their notice. The external auditor has a statutory responsibility to review the council's arrangements for preventing and detecting fraud and irregularities, and arrangements designed to limit the opportunity for corrupt practices.

## **4 DETERRENCE**

### **Prosecution**

- 4.1 The purpose of any prosecution policy is to deter fraud. The Council is aware that in investigating and detecting certain matters it is necessary to prosecute the offender(s) and publicise the outcome to deter potential future fraud.



- 4.2 The authority has adopted a prosecution policy, which is designed to deter others from committing offences against the authority whilst recognising that it is not always in the public interest to refer cases for criminal proceedings.

### **Disciplinary action**

- 4.3 Theft, fraud and corruption are serious offences against the authority and employees may face disciplinary action if there is evidence that they may have been involved in these activities. Disciplinary action may be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case. Referral to the Police will be authorised by the Chief Executive and the Borough Treasurer.

### **Publicity**

- 4.4 Where a case is referred to the Police for criminal proceeding and is subsequently brought to the court, the press office is advised so that a reporter can attend court to cover the story. It is hoped that any resultant publicity will act as a deterrent to potential fraudsters.

## **5 DETECTION**

### **The role of management**

- 5.1 It is vital that management at all levels are alert to potential problems in their work area and that adequate and effective safeguards are in place to prevent financial irregularities. However, managers should also satisfy themselves that checks are in place at the appropriate levels, so that in the event of a breach, any irregularity would be picked up promptly, so minimising any loss to the authority. Internal Audit can provide advice and assistance in this area.

### **The role of employees**

- 5.2 Employees play an important role in detecting theft, fraud and corruption. They may have suspicions about colleagues they work with or those in different sections whose work they deal with, and /or contractors working for the authority. All employees are encouraged to discuss their concerns with line management or Internal Audit.

### **The role of Internal Audit**

- 5.3 The responsibility for the detection of financial irregularities rests with management. Internal Audit will advise and assist management in fulfilling their responsibility for preventing irregularities and will investigate cases where irregularities are thought to have taken place. There may be circumstances of course, where auditors detect fraud as a result of the work that they are undertaking or as a result of specific fraud searching exercises.

## **The Public Interest Disclosure Act 1998 and The Confidential Reporting Code**

- 5.4 The Public Interest Disclosure Act offers protection to employees who “blow the whistle” externally. The legislation stipulates that to qualify for this protection, in most cases, the employee will need to have reported their suspicions internally first. To enable employees to do this, the Council has adopted a Confidential Reporting Code, which details how, and to whom, employees should raise their concerns.

### **Hotline**

- 5.5 The Council has introduced a hotline (**0800 7316202**) to enable members of the public to report any suspicions of fraud or corruption.

## **6 INVESTIGATIONS**

### **The role of Internal Audit**

- 6.1 Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work with management to ensure that all allegations and evidence are properly investigated and reported upon, in accordance with Financial Regulations and the Employee Handbook.
- 6.2 The Council’s [Disciplinary Procedures](#) will be used where the outcome indicates improper behaviour.
- 6.3 Where financial impropriety is discovered, the Chief Executive and Borough Treasurer reserve the right to inform the Police.

### **The role of Benefit Fraud Team**

- 6.4 The Benefit Fraud Team will investigate allegations of benefit fraud. General guidelines have been devised by the Fraud Investigation Manager in Revenue Services to provide investigators with guidance on how they should conduct themselves and to the special arrangements which apply to those officers engaged on visiting duties and work outside of normal office hours etc.
- 6.5 Sometimes it is necessary to interview members of the public in connection with the suspected fraud. The Social Security Administration (Fraud) Act 1997 does give the Council the option of appointing inspectors with rights of access to business premises in order to investigate suspected housing benefit fraud. The authority is looking to take advantage of this option and to use the powers under this Act.

### **Data Matching**

- 6.6 The Authority participates in many anti-fraud and corruption strategies, one of which is the Audit Commission’s data matching initiative. This is a proactive exercise to match information held to identify any potential discrepancy or fraudulent action, for example pension records compared to Council tax benefit and payroll details matched to housing benefit records.

## **The role of External Audit**

6.7 External Audit also has powers to investigate fraud and corruption.

## **7 CONCLUSION**

7.1 This document sets out our commitment to preventing and detecting fraud. In line with other Council policies it should be reviewed and updated.

## Standards Committee

### AGENDA STATUS: PUBLIC

<b>Report Title</b>	<b>STANDARDS BOARD UPDATE</b>
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<b>Date of Meeting:</b>	10 March 2008
<b>Directorate:</b>	Chief Executive's
<b>Ward(s)</b>	ALL

### 1. Summary

The report provides an update on the current activities and advice from the Standards Board of England.

### 2. Recommendations

That the report be noted.

### 3. Report Background

3.1 The Standards Board Bulletins provide an update on news, guidance and advice for authorities together with statistics on referrals and investigations.

Bulletin 37 has just been published and is accordingly attached for the information of Members.

3.2 The Local Government and Public Involvement in Health Act 2007 Commencement No 2 and Savings) Order 2008 was made on 30 January 2008 to bring into force the provisions of the Standards framework.

3.3 Due to the move of the Ethical framework to the local domain the Standards Board recommend that local authorities publicise the new role of Standards Committees in order that the public know where to complain. To address this the Standards Board has prepared a template complaint form as part of a toolkit for local assessment. The form, however, will be a matter for local authorities. Authorities will also have to take a view as to whether any complaints regarding breaches of the Code of Conduct will be dealt with via the authorities' complaints system or not.

Clearly the new system will need careful consideration to ensure good practices are published and implemented.

The Standards Board will provide guidance in a loose-leaf binder to support authorities once the regulations are confirmed.

- 3.4 The Bulletin covers the role of Independent Members and Parish representatives reminding authorities of their important and essential role and that the Chair of the Committee requires an independent Chair, it also provides for methods of recruitment and the process to be adopted.
- 3.5 The local ethical framework means that the authority will be required to report information on the receipt of complaints and investigations to the Standards Board to enable them to monitor procedures in their role as strategic regulator. It is expected such information will be forwarded quarterly online.
- 3.6 There is an exemption regarding prejudicial interests under the Code of Conduct where the business relates to the functioning of setting the Council Tax or a precedent under the Local Government Finance Act 1992 and the Bulletin discusses the scope of the exemption.
- 3.7 Where information is given to Members/Councillors about Appeals, good practice would be to provide a contact address for the President of the Adjudication Panel for England. There is a twenty one day notice period that has to be adhered to.
- 3.8 The new Chief Executive, Glenys Stacey, will succeed David Prince in May 2008.
- 3.9 The Referral and Investigation statistics remain reasonably stable comparing the statistics for the period 1 April 2007 to 31 January 2008 compared to the same period 2006/07.

#### **4. Implications (including financial implications)**

##### **4.1 Resources and Risk**

There will be significant financial and resource implications arising from the local ethical framework (Local Government and Public Involvement in Health Act 2007) that have not yet been qualified.

##### **4.2 Legal**

There will be significant implications arising from the Local Government and Public Involvement in Health Act 2007.

#### **5. Background Papers**

Bulletin 37

Local Government and Public Involvement in Health Act 2007

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Procurement and Practice Team Leader

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### Contact

Enquiries line: 0845 078 8181

Minicom: 0161 817 5449

[www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

email: [bulletin@standardsboard.gov.uk](mailto:bulletin@standardsboard.gov.uk)

### Welcome to Issue 37 of the *Bulletin*.

With the implementation of the changes to the standards framework drawing closer, this *Bulletin* looks at some of the ways in which local authorities can prepare now. We also examine how the Standards Board for England is working to make the transition to local assessment as smooth as possible.

The Local Government and Public Involvement in Health Act 2007 (Commencement No.2 and Savings) Order 2008 was made on 30 January 2008 to bring the provisions concerning the standards framework into force.

The Standards Board is working on guidance to assist authorities with their new responsibilities, and has produced a training syllabus. This aims to support authorities in developing core training for standards committees and monitoring officers.

In this edition, we look at publicising the local assessment of complaints. We also examine requirements for the recruitment of independent members and parish representatives to standards committees. The system of reporting for authorities under the new framework, which will help the Standards Board monitor local arrangements, is discussed.

In addition, this issue features useful articles on interests in relation to setting the authority's annual budget, and on appeals to the Adjudication Panel for England. We also provide information on booking for our Seventh Annual Assembly of Standards Committees.

Finally, it gives me great pleasure to introduce our new Chief Executive, Glenys Stacey. Glenys will start at the Standards Board in April and will succeed me in the role of chief executive following my retirement at the end of May.



**David Prince**  
Chief Executive

## Government's consultation on new regulations and orders

Communities and Local Government (CLG) launched a consultation in January 2008 on its proposals for the new orders and regulations arising from the Local Government and Public Involvement in Health Act 2007. These provided a revised ethical framework for the conduct of local authority members in England.

The consultation included proposals for regulations on the local assessment of complaints, the size, composition and proceedings of standards committees, and the sanctions available to standards committees.

The consultation closed on 15 February 2008. One of the consultation questions related to the effective introduction date for the orders and regulations. The Standards Board for England's own response urged 1 April 2008. Decisions on the timing of the changes, as well as the detailed changes themselves, will be for CLG ministers to take in the light of the consultation responses.

We understand that a considerable number of responses received so far have supported an implementation date of 1 May 2008. This suggestion will be considered by CLG along with the other responses received.

## Guidance on the local framework

As we mentioned in *Bulletin 36*, the Standards Board for England will be producing guidance to support local authorities in the implementation and function of the locally managed framework.

The published guidance will consist of five parts:

- the role and make-up of standards committees
- local assessment and how it will operate
- local investigations

- local determinations
- monitoring and audit arrangements

The guidance is subject to the regulations that will support the changes to the framework. We are working to publish it as soon as possible after the regulations are confirmed.

Each part of the guidance will contain two sections. The first section will be the actual guidance, which sets out the responsibilities of relevant authorities and what they need to do to meet them. A second section will contain a set of tools that will enable them to meet those responsibilities, such as templates for decision notices, letters and forms.

We will publish each part of the guidance on our website as soon as it is confirmed. This is so that local authorities can use them to prepare for the local assessment of complaints. Following this, we will produce a binder containing all of the guidance in a loose-leaf format. This will allow us to make amendments over time if necessary.

## Provisions concerning the ethical framework recently brought into force

The Local Government and Public Involvement in Health Act 2007 (Commencement No.2 and Savings) Order 2008 was made on 30 January 2008. The following are the main provisions concerning the ethical framework, which the order brings into force:

### (1) Provisions brought into force on 31 January 2008

- The partial commencement of Section 183 amends the power of the Secretary of State to make orders about general principles, model codes of conduct and those codes adopted by relevant authorities.

- Section 184 amends Sections 37, 52 and 54 of the Local Government Act 2000 so that certain references to an authority's code of conduct include reference to the mandatory provisions.
- The partial commencement of Section 185 allows the Secretary of State to make regulations about allegations made to standards committees of failure to comply with their authority's code of conduct.
- Sections 188 and 189 make provision about sub-committees of standards committees of relevant authorities, and allows the Secretary of State to make regulations about two or more relevant authorities establishing a joint standards committee.
- Section 190 allows the Standards Board for England to issue guidance to ethical standards officers. It also allows the Standards Board to do things which aim to help, or are incidental or conducive to standards committees and monitoring officers exercising their functions.
- Section 192 deals with ethical standards officers' reports. Among other things, it allows them to send reports to a standards committee which the committee would not otherwise be entitled to see, if it will help the committee to discharge its functions.
- Sections 193 to 195 amend the powers and functions of monitoring officers and standards committees. This is because the task of initially assessing allegations of misconduct by members is moving to a local level.
- The partial commencement of Section 198 allows the Secretary of State to make regulations about the powers and conduct of English case tribunals.

## (2) Provisions brought into force on 1 April 2008

- Section 187 amends Section 53(4) of the Local Government Act 2000 to require a standards committee to be chaired by an independent person.
- Section 191 deals with ethical standards officers' powers to investigate. The saving contained in article 7(3) of this order preserves the existing legal framework for cases referred to the Standards Board before 1 April 2008. **Note:** There is a typographical error in article 7(3) which will be addressed before 1 April 2008.
- Section 196 increases the scope for consultation by ombudsmen. It allows them to consult with standards committees when carrying out an investigation.
- Section 200 amends the Data Protection Act 1998 (c.29) by adding to the list of exemptions contained in Section 31. The exemptions now include data processed by a monitoring officer or an ethical standards officer under Part III of the Local Government Act 2000, where disclosing it would be likely to prejudice the proper discharge of that function.
- Section 201 makes supplementary provision relevant to provisions of Part III of the 2000 Act and consequential amendments to the Local Government Act 1972, the Audit Commission Act 1998 and the Greater London Authority Act 1999.
- Section 202 amends Section 3 of the Local Government and Housing Act 1989. This is done by transferring the function of granting exemptions from political restriction on members of relevant authorities in England from an independent adjudicator appointed by the Secretary of State to standards committees. It also empowers the Secretary



of State to make regulations requiring an authority which is not a relevant authority and so not required to have a standards committee, to establish such a committee. This is to exercise the functions of granting and supervising exemptions from political restriction. The section also provides for the Secretary of State to issue general guidance about exercising this function.

- Section 203 makes amendments in consequence of Section 202.

For more information, please call us on **0845 078 8181** and ask to speak to our Legal Department.

## Publicising the local assessment of complaints

The success of the ethical framework rests on transparency and accessibility. The public needs to be aware of the new role of standards committees, and where to turn if they reasonably suspect that a member has breached their Code of Conduct.

This is particularly important now that complaints will be assessed locally, and if someone's area is covered by two or more standards committees, for example a district and county council. People will also need to know where to go if they have a complaint about a parish councillor.

We have prepared a template complaint form which gives clear information on how to make a complaint. This will be part of the toolkit section of the guidance on local assessment (please see the article on page 2 for more details).

Authorities can adapt the form to their own requirements. We expect that some authorities may want to absorb complaints in relation to the Code of Conduct into their existing integrated complaints system.

Under this approach, all complaints would pass through a central point and find their way to the correct place. If there is no central clearing point for complaints, the public will need clear advice about where to direct their complaint.

While this is a matter for local discretion, we expect authorities to be as imaginative as possible in publicising the new system and how it works. Examples of good practice include:

- Prominent and easy-to-navigate links on the authority's website, especially on the 'democracy' and 'councillors' pages.
- Leaflets on display, and available in one-stop-shops, libraries (including mobile libraries), planning, housing and social work departments and area offices, and from parish clerks and offices in the district.
- Posters and publicity in Citizens Advice Bureaux and community groups, including those serving people who are traditionally more difficult to reach.
- Advertisements and articles in the local press and in the authority's own newsletter.
- Information broadcast on local radio.
- An 'Information for Citizens' section on public agendas.
- Leaflets put out at meetings and available on the agenda table.
- Publicity during Local Democracy Week and at other events such as community forum activities.
- A helpline.
- Assistance for people with a disability or whose first language is not English.

## Independent members and parish representatives in the local framework

The Local Authorities (Standards Committee) Regulations 2001 provide for the size and make-up of standards committees, and for the appointment of parish and independent members. Authorities are required to have at least three people on their standards committee and at least one must be an independent member.

Further to this, the Local Government and Public Involvement in Health Act 2007 requires all standards committees to have an independent chair. The assessment of Code of Conduct complaints will soon become the responsibility of standards committees. It is therefore vital that local authorities begin the process, if they have not already done so, of recruiting the necessary number of high calibre independent members.

The Standards Board for England recommends that each standards committee has a minimum of three independent members. If the authority is responsible for parish councils it recommends that each standards committee has at least three parish or town council representatives. This is so that the standards committee will have a different independent member, and parish representative if applicable, available to undertake each of the assessment and review functions. It also gives enough flexibility should an independent member or parish representative be unavailable or have a conflict of interest.

A person is only eligible to become an independent member if they meet the following criteria:

- They have not been a member or employee of the authority for five years before the date of appointment.
- They are not a member or officer of any authority currently.

- They are not a close relative or close friend of a member or employee of the authority.
- They filled in an application for the position.
- They have been approved by the majority of members of the authority.
- The position has been advertised in at least one newspaper distributed in the authority's area.

The successful recruitment of independent members and parish representatives is important for the effective operation of standards committees. In order to attract the greatest number of high calibre people, authorities should advertise as widely as possible. You may wish to consider additional methods of recruitment in addition to advertising in the local press. These could include:

- Advertising on your website or your local radio station.
- Placing flyers in libraries, adult learning centres or places of worship.
- Advertising through other authorities' partnerships or through the local voluntary or community sector.
- Contacting neighbouring authorities who may have good candidates that they don't have room to appoint.

As part of the recruitment campaign for independent members, standards committees may wish to set up a panel of suitably trained members to shortlist and interview potential candidates. The monitoring officer should play an active role and be involved throughout the recruitment process, advising the panel on the appropriate steps.

## New reporting system for authorities on local assessment

The introduction of local assessment means that local authorities will be required to report information about receiving and investigating cases to the Standards Board for England.

We have been asked by the government to ensure the effectiveness of the local framework. This is to ensure confidence that local representatives are serving the public openly and fairly, and being held to account effectively if they fall below the accepted line.

To do so there needs to be a constructive monitoring procedure, which is light touch and proportionate to identified risk. Consequently, we have tried hard to design a system that will allow monitoring officers to tell us the information that we need to perform our duty as a strategic regulator, without being overly burdensome. The system was piloted with a wide cross-section of monitoring officers. We tried to tailor the questions so that they mirror the type of information monitoring officers will be reporting to their authority.

At intervals, normally at the end of each quarter, the monitoring officer, or other designated person in the authority, will complete a simple online questionnaire. The questionnaire does not take long to complete.

If there are no complaints to report, the monitoring officer just answers a few quick questions about the composition of the standards committee, and then ticks a box to indicate that there were no complaints in that period. At the end of the following quarter, if there are still no complaints and the details about the standards committee have not changed, notification will be even easier. The monitoring officer will just need to log onto the system, place a tick in a box and then press a submit button.

If there are complaints to report, then there is an additional section of the form where the monitoring officer has to provide some details

about each complaint. The questions cover standard areas like the complaint source and outcome, and significant dates in the process. We need to know things like how long investigations are taking and whether mediation has been successful.

The idea behind collecting this information is to allow us to help local authorities by being aware of and sharing effective practice, identifying trends, and managing risks.

Although the quarterly information returns will give us the quantitative data we need for monitoring local case handling, we will also supplement this with additional data collected on an annual basis. This annual data will enable you to tell us about the plans and activities of your standards committees and will provide an opportunity for you to share effective practice with us. We will again do our best to make sure that this annual data collection is not an onerous task.

In addition, the legislation allows us to request further information from authorities. However, we will only do this if the regular monitoring raises concerns about performance at an individual level. If this does happen, we have put in place a small support team who will work with you to see if there is additional guidance you may need, or particular training issues we can help you address.

While the law does allow us to remove local powers, this will be very much a last resort if all other avenues of support fail. We hope our support team will become an important resource for you to draw upon to do your jobs even more effectively.

The quarterly returns system is due to go live at the same time as the new assessment arrangements, and monitoring officers will be contacted soon with details of how to access and use the questionnaire. Data submissions will not be due until after the close of the first quarter. We are aiming to provide high quality support for this system, with a comprehensive user guide and telephone helpline.

## Prejudicial interests and setting the authority's annual budget

There is an exemption regarding prejudicial interests under paragraph 10(2)(c)(vi) of the Code of Conduct. This provides that a member does not have a prejudicial interest in any business of the authority where that business relates to the **functions** of "setting council tax, or a precept under the Local Government Finance Act 1992". This exemption applies even where a member might otherwise have an interest under paragraph 10. So what is the scope of the exemption?

There are many different ways to present the annual budget for the next municipal year and there are many different procedures used by authorities to set a budget. The Standards Board for England believes that the words "relates to the functions" are wide enough to cover the formal council tax or precept-setting meeting of the authority. It can also cover those meetings at which the preparatory work is decided, leading up to the council tax or precept-setting meeting.

Therefore, the exemption in paragraph 10(2)(c)(vi) should cover members for most council budget-setting meetings. However, it does not cover members who are also being asked to consider whether to hand over money, usually in the form of grants, for organisations that form one or more of their personal interests and for which specific budgetary provision has been, or is being made.

In other words, just setting aside money in an annual budget for an organisation is a function that relates to setting council tax and so qualifies for the 10(2)(c)(vi) exemption. However, the formal decision to hand it over, at whatever meeting, would trigger a prejudicial interest that is not exempted by 10(2)(c)(vi).

Usually the formal decision to hand over the money is actually made by an officer under the authority's scheme of delegation which allows them to take decisions. This is as long as it does not incur expenditure beyond that which has been budgeted.

We believe that no member has a prejudicial interest in motions which call on members to adopt the budget with details which are set out in an officer report. These general motions are clearly part of the council tax-setting process. Therefore, all members can attend, debate and vote on that motion, whatever the effects might be on their personal interests.

Difficulties can arise with members, normally executive members, at the early stages of the annual budget preparation when specific amounts of money may be allocated to bodies in which the member has a personal interest. If the decision being made is clearly part of the budget-setting process for your authority then the exemption in paragraph 10(2)(c)(vi) appears to apply. However, if there is any doubt about the status of the decision, the prudent course would be to declare a prejudicial interest or seek a dispensation from the standards committee.

## Appeals to the Adjudication Panel for England

A recent case has highlighted the need for standards committees to take care when giving councillors information about appeals following a standards committee hearing. In the case, the standards committee's written decision did not give a contact address for the President of the Adjudication Panel for England. The decision was also worded in a way which suggested that the President could be contacted via the Standards Board for England.

The rules on appeals in relation to standards committee decisions are covered by Part III of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003. Paragraph 8 of the regulations requires the standards committee to give written notice of the finding as soon as reasonably practicable. This should be given both to the member and to the other people specified in this paragraph. For example, any parish councils concerned and any person who made an allegation that gave rise to the investigation.

Paragraph 9(1) of the regulations provides that the member who is the subject of the finding may "by way of notice in writing given to the President of the Adjudication Panel, seek permission to appeal". Paragraph 9(2) states that such notice must be received by the President of the Adjudication Panel within 21 days of the member's receipt of notification of the finding. Notification of the finding is considered to be the date on which the member receives the full written decision. In practical terms, this is usually a number of days after the hearing itself.

While there is no obligation to specify the contact details of the President, it is good practice to include both the postal address and the Adjudication Panel's website details in the decision notice. The postal address is:

The Adjudication Panel for England  
23 Victoria Avenue  
Harrogate  
North Yorkshire  
HG1 5RD

The website address is [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk), and the office of the Adjudication Panel can be emailed via [enquiries@adjudicationpanel.co.uk](mailto:enquiries@adjudicationpanel.co.uk).

Standards committees might also wish to refer members to the 'Application for permission to appeal form' on the Adjudication Panel's website. This is the first link on the Procedures section of the site, and helpfully sets out what information should be provided when applying for permission.

## Annual Assembly delegate fee frozen

This year's Annual Assembly of Standards Committees is called **Delivering the goods: local standards in action**. The event will provide an invaluable opportunity for delegates to share experiences and learn from those who have been through the local assessment process.

We recognise how important it is that as many people as possible have the chance to attend. So we have frozen the cost of places at this year's conference at the same price as 2007 – £430 plus VAT.

The 2008 conference microsite – [www.annualassembly.co.uk](http://www.annualassembly.co.uk) – goes live in March, when delegates will be able to book places using quick and easy online booking. The site will also provide more information about what's on at the conference.

To register your interest in the conference, please email [annualassembly2008@standardsboard.gov.uk](mailto:annualassembly2008@standardsboard.gov.uk)

## Upcoming events

The Standards Board for England is running sessions at both the Labour and Conservative party local government conferences. Details are:

### The case for the Code of Conduct

Conservative local government conference, 1 March 2008, Warwickshire.

A session looking at some of our investigations from the last five years. This will illustrate the need for a mechanism to deal with the minority of councillors who damage public trust in local government. The session will be followed by a discussion chaired by Councillor Sir Ron Watson, CBE.

### Partnerships, standards and leadership

Labour local government conference, 2 March 2008, Birmingham.

A presentation and discussion, organised in partnership with the Improvement and Development Agency (IDeA) looking at local government partnership working. A chance to discuss the key issues of leadership, high standards, culture, values and behaviour in addressing the accountability gap often presented by partnership working.



## New Chief Executive

Glenys Stacey has been appointed as the new Chief Executive of the Standards Board for England. She will begin in April and, after a handover period, will succeed David Prince who retires at the end of May. Glenys will be out and about meeting stakeholders and those of you involved in standards locally.

Experienced in the public sector, Glenys is a solicitor and former Chief Executive of the Criminal Cases Review Commission, responsible for investigating suspected miscarriages of justice. She is also a former Chief Executive of the Greater Manchester Magistrates' Courts Committee, managing summary justice delivery in Greater Manchester.

Glenys comes to the Standards Board from her latest role as Chief Executive of Animal Health, where she has been leading a national organisation through development and reform. She has also headed the country-wide field response to animal disease outbreaks.

Glenys Stacey said:

"I am delighted to be joining the Standards Board for England at such an interesting time – both for the Standards Board as it evolves to become a strategic regulator, and for local government as its remit is changing and growing. I hope and trust that my experience of the good work of local authorities and in leading professional organisations in the public sector will stand me in good stead, and I am looking forward very much to taking up the post."

Welcoming the appointment, Sir Anthony Holland, Chair of the Standards Board, said:

"As a solicitor with experience of developing and running complex service organisations, Glenys is exactly the person we need to lead the Standards Board for England in its new role of providing

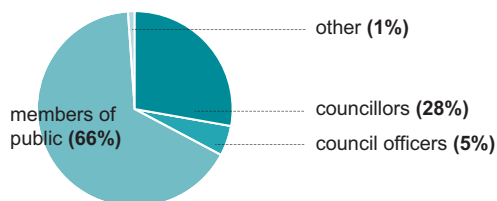
both the vital support and the independent, national oversight needed to make the locally-based ethical standards system work."

## Referral and investigation statistics

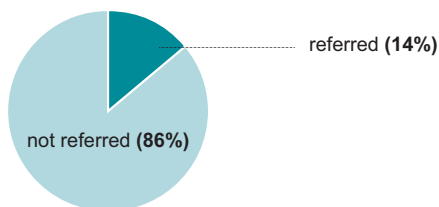
The Standards Board for England received 2,869 allegations between 1 April 2007 and 31 January 2008, compared to 2,819 during the same period in 2006-07.

The following charts show referral and investigation statistics during the above dates.

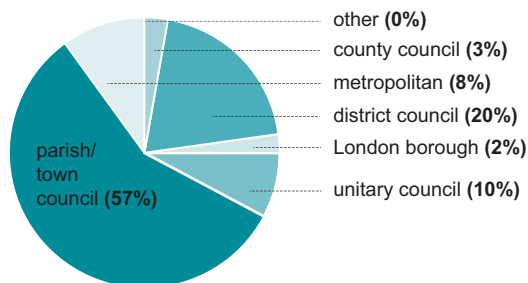
Source of allegations received



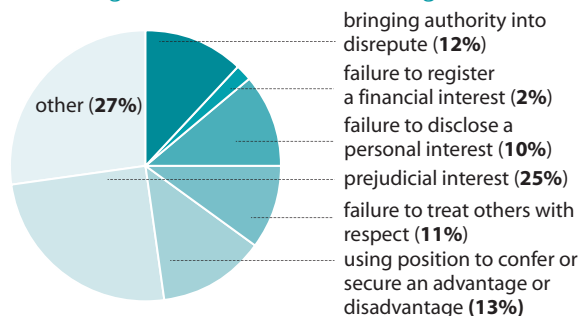
Allegations referred for investigation



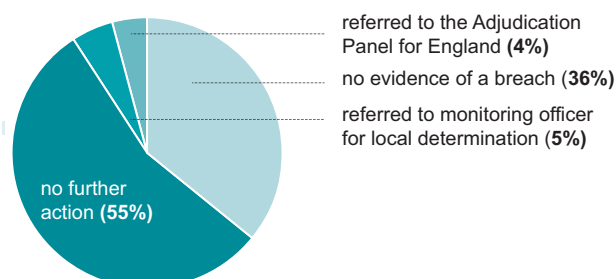
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



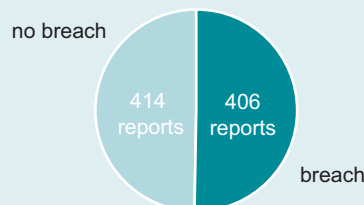
Final findings



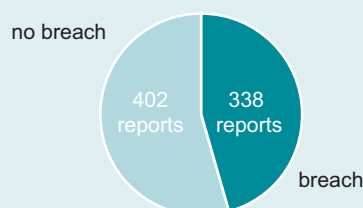
## Local investigation statistics

For the period 1 April 2007 to 31 January 2008, ethical standards officers referred 223 cases for local investigation – equivalent to 51% of all cases referred for investigation. Since 1 April 2007 there have been eight appeals to the Adjudication Panel for England following standards committee hearings. Of all cases referred for local investigation since November 2004, we have received a total of 1,036 reports – please see below for a statistical breakdown of these cases.

Monitoring officers' recommendations following local investigations



Standards committee hearings



Standards committee determinations

