

NORTHAMPTON BOROUGH COUNCIL

STANDARDS COMMITTEE

Your attendance is requested at a meeting to be held at the Guildhall on
Monday, 15 June 2009 at 5:00 pm.

D. Kennedy
Chief Executive

AGENDA

1. APOLOGIES
2. MINUTES
3. DEPUTATIONS / PUBLIC ADDRESSES
4. DECLARATIONS OF INTEREST
5. MATTERS OF URGENCY WHICH BY REASON OF SPECIAL CIRCUMSTANCES THE CHAIR IS OF THE OPINION SHOULD BE CONSIDERED
6. APPOINTMENT OF DEPUTY CHAIR
7. REGISTER OF DECLARATIONS OF INTEREST AND GIFTS AND HOSPITALITY- MONITORING REPORT
Report of Monitoring Officer (copy herewith) F. McGown x 7101
8. STANDARDS COMMITTEE NEWSLETTER
Report of Borough Solicitor (copy herewith) D. Bibey x 8058
9. ANNUAL REPORT 2008/09
Report of Borough Solicitor (copy herewith) D. Bibey x 8058
10. RIPA INSPECTION
Report of Borough Solicitor (copy herewith) D. Bibey x 8058
11. RIPA CONSULTATION
Report of Borough Solicitor D. Bibey x 8058
12. STANDARDS BOARD BULLETINS
Report of Borough Solicitor N. Jacob x 7735
13. MEMBER TRAINING
Report of Borough Solicitor to report F. Fernandes x 7334
14. 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.”

<TRAILER_SECTION>

A5830

Standards Committee

15 June 2009

AGENDA STATUS: PUBLIC

Report Title	REVIEW OF REGISTERS OF DECLARATIONS OF INTEREST AND GIFTS & HOSPITALITY
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Date of Meeting:	15 June 2009
Directorate:	Borough Solicitor
Ward(s)	All

1. Summary

To report on the compilation of this year's Register of Declarations of Interest and the ongoing Register of Gifts and Hospitality.

2. Recommendations

1. That the report be noted and that the Monitoring Officer take any action deemed appropriate to ensure Councillors complete the Declarations of Interest Register.
2. That the Monitoring Officer sends a briefing to all Members outlining their obligations to the Register of Interests and to declare Gifts and Hospitality.

3. Report Background

- 3.1 Councillors are required under the Local Government Act 2000 to complete an annual Declaration of Interests (copy form attached as Appendix A) and to amend it during the year within twenty eight days of becoming aware of any change. This year's letters and forms were sent to all Councillors the week beginning 6 April with the intention that the Register should be completed by Annual Council on 21 May 2009. Councillors have been reminded of the need complete their declarations during week beginning 27 April and again during week beginning 18 May.
- 3.2 As of the end of 5 June five declarations remain outstanding. The Borough Solicitor was not satisfied by one return and this has now been resubmitted by the Councillor concerned.
- 3.3 In respect of Gifts & Hospitality (of over a perceived value of £25) there were seventeen registrations between 1 April and 31 March 2009, sixteen from Councillors covering twenty one instances and one from an Officer. Ten different Councillors registered with fifteen

instances of tickets to the Royal and Derngate and the balance being primarily tickets/hospitality given by Northamptonshire Cricket Club, Northampton Saints Rugby Football Club or Northampton Town Football Club.

- 3.4 Whilst the numbers of registrations for Gifts & Hospitality may seem low, there is no evidence to suggest that instances are not being registered. During the last few weeks, during the Register of Interests renewals, a number of Councillors not having already made registrations have been reminded of this but it has not led to further instances being declared.
- 3.5 Elsewhere on this agenda is an item about the Committee's Newsletter. This has been used as a vehicle in the past for reminding Councillors about responsibilities in respect of both Registers and it is proposed that it is used again for this purpose.

4. Implications (including financial implications)

4.1 Resources and Risk

None.

4.2 Legal

None at this time.

4.3 Other Implications

None.

5. Background Papers

None.

Report Author and Title: F McGown, Democratic Services manager

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NORTHAMPTON
BOROUGH COUNCIL

LOCAL GOVERNMENT ACT 2000

*The Local Authorities
(Model Code of Conduct)
Order 2007*

**MEMBERS & CO-OPTED MEMBERS
REGISTER OF INTERESTS**

Councillor / Co-opted Member

.....

This form must be completed at least annually
A new form must be completed on each occasion your registration alters

I certify that I have not:

- (1) omitted information that ought to be given in this matter
- (2) provided information that is intentionally false or misleading

and I recognise that I am obliged to give further notices in order to:

- bring up to date information given in this notice
- declare an interest that I acquire after the date of this notice and am required to declare

SIGNED

Date

Received

Date

CE/CC.31

**Please provide the following details necessary under
The Local Authorities (Model Code of Conduct) Order 2007**

Where not applicable please enter "none".
Please attach and sign additional sheets where required.

(1) Any membership or position of general control or management you have in regards to the following:

Any body to which you have been appointed or nominated by the authority

Any body exercising functions of a public nature;

Any body directed to charitable purposes;

Any body whose principal purposes include the influence of public opinion or policy
(including any political party or trade union)

(2) Any employment or business carried on by you:

(3) The name of the person who employs or has appointed you:

(4) The name of any person, other than a relevant Authority, who has made payment to you in respect of your election or any expenses incurred by you in carrying out your duties:

(5) The name of any person or body which has a place of business or land in the authority's area, and in which you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000, or one hundredth of the total issued share capital (whichever is the lower):

(6) A description of any contract for goods, services or works made between the authority and yourself or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (5) above:

(7) Any gifts or hospitality worth £25 or over which you have received in connection with your official duties as a member. Please give details of the gift/hospitality and its source.

(8) The address or other description (sufficient to identify the location) of any land in which you have a beneficial interest and which is in the area of the authority:

(9) The address or other description (sufficient to identify the location) of any land where the landlord is the Authority and the tenant is yourself or is a firm in which you are a partner, a company of which you are a remunerated director or a person or body of the description specified in (5) above:

(10) The address or other description (sufficient to identify the location) of any land in the authority's area in which you have a licence (alone, or jointly with others) to occupy for 28 days or longer:



NORTHAMPTON
BOROUGH COUNCIL

Local Government Act 2000
Register of Interests
guidance notes

- (2) You should include every employment, office, trade, profession or vocation that you have to declare for income tax purposes. Also give a short description of the activity concerned e.g. "computer operator" or "accountant".
- (3) If employed by a company, give the name of the company paying your wages, not that of the ultimate holding company. Where you hold an office give the name of the person or body that appointed you. In the case of a public office, this will be the authority that pays you. In the case of a teacher in a maintained school, the local education authority; in the case of an aided school, the school's governing body.
- (4) You do not need to declare the amount of any payments, only the person or body (including a political party) making them. Assistance in kind, such as supplying leaflets, should be counted as well as money payments.
- (5) You should list the names of any companies or other bodies that are active in the authority's area and in which you have a substantial interest. You need not show the extent of your interest. These requirements also cover shares and securities held in the name of other people in which you have a beneficial interest.
- (6) You should describe all contracts of which you are aware. You need not say what the financial arrangements are, but should say for how long the contract is.
- (8) If you live in the authority's area you should include your home under this heading if you are an owner, lessee or tenant. You should also include any property from which you receive rent, or of which you are the mortgagee. "Land" includes any buildings or parts of buildings.
- (10) You should include land in the area of the authority which you have a right to occupy, but neither own or have a tenancy of. "Land" includes buildings or parts of buildings.

Standards Committee

AGENDA STATUS: PUBLIC

Report Title	Draft Standards Committee Newsletter
Date of Meeting:	15 th June 2009
Directorate:	Borough Solicitor
Ward(s)	All

1. Summary

The report invites Standards Committee to comment on a draft Newsletter and to instruct the Borough Solicitor and Monitoring Officer to publish a newsletter on behalf of the Committee taking into account the comments of the committee.

2. Recommendations

1. That Standards Committee comment on the attached draft newsletter.
2. That the Borough Solicitor and Monitoring Officer publish a newsletter on behalf of the Committee taking into account committees comments.

3. Report Background

A Standards Committee Newsletter is published twice a year.

Historically the newsletter has been prepared by the Borough Solicitor and presented to Committee for information. The Borough Solicitor is seeking committees input to the next newsletter to improve the link between the committee and the newsletter published on their behalf.

4. Implications (including financial implications)

4.1 Resources and Risk

There are no financial risk associated with this report as publication costs are allowed for in the Standards Committee budget for the year 2009/10.

4.2 Legal

There are no legal implications associated with this report.

4.3 Other Implications

There are no other implications associated with this report.

5. Background Papers

Previous reports to Standards Committee and Newsletters.

Report Author and Title: David Bibey, Practice Manager, Borough Solicitor Department

Telephone and Email: 01604 838058 dbibey@northampton.gov.uk



WHISTLE BLOWING

The ability to ‘blow the whistle’ on a member of staff, a councillor or contractor working at the council without fear of reprisal is an important weapon in the armoury of ethical governance.

To remind everyone of their responsibility to report concerns and of their right to protection the Monitoring Officer, who is the Single Point Of Contact for whistle blowing, has published a new poster across council offices.

GIFTS & HOSPITALITY

HAVE YOU REGISTERED

If you have received gifts or hospitality in connection with your official duties worth £25 or more you must register them.

To register a gift or hospitality contact Frazer McGown, Democratic Services Manager
(tel: 01604 837101)

If you are unsure about the need to register an item ask Frazer.

RIPA

Regulation of Investigatory Powers Act 2000 or RIPA is the law that controls the Council’s use of covert surveillance and covert human intelligence sources to obtain evidence for prosecutions.

NBC has not used RIPA in the last two years however in response to concerns surrounding high profile cases earlier in the year, in which some authorities were accused of using RIPA unethically and without proper safeguards the Communities and Local Government department is undertaking a consultation exercise on suggested changes to the law and guidance.

Amongst the proposals are:

- Withdrawal of some RIPA powers from Council
- Reduction in paperwork for the Police
- Restricting authorisation for use of RIPA to only the most senior officer or officers in an authority

The Council is seeking the input of Standards

STANDARDS COMMITTEE AWAY DAY

The Chair of Standards and the Monitoring Officer have agreed the format for the Committee’s away day. The event will be an opportunity for the Committee to plan an ambitious programme for the year.

Speakers on the day will include the Chief Executive David Kennedy and the Leader of the Council Councillor Woods.

Standards Committee

AGENDA STATUS: PUBLIC

Report Title	Standards Committee Annual Report 2008/09
Date of Meeting:	15 th June 2009
Directorate:	Borough Solicitor
Ward(s)	All

1. Summary

This report reviews the activity of Standards Committee during 2008/09. The report highlights the implementation of the Local Filter arrangements and refers to the future plans of the committee for 2009/10.

2. Recommendations

1. That Standards Committee notes this report.

3. Report Background

During the past year Standards Committee have made significant strides in developing the ethical agenda.

Following consideration of reports on the Annual Standards Board Conference, by the Chair and Monitoring Officer, and the Local Determination of Conduct Complaints Committee adopted and successfully implemented the 'Local Filter'. Implementation being supported by the development of a guidance manual, training for Committee Members and a briefing for senior management by the Monitoring Officer.

The implementation of the Local Filter placed increased responsibilities on Standards Committee for the receipt of and response to conduct complaints, which has necessitated the establishment of three Sub-Committees; a Referral Sub-Committee, a Review Sub-Committee, and a Hearing Sub-Committee. During the year eight complaints have been considered under the Local Filter arrangements, two were not referred, three were referred to the Monitoring Officer for alternative measures and three were referred to the Monitoring Officer for investigation.

In December 2008 Committee agreed a response to the central government consultation exercise on the proposed Code of Conduct for Members and Officers. The Communities and Local Government Department having trailed a code of conduct for officer for some time undertook a consultation exercise on a range of proposals for the form and extent of a code of conduct. A code of conduct for officers will form an important part of the ethical governance framework for the Council. The views of Standards Committee on this issue formed an important element of the response to the consultation made by the Council. The views of Standards Committee on consultations relating to ethical issues is beneficial to the Council and adds value to response made on such consultations.

The Committee has considered five bulletins published by the Standards Board for England during the year, the bulletins provide updates on legislation, case law, commentaries, calendars of events and highlight high performing authorities. The Committee has also received two reports on standards cases that have been referred to court. The first R (on the application of Gardner) v Harrogate Borough Council clarified the relationship between the Local Government Ombudsman and the Standards Board for England and the second R (on the application of Mullaney) v the Adjudication Panel for England clarified that the term 'official capacity' is to be read as having its ordinary meaning.

Standards Committee also considered a report on guidance provided by the Adjudication Panel in respect of Regulation 17 under which serious breaches of the Code can be referred directly to the Adjudication Panel that has power to impose harsher penalties and Standards Committee.

During the year Committee Members agreed to engage in an 'Away Day' in 2009. The purpose being to develop an ambitious work programme for the committee that engages, the political and managerial leadership on the ethical agenda and to consider and implement best practice. The Chair of Standards Committee and the Monitoring Officer have agreed the format and content of the away day and it is the process of being scheduled.

4. Implications (including financial implications)

4.1 Resources and Risk

Costs of the proposed away day have been allowed for in the current budget allocation for the Committee.

4.2 Legal

There are no legal implications related to this report.

4.3 Other Implications

There are no other implications related to this report.

5. Background Papers

Reports and minutes of Standards Committee meetings 2008/09.

Report Author and Title:

David Bibey Practice

Manager

Borough Solicitor

Telephone and Email: 01604

838058

dbibey@northampton.gov.uk

Standards Committee

AGENDA STATUS: PUBLIC

Report Title	2009 RIPA Inspection
Date of Meeting:	15 th June 2009
Directorate:	Borough Solicitor
Ward(s)	All

1. Summary

On 6th May 2009 the Office of the Surveillance Commissioner (OSC) undertook an onsite inspection of the Council's use of and compliance with the Regulation of Investigatory Powers Act 2000 (RIPA).

The inspector reviewed the Council's RIPA policy, interviewed the Borough Solicitor, visited the CCTV control centre and met with a group of Authorised Officers and provided informal feedback to the Borough Solicitor at the conclusion of the inspection. A formal report will be sent to the Council in due course.

2. Recommendations

1. That Standards Committee note this report.

3. Report Background

The Borough Council is empowered by RIPA to undertake covert surveillance and make use of covert human intelligence sources where there is reason to believe that an offence is being committed and that evidence obtained may enable the Council to prosecute.

Use of RIPA powers is strictly controlled by the Act itself, the related Code of Practice and Council's own policy on RIPA. Prior to the use of any RIPA power an application for authorisation must be made to one of the officers Authorised for the purpose by the Borough Solicitor and Monitoring Officer. Before authorising the activity the Authorised Officer is required to consider human rights issues such as whether the activity is appropriate and proportionate.

The Council has in the past used evidence obtained through authorised covert surveillance and successfully prosecuted cases of benefit fraud and fly tipping. However the Council has not used RIPA in the past two years, as alternative sources of evidence such as the National Data Matching Initiative and overt surveillance have negated the need for covert surveillance.

The OSC undertakes, irregular, inspections of all authorities and agencies empowered to use RIPA, the Council was inspected in 2005 and 2006. Following each inspection the OSC issued a report with recommendations which the Council implemented.

The May 2009 inspection consisted of an interview with the Borough Solicitor and Monitoring Officer, as the senior officer responsible for RIPA policy, a desk top review of Council's policy, a group discussion with past and present authorised officers and a visit to the Council CCTV control centre.

At the conclusion of the on-site part of the inspection the Borough Solicitor and Monitoring Officer received informal feedback. The informal feedback suggests that the OSC final report will recommend some minor amendments to Council's policy and praise for the Council's CCTV operations.

The Borough Solicitor and Monitoring Officer is in the process of implementing changes to the RIPA policy to reflect the changes suggested by the inspector. A copy of the amended policy will be brought to Standards Committee for comment as soon as possible.

OSC have not, as yet, indicated when the final report will be received.

4. Implications (including financial implications)

4.1 Resources and Risk

There are no financial implications arising from this report.

4.2 Legal

There are no legal implications related to this report.

4.3 Other Implications

There are no other implications arising from this report.

5. Background Papers

RIPA file held by Borough Solicitor and Monitoring Officer.

**Report Author and Title: David Bibey, Practice Manager,
Borough Solicitor's Department.**

Telephone and Email: 01604 838058 dbibey@northampton.gov.uk

Standards Committee

AGENDA STATUS: PUBLIC

Report Title	RIPA Consultation
Date of Meeting:	15 th June 2009
Directorate:	Borough Solicitor
Ward(s)	All

1. Summary

The Communities and Local Government have issued a consultation document seeking view on proposed changes to RIPA and the associated Codes of Practice.

The changes have in part been prompted by media reports of the use some authorities have made of RIPA in the past year.

A draft response has been drawn up, copy attached, on which committee's comments are requested.

2. Recommendations

1. That Standards Committee comment on the attached draft.

3. Report Background

The Communities and Local Government Department have issued a consultation document on RIPA and its associated Codes Of Practice following concerns that the powers to undertake covert surveillance and to engage covert human intelligence sources may have been misused by some authorities.

The consultation poses five questions.

1. Taking into account the reasons for requiring the use of covert investigatory techniques under RIPA set out for each public authority, should any of them nevertheless be removed from the RIPA framework?
2. If any public authorities should be removed from the RIPA framework, what, if any, alternative tools should they be given to enable them to do their jobs?
3. What more should we do to reduce bureaucracy for the police so they can use RIPA more easily to protect against criminals?
4. should the rank at which local authorities authorise the use of covert investigatory techniques be raised to senior executive?
5. should elected councillors be given a role in overseeing the way local authorities use covert investigatory techniques?
6. Are the government's other proposed changes in the Consolidating Orders appropriate?
7. Do the Codes Of Practice provide sufficient clarity on when it is necessary and proportionate to use techniques regulated by RIPA?

A draft response to these questions, copy attached, has been drafted by the Borough Solicitor.

As the use of RIPA is an ethical issue committee's comments on the draft are sought.

4. Implications (including financial implications)

4.1 Resources and Risk

There are no financial risks associated with this report but there may be should the consultation lead to significant changes in RIPA however these cannot be quantified at this time.

4.2 Legal

There are no legal implications associated with this report but there may be should the consultation lead to significant changes in RIPA.

4.3 Other Implications

There are no other implications associated with this report.

5. Background Papers

RIPA consultation document and file held by the Borough Solicitor.

Report Author and Title: David Bibey, Practice Manager, Borough Solicitor Department

Telephone and Email: 01604 838058 dbibey@northampton.gov.uk



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RIPA

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NBC has not used RIPA in the last two years however in response to concerns surrounding high profile cases earlier in the year, in which some authorities were accused of using RIPA unethically and without proper safeguards the Communities and Local Government department is undertaking a consultation exercise on suggested changes to the law and guidance.

Amongst the proposals are:

- Withdrawal of some RIPA powers from Council
- Reduction in paperwork for the Police
- Restricting authorisation for use of RIPA to only the most senior officer or officers in an authority

The Council is seeking the input of Standards

STANDARDS COMMITTEE AWAY DAY

The Chair of Standards and the Monitoring Officer have agreed the format for the Committee’s away day. The event will be an opportunity for the Committee to plan an ambitious programme for the year.

Speakers on the day will include the Chief Executive David Kennedy and the Leader of the Council Councillor Woods.

Tony Cooper
Home Office,
5th Floor Peel Building,
2 marsham Street,
London, SW1P 4DF

Our Ref: FF/nlj

Your Ref:

Contact:

Direct Line

E-mail:

Date: June 2009

Dear Sir

RIPA Consultation

Northampton Borough Council has considered the "Regulation of Investigative Powers Act 2000: Consolidating Orders and Codes of Practice" Consultation Document and takes the view that

1. The Council cannot comment on the inclusion in the RIPA framework of authorities and agencies other than local Authorities and the Police. The Council does not believe that Local Authorities and/or the police should be removed from the RIPA framework.
2. If any public authorities are removed from the RIPA framework they should be empowered to partner with an authority within the framework to undertake essential surveillance and/or intelligence gathering.
3. The Council makes no comment on this point as we do not have sufficient information to be able to form an informed view.
4. The Council would support an arrangement whereby Authorised officers below senior executive level are formally appointed by the Chief Legal Officer of the Authority annually where appointment depends on up to date training and an annual appraisal.
5. The Council believes that Local Authorities Standards Committees should be given a role in overseeing the way Local Authorities use covert investigating techniques.
6. In relation to the Government's other proposed changes, there were very few matters that were of concern to local authorities. However, the following comments are made about those proposed changes that do concern local authorities:

Department For Work and Pensions

It is proposed that covert technique of conducting and the use of Covert Human Intelligent Sources should be removed.

If the uses of Covert Human Intelligent Sources were to be removed it would result in making it more difficult to and take longer to obtaining information, therefore taking longer to bring forward any cases and preventing crime and disorder. An indirect result of this would be that any other types of fraud i.e. Housing Benefit or Council Tax Fraud will not be picked up and the accused could potentially be defrauding the local authority out of a huge amount of taxpayer's money.

Gambling Commission

The Gambling Commission works with and governs local authorities with regards to gambling, gaming, lotteries etc. As the local authorities are the one who work on a localised level, they are the ones that need to be made aware of any actions which go against the Gambling Objectives and they are the ones who will need to investigate these on a localised level.

Any authority to carry out covert investigative work requires authorisation from the Director of Intelligence. It may be more beneficial if authorisation was delegated down to a more localised level to allow the local authority to act quicker and be more efficient (should resources allow it).

Local Authorities

To ensure efficiency and expedience, any authorisation that may be required should be delegated to localised level, in order to prevent loss of time.

7. The Draft code is split into two sections, (a) Covert Surveillance and Property Interference; and (b) Covert Human Intelligence Sources.

Necessity and proportionality are discussed in both sections with reference to statutory grounds. The seriousness of intrusion needs to be balanced against the need for activity. So no activity should be considered if the sought for information could be reasonably obtained by less intrusive means.

Good examples would appear to be provided of common problems facing Local Authorities such as littering, leaving waste out for collection unduly early or dog-fouling, which could help with interpretation of certain provisions. The ability for Local Authorities to interpret necessity and proportionality in individual cases such as these would appear to be preferable to central control according to local public opinion.

Yours truly,

Standards Committee
15th June 2009

AGENDA STATUS: PUBLIC

Report Title	Standards Board - Publications update
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Date of Meeting:	15 th June 2009
Directorate:	Borough Solicitor
Ward(s)	All

1. Summary

Issue 43 of the Standards Board's "Bulletin" is attached and comment made on some of its points.

2. Recommendations

That members note the contents.

3. Report Background

The key points to note from the bulletin are:-

3.1 Further useful commentary is included on the definition of Official Capacity. Members should note that at present the 2007 code of conduct only applies to official capacity and still does not cover conduct of members at any time in their private capacity. It is understood however that as soon as the new code becomes operative the government's intention is that recent amendments to the legislation, which are not currently in force in England, will mean that private capacity will be included.

3.2 The Annual Return Questionnaire was filed online on 15th May 2009. Going forward, this enables the Standards Board to gain valuable feedback on our arrangements for promoting and supporting high standards of ethical conduct.

3.3 There is a report of the Leeds Conservative Councillors' Association LG Conference in February. The next Local Government Conferences is scheduled for 30 June - 2 July 2009.

3.4 Rossendale Borough Council won in the Standards and Ethics category at the LGC awards in 2009.

4. Implications (including financial implications)

4.1 Resources and Risk

There are none- apart from, perhaps, the resources needed to arrange training for members on any points arising.

4.2 Legal

No specific points to mention at this time

4.3 Other Implications

By keeping abreast of developments mentioned in publications such as these members will find it easier to perform their tasks on the various sub-committees, which are involved in the determination of member-conduct complaints.

5. Background Papers

None

Report Author and Title: Francis Fernandes, Borough Solicitor and Monitoring Officer

Telephone and Email: 837334 fferandes@horthampton.gov.uk

Guidance on Other Action

We have received a number of enquiries highlighting several issues about 'other action' since local assessment began in May 2008.

Consequently, we have produced further guidance on the topic in order to clarify our position on when other action is appropriate and what other action might constitute.

We know this is an issue many monitoring officers feel strongly about and we hope our guidance clarifies our position further. The guidance has been developed with help from monitoring officers. We are grateful to all the monitoring officers who attended our recent seminar on other action – held in Camden Town Hall on 16 March 2009 – for their valuable contribution.

The guidance discusses what other action is, what it can involve, when it is appropriate, and what to do if it isn't successful. It also addresses the role of the monitoring officer, adjournment of assessment committee meetings, and explains why other action closes the opportunity to investigate. We intend to publish this guidance on our website in May and we will notify all monitoring officers when it is available.

Application of the Code to private capacity

We have recently received a number of queries on whether or not the application of the 2007 Code of Conduct is still affected by the decision of Collins J. in *Ken Livingstone v Adjudication Panel for England* [2006] EWHC 2533 (Admin).

The 2006 ruling decided that Section 52 of the Local Government Act 2000 required members to comply with the Code in their official capacity only, and that it did not extend to their private conduct.

In issuing his judgement in the Livingstone case, Collins J invited Parliament to be explicit about whether it wanted private conduct to be covered by the members' Code. Parliament took this opportunity and passed the Local Government and Public Involvement in Health Act 2007.

Section 183(4) of the 2007 Act, removes the words "in performing his functions" from Section 52(1)(a) of the 2000 Act, to enable the Code to cover some conduct in a private capacity.

At present, Section 183(4) of the 2007 Act is only in force in Wales; so in England, the Code still does not cover members at any time in their private capacity. We understand that the government's intention is that these amendments will become effective at the same time as the new Code becomes operative.

The Livingstone case is also still relevant to gaining an understanding of official capacity. When drafting the 2007 Code, Parliament incorporated some of the judge's reasoning in the Livingstone case. Official capacity in the Code is construed as

- conducting the business of your authority or office, or
- acting, claiming to act, or giving the impression that you are acting as a representative of your authority.

So, it is our view that the reasoning in Livingstone is still relevant to a proper interpretation and understanding of official capacity, because it helps to interpret what is meant by the two phrases above that define official capacity.

Review of online monitoring system – an update

In February 2009, we conducted the third part of the Standards Board's online monitoring system review, and we promised those that participated that we would let you know the results. The review forms part of a programme of work to assess how well the new system is working.

We conducted an online survey with a random sample of monitoring officers, or those nominated to make the online submission. Once again, comments from respondents were positive about the online form.

There were several helpful suggestions made about how the form could be improved further. There were also suggestions offered on how we could improve the form user guide. All suggestions have been fed back to our internal development team. We would like to thank all those who participated.

For the fourth phase of the review, we will again be emailing out surveys to 50 randomly selected authorities (excluding those that have already participated in previous questionnaires) to hear about their experiences of the Quarter 4 submission. In addition to this, we will be surveying another sample about their experiences in completing the Standards Board's annual return form.

If you have any questions about this review or future reviews of the system, please contact Cara Afzal, Deputy Research and Monitoring Manager on 0161 817 5414 or email cara.afzal@standardsboard.gov.uk

Annual return arrives!

On 20 April we launched our online [annual return questionnaire](#).

While the focus of the quarterly return is to collect case related data, the annual return provides standards committees with the opportunity to tell us about their activities and arrangements for promoting and supporting high standards of ethical conduct.

Introduced via email to monitoring officers of principal authorities, it works in a similar way to the quarterly return. Monitoring officers log onto the form using a secure password and are then guided through a series of questions about the following topics:

- activities of standards committees
- the role of leaders in promoting high standards training
- communicating the complaints process and outcomes
- member-officer relations
- communicating the register of member interests
- officer conduct

The sections can be completed in any order and answers can be saved for editing at a later stage. We have built in this function as we appreciate that monitoring officers may not have all the required information to hand when they begin completing the return.

The information we collect from annual returns will be used to improve performance, champion the work of standards committees, and to ensure that we have an effective overview of local standards frameworks. In particular we will:

- Collect notable practice examples of standards committee activities which we can then disseminate. These activities and the local authorities that provide them will be showcased in our Annual Review document in a section about the local standards framework.
- Identify gaps in the local standards framework. An overview of the local standards framework will enable us to identify strengths and weaknesses of local arrangements. In turn, this will allow us to mitigate some risks by prompting where we should be producing guidance or seeking policy changes in response to emerging national trends. It will also help us to identify those authorities who could be experiencing difficulties and may require support and advice.

The annual return is a larger questionnaire than the quarterly, so we have allocated a four-week submission window during which standards committees can submit their return. Feedback from our pilot of the return indicates that it should take around two hours to complete in full. The deadline for submitting completed returns is Friday 15 May.

Conservative local government conference

On 27 and 28 February, the Standards Board exhibited at the Conservative Councillors' Association Local Government Conference in Leeds. The conference was attended by council leaders, executive members, councillors and members of the shadow cabinet, as well as key stakeholders in local government, candidates and party activists.

The Conservative representative on our Board, Councillor Sir Ron Watson CBE, and policy advisers from the Standards Board were on hand to answer questions, and get feedback on our work and the work of local standards committees. Over 40 delegates visited our exhibition stand to ask questions, raise concerns, and to share information about how the assessment of complaints is working locally.

The Conservative Party published their Green Paper Control Shift shortly before the conference, so we were interested to hear delegates' views about the local standards framework. The vast majority of delegates who visited our exhibition stand supported the need for the Code of Conduct and for the Standards Board to continue to provide the national and independent oversight. We spoke to councillors and standards committee members from authorities across the country who told us that local arrangements were working well. Another popular comment made to us at the conference was support for an officers' code.

We will also be exhibiting at the Local Government Association (LGA) Annual Conference and Exhibition, 30 June – 2 July 2009, Liberal Democrats Annual Conference, 19 - 23 September 2009, Labour Annual Conference, 27 September – 1 October 2009 and the Conservative Annual Conference, 5 – 8 October 2009.

Rossendale council wins Standards and Ethics award

We are pleased to announce that Rossendale Borough Council won in the Standards and Ethics category at the LGC Awards 2009.

The Standards Board supports the award and we were impressed by the way Rossendale's standards agenda has made a real difference. A strong, visible standards campaign, with the strapline 'Serious About Standards', helped Rossendale to achieve a substantially improved rating in its corporate assessment. It has also seen resident satisfaction improve by 8% and an increased turn out at local elections.

Dr Robert Chilton, Chairman of the Standards Board, said: "We were very impressed with Rossendale Council's commitment to high ethical standards. The award gives credit to their hard work and innovation and for tackling some difficult challenges to strengthen public confidence in local democracy."

For examples of good practice and interviews from all six authorities, please click [here](#).