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To: All Members of the Standards
Committee: Cllr T Jones (Chair); Cllrs
Green, Hanley, Maskell, Skeats and S
Stainthorp; Angie Lee and Frank Stroud.
c.c. Standing Substitutes - Cllrs Grieve,
Cumpsty, Hendry and R Stainthorp.

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10 July 2006

Your contact is: Helen French - Committee Services

NOTICE OF MEETING - STANDARDS COMMITTEE - 18 JULY 2006

A meeting of the Standards Committee will be held on Tuesday 18 July 2006 at 6.30pm in Committee Room 1, Civic Offices, Reading. The Agenda for the meeting is set out below.

AGENDA

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CIVIC CENTRE EMERGENCY EVACUATION: Please familiarise yourself with the emergency evacuation procedures, which are displayed inside the Council's meeting rooms. If an alarm sounds, leave by the nearest fire exit quickly and calmly and assemble at the Hexagon sign, at the start of Queen's Walk. You will be advised when it is safe to re-enter the building.

STANDARDS COMMITTEE MINUTES - 20 OCTOBER 2005

Present: Councillor T Jones (Chair);
Councillors Borgars, Green, Hanley and Maskell; Mrs A Lee and Mr F Stroud.

Also in attendance: Councillor McKenzie and Mrs I Ballsdon

Apologies:

Councillors Skeats and Wilson.

RESOLVED ITEMS

3. MINUTES

The Minutes of the meeting held on 11 August 2005 were confirmed as a correct record and signed by the Chair.

4. MEMBERS' INTERESTS

Prior to the consideration of the Item 5 below, members of the Committee were invited to consider whether they had an interest in the matter.

Councillor Borgars declared a personal interest in the Item on the basis that she was acquainted with some of the people who had given evidence.

5. COMPLAINT AGAINST COUNCILLOR MCKENZIE - PRE-HEARING

(a) Request for Deferral

The Chair reported that the Monitoring Officer had received a request that afternoon from Councillor Wilson for Item 5 to be deferred, as neither he nor his substitute were able to attend the meeting. The Monitoring Officer advised the Committee that the quorum for its meetings was three Councillors and one independent member. There was no requirement that Members of all political Parties should be present to enable the meeting to proceed. However, there was a requirement that the process for consideration of the complaint be completed by 13 December 2005, and a deferral at this stage could make this more difficult to achieve. Having considered this advice, all members present indicated that they were happy to consider the matter at this meeting.

(b) Submission of Additional Information

The Monitoring Officer reported that on 19 October 2005, he had received additional information from Mrs Ballsdon with a request that this also be considered at the meeting. This information related to a separate complaint made by a third party on a separate occasion, which Mrs Ballsdon had presented as evidence of the inconsistency of Councillor McKenzie's behaviour and statements. The Investigating Officer, Mr R Penfold, stated that Mrs Ballsdon had referred to this matter during his

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investigation but had not presented the material at that time. Had she done so, he would have referred the material to the Monitoring Officer for separate consideration under the Local Investigation Procedure. All members present indicated that they were satisfied that the additional material was not relevant to their consideration of Item 5.

(c) Complaint - Pre-hearing

The Monitoring Officer submitted a report stating that, under the provisions of Section 6 of the Council's Procedure for Local Investigation of Referred Complaints, it was necessary to receive and consider the report of the Investigating Officer, Mr R Penfold, into a complaint made against Cllr McKenzie by Mrs I Ballsdon concerning an incident at the Wycliffe Baptist Church on Thursday 28 April 2005. This complaint had been made to the Standards Board for England in May 2005, and subsequently referred to him for local investigation by an Ethical Standards Officer in June 2005.

The Investigating Officer's report was attached at Appendix A and, in line with the Local Investigation Procedure, the Investigation Officer had shared this in draft form with both the complainant and the Councillor complained about. The witness statements and other supporting documentation referred to in the report had been circulated to Committee Members, and to the complainant and Councillor complained about, under separate and confidential cover.

The Procedure for the Local Investigation of Referred Complaints was attached at Appendix B.

The Complaint

The report stated that the Monitoring Officer had first become aware of the complaint, to the Standards Board, in a letter from the Board's Referral Case Manager, dated 18 May 2005. The letter had enclosed a notification that the complaint had been referred to an Ethical Standards Officer [ESO], and the notification had described Mrs Ballsdon's complaint in the following terms:

"... that at a public meeting convened in her church to debate the matter [Kings Meadow public baths] Councillor McKenzie sat inappropriately close to her, and was insulting and intimidating towards her, calling her a liar in front of people in the vicinity ... when the complainant tried to move away, Councillor McKenzie's inappropriate behaviour continued, reducing her to tears, leaning his legs against hers and imposing himself directly in front of her face. The complainant ... felt obliged to put her arm up to defend herself and told him to 'get away'."

The incident had in fact taken place at the political hustings held at Wycliffe Baptist Church, at Cemetery Junction. The hustings were being held as part of the general election campaign and had not been organised by the Council.

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The actual complaint had been referred to him by the ESO, for local investigation, by letter dated 6 June 2005, and was set out more fully by Mr Penfold in paragraph 1.1 of his investigation report.

The Investigation Process

The report stated that the complainant had also made the same complaint directly to the Council, as a parallel process. Unaware of the concurrent complaint to the Standards Board, he had responded to the complainant on 18 May 2005 in the following terms:

"I note that your complaint concerns events on Thursday, 28 April 2005, at the Reading East Parliamentary Candidate's Hustings at Wycliffe Church at Cemetery Junction. I would observe that this was not a Borough Council event, and that Richard McKenzie was not attending it as a Councillor. I understand that he is an active member of the Church's congregation.

I have also read the report on the incident by Linda Fort in the Evening Post on 3 May 2005.

Given that the incident about which you complain took place at a political meeting, organised independently of the Council, and that Richard McKenzie was not attending it as a Councillor, I cannot see that I have any locus, as the Council's Monitoring Officer, to investigate it. I have, however, drawn your complaint to the attention of Richard McKenzie so that he might be aware of your comments, and to give him an opportunity to respond to you if he wishes to do so."

On receiving the request to conduct a local investigation, he had contacted the ESO to explain the above, and to ask whether in the circumstances she was happy for the complaint to proceed as a local investigation. The ESO had confirmed that she was.

He had written to both Councillor McKenzie and Mrs Ballsdon on 6 June 2005, to explain that he had received the complaint for local investigation from the ESO, and had set out the process for the local investigation in the following terms:

"The local investigation will investigate the complaint that you have made to the Standards Board, and which the Standards Board has referred to me for local investigation, ie the incident that you have described at the political hustings at Wycliffe Baptist Church on 28 April 2005, and no other incident or allegations.

The local investigation procedure involves investigating alleged failures by Councillors to comply with the Member Code of Conduct. I also enclose a copy of the Council's Code of Conduct for Members. Neither you nor the Standards Board have specified which paragraph(s) of the Code that

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Richard McKenzie's alleged action has breached. However, the Code states that it only has effect in relation to the activities of a Councillor undertaken in his/her official capacity, except in the two circumstances set out in paragraphs 4 and 5(a), which are (my italics):

(4) A member must not in his/her official capacity, *or any other circumstance*, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or authority into disrepute

(5)(a) A member must not in his/her official capacity, *or any other circumstance*, use his/her position as a member improperly to confer on or to secure for him/herself or any other person, an advantage.

I have asked Mr Penfold, as his first step, to establish the basis of Richard McKenzie's attendance at the political hustings, and whether it was in an official capacity as a Councillor (which is different from his activities as a party member). His second step will be to establish whether the allegations that you have made about Richard McKenzie on the day took place in the way you have described.

If Richard McKenzie's attendance at the political hustings was not in an official capacity as a Councillor, then Mr Penfold's investigation will be limited to considering whether any action by Richard McKenzie at the public meeting involved a breach of the code of conduct under paragraphs (4) or (5)(a) above."

The process and timetable followed by Mr Penfold to undertake his investigation was set out in Section 4 of his report. Mr Penfold had interviewed both Mrs Ballsdon and Councillor McKenzie, together with five witnesses, identified by either party. He had also received written statements from two further persons.

In line with Section 4(f)(iii) of the Local Investigation Procedure, Mr Penfold had made a written note of each interview, which he had invited the person interviewed to sign and return as a correct record. As indicated above, Mr Penfold had been unable to interview two witnesses in person. In one case the witness had provided a written statement which Mr Penfold had then discussed with the witness by telephone. In the other case, a facsimile written statement from the witness had been provided by the complainant, and Mr Penfold had communicated by e-mail with the witness, who had been out of the country.

In line with Section 5 of the Local Investigation Procedure, Mr Penfield had sent his draft report, in confidence, to Councillor McKenzie and Mrs Ballsdon, for their comments on 23 August 2005, and had received comments back from both of them. Mr Penfold had also sent copies of Part 6 of his draft report ("findings") to the witnesses whose evidence he had cited in the draft report, one of whom had replied with comments. Mr Penfold had taken these comments into consideration when drafting his final report.

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Mr Penfold had sent the final report to the Monitoring Officer on 13 September 2005. In line with Section 6(b) of the Local Investigation Procedure, the Monitoring Officer had sent a copy of the final report to Councillor McKenzie on 20 September 2005, under cover of a memo. which explained that he would now be referring the report to the Standards Committee for consideration.

In line with Section 6(c) of the Local Investigation Procedure, the Monitoring Officer had sent copies of the final report, and the accompanying witness statements (under confidential cover), to the ESO, and to the complainant, at the same time as the Standards Committee's agenda had been sent out.

The Code of Conduct

The report re-iterated that any investigation commissioned by the Standards Board had to concern an alleged breach of the Code of Conduct for Members. Under Section 1(2), the Code of Conduct did not have effect in relation to the activities of a Member undertaken other than in an official capacity, except in the following two circumstances:

Section (4) - A member must not in his/her official capacity, *or any other circumstance*, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or authority into disrepute

Section (5)(a) - A member must not in his/her official capacity, *or any other circumstance*, use his/her position as a member improperly to confer on or to secure for him/herself or any other person, an advantage.

In investigating this complaint, therefore, Mr Penfold had had to ask himself three questions:

- (1) Was Richard McKenzie attending the public meeting on 28 April 2005 as a Councillor?

Mr Penfold had found that he wasn't. The meeting had not been organised by or under the aegis of the Council. It had been held at Richard McKenzie's church, where he was an active member of the congregation. He had not attended the meeting in his role as a Councillor.

This analysis coincided with the Monitoring Officer's initial evaluation of the complaint, as explained to Mrs Ballsdon in his letter to her of 18 May 2005.

- (2) Did Councillor McKenzie's actions on 28 April 2005, as complained about by Mrs Ballsdon, involve him using his official position as a Councillor improperly to gain an advantage for himself or any other person (i.e. a breach of paragraph 5(a) of the Code)?

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Mr Penfold had put this question to Mrs Ballsdon, who had suggested that by sitting next to her, Councillor McKenzie had been seeking to prevent her speaking at the meeting, and thus gain political advantage, as a political tactic employed by Councillor McKenzie's political party. Mr Penfold had not found any evidence to suggest that this was the case.

- (3) Could Councillor McKenzie's actions on 28 April 2005 be seen as bringing his office as Councillor or the authority into disrepute (i.e. a breach of paragraph 4 of the Code)?

This has been the focus of Mr Penfold's investigation into the complaint made by Mrs Ballsdon. There was agreement about a number of the elements of the complaint:

- Councillor McKenzie had sat next to Mrs Ballsdon in Wycliffe Baptist Church, and had initiated the conversation;
- A number of people present, including three of the witnesses, had intervened;
- Mrs Ballsdon had indicated to Councillor McKenzie that he should move away from her, which he had declined to do as a member of the host church;
- Mrs Ballsdon had stood up and moved to the end of the row, and two other people (both witnesses) had come to sit between them;
- Mrs Ballsdon had been approached by a press reporter (also a witness) who had asked her how she was, at which stage Mrs Ballsdon was in tears;
- Councillor McKenzie had approached both Mrs Ballsdon and the reporter and spoken to the reporter.

There were also some significant areas of disagreement:

- The nature of the conversation between Councillor McKenzie and Mrs Ballsdon, whether it was heated, and whether Councillor McKenzie had called her a liar;
- The circumstances by which Mrs Ballsdon had asked Councillor McKenzie to move, and by which she then moved to the end of the row;
- What had happened when Mrs Ballsdon had moved to the end of the row, and the circumstances by which the press reporter had become aware of the incident;

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- What had happened when Councillor McKenzie had joined in the conversation with the press reporter, and whether Councillor McKenzie's actions at this stage might have been physically intimidating to Mrs Ballsdon.

Mr Penfold had reached the following conclusions:

"There is no doubt that Mrs Ballsdon and Councillor McKenzie had a discussion which became heated, although Councillor McKenzie stated to me that he spoke in a mild and calming manner throughout the exchange. Certainly, few of those in the church at the time were aware of the incident until Mrs Ballsdon stood and, by her subsequent actions, drew attention to it.

By his physique, Councillor McKenzie might indeed appear intimidating, a view endorsed by one of the female witnesses. There appears, however, to have been no threatening physical contact between Mrs Ballsdon and Councillor McKenzie, even during the discussion with Ms Fort.

I have no doubt that Councillor McKenzie's conduct was not exemplary on the night in question. He should, for instance, have shown greater readiness to move when others, as well as Mrs Ballsdon, asked him to do so. With the benefit of hindsight, Councillor McKenzie was probably ill advised to have chosen to sit next to Mrs Ballsdon in the first instance."

In the light of this analysis, Mr Penfold had reached the following finding:

"However, in all the circumstances, and on the basis of the evidence presented to me by the witnesses, I do not believe that Councillor McKenzie has breached paragraph 4 (a) of the Code of Conduct."

The report stated that, in considering the Investigation Report, the Committee needed to be aware of the advice issued by the Standards Board in its booklet, "Local Investigations - Guidance to Monitoring Officers and Standards Committees" (November 2004). This stated that if the report found that there had not been a breach of the Code of Conduct, the role of the Standards Committee should be as follows:

"... the standards committee should simply consider the report; it should not seek to interview witnesses or take representations from the parties. The standards committee's role at this stage is to decide whether, based on the facts set out in the report, it agrees with [the report's] finding or believes there is a case to answer"

In the light of the Investigating Officer's finding that the actions complained about on 28 April 2005 did not amount to a breach of the Code of Conduct, and in line with

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Section 6(d) of the Local Investigation Procedure, the Committee must make one of two findings:

- (1) That it accepted the Investigating Officer's finding that the Councillor had not failed to comply with the Code of Conduct for Members as set out in the allegation; OR
- (2) That the matter should be considered at a hearing of the Standards Committee, conducted in accordance with the authority's adopted Procedure for Local Determination Hearings.

If the Committee found as in (2) above, then he would call a Hearing Sub-Committee in line with Sections 11-17 of the Local Determination Procedure, to hear the case.

Members of the Committee questioned the Investigating Officer and the Monitoring Officer on aspects of the investigation and the Code of Conduct, and addressed the three questions highlighted above.

Resolved -

- (1) That the Investigating Officer's finding that Councillor McKenzie had not failed to comply with the Code of Conduct for Members as set out in the allegation, be accepted;
- (2) That the Chief Executive and the Monitoring Officer be requested to write to all Members of the Council without delay, reminding them of their responsibilities under the Code of Conduct and pointing out that it might not always be easy for other people, including members of the public and political activists, to distinguish when councillors were or were not acting as councillors or were on Council business.

(The meeting commenced at 6.10pm and closed at 7.09pm).

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READING BOROUGH COUNCIL
REPORT BY MONITORING OFFICER

TO:	STANDARDS COMMITTEE		
DATE:	18 JULY 2006	AGENDA ITEM:	2
TITLE:	TERMS OF REFERENCE AND ANNUAL REPORT		
LEAD COUNCILLOR:	CLLR T JONES	PORTFOLIO:	
SERVICE:	CENTRAL ADMINISTRATION	WARDS:	BOROUGH-WIDE
LEAD OFFICER:	JOHN PAINTER	TEL:	0118 939 0797 / 2797
JOB TITLE:	HEAD OF CENTRAL ADMINISTRATION	E-MAIL:	John.Painter@reading.gov.uk

1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To set out the Committee's terms of reference and constitutional role for the Municipal Year 2006/07, to update the Committee on developments and complaints during the 2005/06 Municipal Year, and to look forward to the current Municipal Year.
- 1.2 The following excerpts from the Council's constitution and other documents are attached:
- A: Article 9 - The Standards Committee
 - B: Part 5 - Local Determination
 - C: Part 5 - Local Investigation of Referred Complaints
 - D: Part 5 - Code of Conduct for Members
 - E: Members' Standards of Conduct - draft Internal Audit report June 2006 (to be circulated separately)
 - F: List of Gifts / Hospitality Registered by Councillors 2005/06
- 1.3 Over the past Municipal Year there have been no findings of breaches of the Code of Conduct by Members of the Council.

2. RECOMMENDED ACTION

- 2.1 That the Committee's terms of reference and constitutional role be noted;
- 2.2 That the Internal Audit report on Members' Standards of Conduct be noted, and the Committee invited to comment on the recommendation that Members should complete all parts of the form for the registration of financial interests, including nil returns;

2.3 That the list of gifts and hospitality registered by Members in the financial year 2005/06 be received, and the following recommendations made in the Internal Audit report be endorsed and implemented by the Monitoring Officer:

- a) all offers of any gift or hospitality must be declared and recorded, even if refused;
- b) the value of the gifts and hospitality should be declared;
- c) declarations of offers and accepted gifts and hospitality must be declared within 28 days of receipt.

3. POLICY CONTEXT

- 3.1 Standards and conduct are a key theme in the Modernisation agenda for local government, and are specifically addressed by Part III of the Local Government Act 2000. At the heart of the standards regime is the National Code of Conduct for Members, which the Council adopted in April 2002.
- 3.2 Responsibility for enforcing compliance with the code is split between, at the national level, the Standards Board for England and the Ethical Standards Officers (ESOs) appointed by it to investigate all allegations made to it, and the National Adjudication Board, which hears those allegations where the Standards Board believes there is a case to answer; and at the local level the Standards Committees and Monitoring Officers (MOs) of individual authorities.
- 3.3 In 2003, the Government introduced Regulations which extended to Standards Committees the ability to adjudicate on certain allegations investigated by Ethical Standards Officers. As a result the Committee, on 10 February 2004, considered and agreed a new procedure for local hearings, under the provisions of the Local Authorities Code of Conduct (Local Determination) Regulation 2003/4. These regulations apply to situations where the ESO has investigated a complaint, and then submits his/her report to the Council for consideration.
- 3.4 In 2004 the Government (ODPM) introduced new Regulations which allow the ESO to hand over the investigation of minor breaches of the Code of Conduct to the Council's Monitoring Officer (MO). The ODPM saw this as completing the standards regime in England. During 2005 the Committee considered and endorsed a procedure for the local investigation of such referred complaints, subject to amendments, which was adopted by full Council at the Annual Meeting on 18 May 2005.
- 3.5 During 2005 the Standards Board for England undertook a review of the national Code of Conduct for Members, an exercise which it called "A Code for the Future". This Committee submitted comments to the Board in June 2005. The Board issued its findings and recommendations for improving the Code in September 2005. The Government (ODPM) issued a consultation paper in December 2005. More details are given in para. 5 below.

4. ROLE OF STANDARDS COMMITTEE AND TERMS OF REFERENCE

- 4.1 The terms of reference and constitutional and operational arrangements for the Committee are set out in Appendix A. It is important to note that the membership of the committee includes both Councillors and independent Members, and that the independent Members must make up one quarter of the committee's membership.
- 4.2 The Committee's procedure for considering cases referred to it by the Standards Board for local determination is attached at Appendix B. In such cases the Committee will set up a sub-committee to hear and determine the case, which must be chaired by an independent Member.
- 4.3 The Committee's procedure for investigating complaints referred to the Monitoring Officer by an ESO for local investigation is attached at Appendix C. In such cases the result of the investigation will be reported to the Committee which will meet to consider whether or not a hearing should be held. If a hearing is held then the Local Determination procedure will be followed.
- 4.3 In investigating and determining cases, the test that must be applied by the Standards Board and the National Adjudication Panel, and by the Committee, is whether there has been a breach of the Code of Conduct. The Council's Code of Conduct for Members, which is based on the National Code, is attached at Appendix D.
5. "A CODE FOR THE FUTURE"
- 5.1 In February 2005, the Standards Board for England initiated a national review of the Code of Conduct for Members, to which the Committee responded on 18 June 2005.
- 5.2 The Committee held an informal meeting on 28 February 2006 to discuss two specific matters, one of which was the ODPM consultation paper setting out the Government's proposals (the other matter was training - see 8.1 below). Both the Standards Board and the ODPM have proposed a significant change of emphasis; the key features of the Government's consultation paper are as follows:
- Local Monitoring Officers and Standards Committees to be responsible for investigating and determining most cases, with the Standards Board adopting a more strategic and advisory role;
 - The Code of Conduct to be modified in a number of positive ways
 - Local Standards Committees to be required to be chaired by an independent Member, but may continue to have a majority of members as Councillors
 - Proposed changes to the conduct regime for local government employees, including :
 - Issuing an employee's code of conduct
 - Retaining politically restrictive posts, but local Standards Committees to adjudicate on disputes
 - Revising the rates paid to Political Assistants
- 5.3 Most of these changes will require primary legislation, and will not be implemented until 2008 at the earliest.

5.4 Both the Standards Board and the Government consultation paper have proposed changes to the Member Code of Conduct. The Standards Board made the following recommendations:

- The Code should be simpler
- The rules around personal and prejudicial interests should be clearer, with a reduction in the number of personal interests which need to be declared, and greater local discretion to grant dispensations
- The rules on prejudicial interests should be changed to allow Members to act as community advocates on behalf of their own communities
- Members should be able to disclose confidential information which is in the public interest
- Members' private lives should not be subject to the Code except where a Member's behaviour outside official duties damages the reputation of local government - which should be restricted to unlawful activities
- The Code should have specific provisions against bullying
- The duty to report all breaches of the Code should be abolished, and vexatious complaints discouraged
- The 10 principles of public life should be on the face of the Code.

5.5 The Government's response, as set out in the December 2005 consultation paper, was that amendments to the Code should be made along the lines suggested by the Board, including:

- Making the Code clearer and simpler
- Maintaining a rigorous approach to the identification of serious misconduct
- Amending the regime for declaring interests and speaking at Council meetings, particularly for Members who serve on other public bodies
- Making changes to the arrangements for determining whether conduct in private life should fall within the ambit of the Code
- Amending the rules on reporting of allegations by Members to reduce the number of vexatious complaints

5.6 The consultation paper also talked about making judicious relaxations in certain areas, in particular to support Councillors' advocacy role for their constituents and the public bodies on which they serve; and to provide a clearer focus on issues that really matter. It accepted the Board's recommendations concerning confidential information, and bullying. It stated its intention to clarify the intention of the code in respect of unlawful discrimination.

5.7 Committee members, at the meeting on 28 February 2006, welcomed the following anticipated changes to the Code:

- those relating to misconduct in a Councillor's private life, which would not now fall within the Code, unless the misconduct was illegal;
- to the rules on the reporting of allegations by members, to reduce the number of vexatious complaints;
- to the constraints of the Code on councillors' advocacy role and the introduction of a third category of councillor interest - "civic interest";

- provisions to guard against bullying by Councillors.
- 5.8 The Committee members also discussed the impact, from 2008, of greater local investigation and determination, in particular in terms of:
- officer capacity to conduct investigations
 - Member capacity to hear cases
 - The potential for conflicts of interest arising from the various roles of the Monitoring Officer
- 5.9 The Committee members suggested that options for joint working arrangements between the Monitoring Officers and their staffs of the six Berkshire authorities should be considered. They also requested the Group Leaders and Chief Executive to consider broadening the base of the Committee to help maintain continuity, in the light of the likely increase in the Committee's workload from 2008.

Committee Membership

- 5.10 With regard to the Committee's membership, there is no limit to the number of independent Members that can be on the Committee, with a minimum of one quarter. The following constraints, however, apply to independent members:
- Must not have been a member or employee of the Council within five years of the date of appointment
 - Must not be a relative or close friend of a Member or employee of the Council
- 5.11 In addition, independent Members must have filled in an application for the position, following an advertisement placed in at least one local newspaper, and must have been approved by the majority of members of the Committee. The Standards Board suggest that independent Members should:
- Be familiar with ethical dilemmas
 - Have experience with committee work
 - Have questioning skills
 - Be assertive
 - Be independent of any political party, and local government
- 5.12 The advertisement may also be placed in other places, such as places of worship, adult learning or libraries. The authority may also approach people directly to draw their attention to the advertisement, but every candidate must make a formal application.
6. INTERESTS
- 6.1 There are at present two interests that Members must declare at meetings: personal interests and prejudicial interests. To have a prejudicial interest the Member must first have a personal interest. Following the *Richardson v North Yorkshire* judgment, a Member with both a personal AND prejudicial interest must declare both and leave the meeting room at which the matter in question is being discussed.

6.2 In November 2004, the Standards Board issued advice on the position of Members who were also Members of other authorities (“dual-hatted Members”) or of lobby or interest groups, *“Lobby groups, dual-hatted members and the Code of Conduct”*. I sent copies of this booklet to all Councillors in November 2004, and again at the start of the current Municipal Year (5 May 2006). The key messages are as follows:

- 1) A Member with a personal interest in a matter must declare this at any meeting at which the matter is being discussed, but may stay and vote on the matter
- 2) A Member with a personal AND prejudicial interest in a matter must declare this and leave any meeting at which it is being discussed, even if s/he is only attending in a personal capacity.
- 3) Whilst each case should be treated on its individual merits, as a general presumption a Member who is also a member of a lobbying or campaigning body, an outside body, school governing body, partnership and/or another organisation should declare a personal AND prejudicial interest, and should leave the meeting, when any of the following are being discussed where the decision will have a direct impact on that body or organisation:
 - Planning application or enforcement
 - Licences
 - Funding or grant-aid

6.3 During 2005/06 the position of Members in relation to the new Licensing Sub-Committees set up under the Licensing Act 2003 gave rise to a number of specific issues relating interests, where the Code of Conduct did not sit easily alongside the Regulations supporting the Licensing Act 2003. Consequently in August 2005 the Head of Legal Services and I issued advice specifically on Councillors’ interests on applications being considered by these Sub-Committees. The Chief Committee Administrator has subsequently developed procedural guidance notes for Councillors and officers attending meetings of Sub-Committees set up under the Licensing Act 2003, to which the guidance on interests is appended. This has been issued to all Councillors serving on Licensing Committees in the new Municipal Year.

7. COMPLAINTS

7.1 Complaints to Standards Board

7.1.1 I referred in my annual report to the Committee in August 2005, to one outstanding complaint to the Standards Board which had been referred to me for Local Investigation. This complaint was by a member of the public (but now a Councillor) and concerned comments alleged to have been made by Councillor McKenzie at a political hustings meeting held during the 2005 general election campaign, which Councillor McKenzie was not attending as a Councillor. I appointed Roger Penfold, the Corporate Projects Manager, to be the local investigator. He completed his investigation in September 2005, in line with the

local investigation procedure (Appendix C). The Standards Committee met on 20 October 2005 for a pre-hearing meeting, where it accepted Mr Penfold's finding that Councillor McKenzie had not failed to comply with the Code of Conduct, in that he had not acted in a way which breached either Section 4 or Section 5(a) of the Code (which both concern the activities of Councillors outside their official capacity, in their private lives). There was therefore no need to convene a hearing sub-committee.

7.1.2 The Committee also resolved that the Chief Executive and I should write to all Councillors reminding them of their responsibilities under the Code of Conduct and pointing out that it might not always be easy for other people, including members of the public and political activists, to distinguish when Councillors were or were not acting as Councillors or were on Council business. This memorandum, under the heading, "Bringing the Authority into Disrepute", was sent to all Councillors on 21 October 2005.

7.1.3 In addition, during the Municipal Year 2005/06, the Standards Board received three complaints about Reading Councillors, all of which it decided not to pursue to investigation. These were:

- A complaint by a former MP alleging that the Deputy Leader had made personal and malicious remarks about her to the press
- A complaint by a Green Party candidate in the 2006 local elections, alleging that a Lead Councillor had breached the Code in a number of respects by writing to him to ask him to clarify his and his party's position in relation to animal rights extremism
- A complaint by a Councillor alleging that a Lead Councillor had made inaccurate statements to the Council and press, and had attempted to discredit a local MP, in relation to CRB checks

7.2 Other Complaints

7.2.1 During the Municipal Year 2004/05 I investigated three complaints about Members which were referred to me as Monitoring Officer for consideration, as follows:

- Two separate complaints by members of the public concerning the chairing and processes of a Licensing Sub-Committee meeting
- A complaint from a member of the public concerning the inconsistency of comments made by a Councillor serving on the Planning Applications Committee about a planning application and the subsequent residential development, both at the Committee meetings considering the application, and subsequently in public.

7.3 Breaches of Local Codes of Conduct and Protocols

7.3.1 As mentioned above, during the past Municipal Year the Head of Legal Services and I produced a guidance note on Licensing interests, in particular in connection with applications for licensing extensions being heard under the provisions of the Licensing Act 2003. The interpretation of the new Licensing Regulations, issued

under the 2003 Act, initially caused some confusion, which was reflected in part in the two complaints from members of the public referred to in 7.2.1 above.

- 7.3.2 In advance of the 2005 general election I issued two briefing notes on publicity and the election, the first concerning parliamentary candidates, in particular where they were also Councillors; and the second concerning the election purdah period. Following the election I issued updated Guidelines on Working with Reading's MPs, in November 2005, which have now been incorporated into the Council's constitution.
- 7.3.3 In advance of the 2006 local elections I re-issued to all Councillors the guidance on publicity and local elections which I, and my predecessor Dick Taylor, had offered at previous local elections, most recently in 2004. I am now in the process of consolidating all of the guidance offered on publicity and elections into one composite protocol, for inclusion into the Council's constitution.
- 7.3.4 Finally, again following this year's local elections, I am also in the process of reviewing the constitutional Protocol on Member / Officer Relations, in particular to address issues arising from the fact that four wards now have cross-party representation.

8. OPERATIONAL ISSUES

8.1 Training

- 8.1.1 As in previous years, the induction programme for new Councillors elected in May 2006 included a presentation from me on Conduct and Standards. This was based on a training session that I held for all Councillors in the autumn of 2005, which was attended by 13 Councillors, from all parties. The training session and presentation focused on:
- Code of Conduct
 - Interests
 - Local Codes
 - Standards Board and Standards Committee
- 8.1.2 In addition, on 23 January 2006 I arranged a full-day Standards Committee Training session in the Kennet Room, run by Peter Keith-Lucas, the Local Government Partner of Bevan Brittan, and based on the training course offered by him nationally. This was attended by four Members from the Reading Standards Committee, along with Members from the Committees of other Berkshire authorities, and the Royal Berkshire Fire Authority, and involved officers. The session was centred on a case study hearing, with participants taking part in role-play, and supported by detailed paperwork.
- 8.1.3 The Committee reviewed the training session at its informal meeting held on 28 February 2006, at which the following points were made:

- Generally, this was a good piece of training, although the trainer had tended to be too anecdotal, leading to him running out of time at the end of the session;
- The script for the mock hearing had been good and made members think of the potential issues;
- Role-play was not for everyone;
- The question of substitutes on Standards Committees;
- It would be useful for any further training arranged to have a Reading focus.

8.1.4 The informal meeting suggested that I should produce a local case study for Members in the new Municipal Year, as a further piece of Member training, but not including role-play.

8.2 Internal Audit Report

8.2.1 The Council's systems for control and supporting procedures to ensure compliance with the Code of Conduct have been reviewed by the Internal Audit service as part of a more general audit of resources which will feed into the Corporate Governance part of the authority's CPA assessment. The Audit report is circulated separately at Appendix E. It found that strong controls were in place. It recommended two advisory controls, as follows:

- 1) Completion of Register of Financial Interests by newly-elected Councillors
 - a) Where not done by 28 days of election, the Monitoring Officer to write formally to the Member, requesting compliance
 - b) All Members to complete all parts of the form, including those where they have no interest, and the Monitoring Officer to return all forms where any questions are unanswered.

- 2) Register of Gifts and Hospitality

The Monitoring Officer should formally remind all Members that:

 - a) All offers of any gift or hospitality must be declared and registered, even if refused
 - b) The value of all gifts and hospitality received should be declared
 - c) Declarations of offers and accepted gifts and hospitality must be declared within 28 days of receipt.

8.2.2 I intend to action 1(a) and 2. I would welcome the Committee's views on 1(b).

8.3 Gifts and Hospitality

8.3.1 The Register of Gifts and Hospitality offered to Councillors in the financial year 2005/06 is attached at Appendix F. Under para. 17 of the Code of Conduct, Members must give me notification of all gifts and hospitality with a value of over £25. For 2006/07 we have added an additional column showing the value of the gift.

6. CONTRIBUTION TO STRATEGIC AIMS

6.1 To support the participation of Reading people in local democracy.

7. COMMUNITY ENGAGEMENT AND INFORMATION

- 7.1 During 2005, the Standards Board ran a five month national consultation on the Code of Conduct, to which the Committee responded on 17 June 2005.
- 7.2 The Committee meeting held on 20 October 2005 as the pre-hearing of the findings of the local investigation into the complaint about Cllr McKenzie was held in public, as would have been any hearing sub-committee.

8. LEGAL IMPLICATIONS

- 8.1 Part III of the Local Government Act 2000 sets out the legal framework for conduct of local government Members and officers. The Government has implemented this framework through the issue of Regulations under Section 66 of the Act, including the Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004, which it sees as completing the standards regime for Council Members.
- 8.2 The standards regime applies to voting Members of Council and Cabinet Committees, including both Councillors and non-elected Members (such as the independent Members of this Committee).

9. FINANCIAL IMPLICATIONS

- 9.1 Subject of course to the number of allegations made against Members of the authority, local investigation and determination have generated and are generating additional work for the Monitoring Officer and any other officer who undertakes an investigation. In addition, the Standards Committee will be required to set up hearings to hear the individual allegations (if the MO believes that there is a case to answer), which will have associated costs of administrative support. Under the Council's scheme of Member Allowances the independent Members of the Panel may claim a daily allowance to attend these sub-committees, at a level to be determined by the MO.

10. BACKGROUND PAPERS

Attached

"A Code for the Future" - Standards Board consultation paper and leaflet
"Dual Hatted Members and Lobby Groups" - Standards Board guidance

Article 9 - The Standards Committee

9.1 Standards Committee

The Council meeting will establish a Standards Committee.

9.2 Composition

(a) Political Balance

Standards Committees do not have to comply with the political balance rules in section 15 of the 1989 Act.

(b) Membership

The Standards Committee will be composed of:

- six Councillors, subject to each registered political group on the Council having an entitlement to at least one seat; and two persons who are not a Councillor or an officer of the Council or any other relevant authority as defined in the Local Government Act 2000 and who are appointed in accordance with that Act and the Relevant Authorities (Standards Committee) Regulations 2001
- each political group may nominate substitute members and those Councillors may attend in the place of appointed Councillors provided that they have received training similar to that received by members of the Committee
- no more than one member of the Cabinet; and the Leader may not be a member of the Standards Committee

(c) Independent Members

Independent members will be entitled to vote at meetings;

(d) Chairing the Committee

A member of the Cabinet may not chair the Committee.

(e) Quorum

The quorum of the Standards Committee shall be three Councillors, and one independent member who must be present throughout the meeting of the Committee.

(e) Voting

Decisions by the Standards Committee shall be reached by a simple majority vote but any two Members of the Committee present at the meeting where a decision is taken shall be able to require any matter considered by the Committee to be

referred for investigation to the Council's Chief Auditor, the Council's External Auditors, the Audit Commission or the Standards Board for England as appropriate.

(f) Calling of Meetings

Meetings of the Standards Committee may be called by:

- the Chief Executive, or
- the Monitoring Officer, or
- the Leader of the Council, or
- the Chair of the Standards Committee, or
 - a petition signed by at least one fifth of the Councillors serving on the Council (ie ten Councillors)

9.3 Role and Function

The Standards Committee will have the following roles and functions:

The general functions of a Standards Committee are to be:

- (a) promoting and maintaining high standards of conduct by the members and co-opted members of the Council, and
- (b) assisting members and co-opted members of the Council to observe the Code of Conduct, and in so doing:
 1. To determine allegations about the personal conduct of Council Members involving a breach of the Code of Conduct, referred by an Ethical Standards Officer of the Standards Board under the Council's Local Determination Procedure, or by the Monitoring Officer under the Council's Local Investigation Procedure.
 2. To determine local allegations of breaches of the Council's local codes of practice which have been investigated by the Monitoring Officer under the Council's Local Investigation Procedure, in particular the Planning code of conduct and the Protocol on Member/Officer Relations.
 3. To deal with any reports from a case tribunal or interim case tribunal, following the determination of an allegation about the personal conduct of a Council Member involving a breach of the Code of Conduct by the National Adjudication Panel for England.
 4. To monitor the probity and propriety of all aspects of Council business.
 5. To scrutinise the conduct of individual Councillors, political groups and informal grouping, and to issue reprimands to individual Councillors or groups of Councillors in circumstances where breaches of the law, codes of practice or other conduct considered inappropriate have been established.

6. To advise the Council on the adoption or amendment of national and local codes of conduct and to monitor their effectiveness.
7. To make recommendations to the Council on any matters or issues relating to probity, propriety and general conduct where the Panel considers it appropriate to do so in the interests of maintaining the highest standards in the carrying out of the Council's functions.
8. To refer any matter considered by the Committee for investigation by the Council's Chief Auditor (or other appropriate officer), the Council's external auditors, the Audit Commission or the Standards Board for England as it sees appropriate; the Committee may also refer any such matter to the relevant Political Group(s) for their consideration.
9. To advise, train or arrange to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct and local codes of conduct;
10. To grant dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;

The Standards Committee will also consider any other matters as the Council refers to it from time to time

Local Determination

Procedure for local determination of allegations about the personal conduct of Council members

A. THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) REGULATIONS 2003

APPROVED BY STANDARDS COMMITTEE - 10 FEBRUARY 2004

Introduction

1. Where an investigation has been completed by an Ethical Standards Officer (ESO) of the Standards Board for England and it has been referred to the Council's Monitoring Officer (MO) in accordance with the provisions of the Local Government Act 2000, the determination of the complaint by the Council's Standards Committee or a Sub-Committee of the Standards Committee, will be governed by this procedure. It applies to complaints about the conduct of elected members and co-opted members with voting rights.
2. The Chair of the Standards Committee or a Sub-Committee may agree to vary this procedure in any particular instance where s/he is of the opinion that such a variation is necessary in the interests of fairness.
3. Upon receipt of the ESO's report, the MO will take conduct of the matter and arrange for a Sub-Committee of the Standards Committee to consider the report and to determine the matter.
4. If for any reason the MO is of the view that a possible conflict of interest may arise of a kind that would make it difficult for him/her to give independent advice to the hearing, s/he will arrange for another suitable officer to take conduct of the matter.

Notifying the Member

5. Within five working days of the receipt of the ESO's report by the Monitoring Officer, s/he shall send a copy of the report to the Member and shall notify the Chair of the Standards Committee that the report has been received.
6. At the same time the Monitoring Officer shall ask for a written response from the Member, within fifteen working days, stating whether or not he/she:
 - disagrees with any of the findings of fact in the ESO's report, including the reasons for any disagreements
 - wants to be represented, at their own expense, at the hearing by a solicitor, barrister or any other person

- wants to give evidence to the Standards Committee, either verbally or in writing
- wants to call relevant witnesses to give evidence to the Standards Committee
- wants any part of the hearing to be held in private
- wants any part of the ESO's report or other relevant documents to be withheld from the public

The Monitoring Officer will also inform the Member that if, at the Hearing, he/she seeks to dispute any matter contained in the ESO's report, without having previously notified the Monitoring Officer of their intention to do so, the Sub-Committee may either adjourn the meeting to enable the Monitoring Officer to seek a response from the ESO, or refuse to allow the disputed matter to be raised.

7. If the Member's response significantly challenges any part of the ESO's report, the Monitoring Officer shall forward the response to the relevant ESO to enable the ESO to say whether s/he:
 - Wants to be represented at the hearing
 - Wants to call relevant witnesses to give evidence
 - Wants any part of the hearing to be held in private
 - Wants any part of the ESO's report or other relevant documents to be withheld from the public
8. The Member and the Monitoring Officer are entitled to request that any witnesses they want should be called. However, the Chair of the Sub-Committee may limit the number of witnesses, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Sub-Committee to reach its decision.
9. Nothing in this procedure shall limit the Chair of the Sub-Committee from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Sub-Committee to reach its decision.
10. The Chair of the Sub-Committee, in consultation with the Monitoring Officer will then
 - confirm a date, time and place for the hearing, which must be within three months from the date that the ESO's report was received.
 - confirm the main facts of the case that are agreed
 - confirm the main facts that are not agreed

- confirm which witnesses will give evidence
- outline the proposed procedure for the hearing, specifying which parts, if any, will be considered in private, and
- request the Monitoring Officer to provide this information, with the Agenda, to the Members of the Sub-Committee and the Member at least two weeks before the proposed date of the hearing.

The Sub-Committee

11. The Sub-Committee shall be chaired by an independent member.
12. The Sub-Committee shall be composed of members of the Standards Committee chosen by the Monitoring Officer in consultation with the Chair of the Standards Committee. Formally approved substitute Members of the Standards Committee may sit on a Sub-Committee if that is necessary to ensure that the hearing takes place within the statutory time limit. Membership of the Sub-Committee shall be chosen with a view to ensuring fairness, independence and organising the hearing within the statutory time-limits.
13. The Sub-Committee will be composed of four members in total with a minimum of one independent member and three elected members, one from each political group represented on the Standards Committee; and the quorum for the Sub-Committee shall be three members.
14. Where a member of the Sub-Committee is unable at the last minute to attend a meeting of the Panel the Monitoring Officer shall arrange for an approved substitute member of the Standards Committee to attend the meeting. The Monitoring Officer shall brief the substitute member about the complaint under consideration.
15. Each Sub-Committee member shall have one vote, and all matters/issues shall be decided by a simple majority of votes cast, with the Chair having a casting vote. Abstentions shall not be permitted.
16. The Committee Service shall carry out administration for the hearing.
17. The meeting of the Sub-Committee will be open to the public and press unless the Sub-Committee considers that confidential information or exempt information under Schedule 12A of the Local Government Act 1972 is likely to be disclosed or that it is appropriate to exclude the press and public having considered relevant Articles of the European Convention on Human Rights.

Procedure at the Hearing

18. The initial order of business at the hearing shall be as follows:
 - establish that a quorum exists.

- declarations of interest
 - consideration as to whether to adjourn or to proceed in the absence of the Member, if the Member is not present .
 - Any representation from the Monitoring Officer and/or the Member as to reasons why the Sub-Committee should exclude the press and public and determination as to whether to exclude the press and public. Where the Sub-Committee decides that it will not exclude press and public, the Monitoring Officer shall at this point provide copies of the agenda and reports to any members of the press and public who are present.
20. The purpose of the hearing is to test the robustness of the report of the investigation produced by the ESO, by examining the reasoning contained within the report and the quality of the evidence relied upon. This calls for an inquisitorial approach by the Sub-Committee based on seeking information in order to identify potential flaws in the report and to clarify issues. The Chair of the Sub-Committee will control the procedure and evidence presented at the hearing, including the questioning of witnesses.
21. The procedure at the hearing will be as follows, subject to the Chair of the Sub-Committee being able to make changes as he or she thinks fit in order to ensure a fair and efficient meeting:
- (1)The Monitoring Officer will summarise the nature of the complaint, the contents of the Ethical Standards Officer’s report and any further information relevant to the complaint.
 - (2)The Monitoring Officer will then call any witnesses, which may include the complainant(s) and ask them to give their evidence. Wherever possible, evidence shall have been put into writing before the hearing and copies circulated with the Agenda. Where evidence has been put into written form, the Chair may dispense with verbal evidence if the Member about whom the complaint has been made (or his/her representative) and the Monitoring Officer agree to do so.
 - (3)The Chair will allow the Member (or his/her representative) to ask questions of each witness after they have given their evidence. Any such questions shall be asked through the Chair. The Member should make no statements at this stage.
 - (4)After the Member has asked questions, Members of the Sub-Committee will have the opportunity to ask questions of each witness.
 - (5)The Member will then be asked to present his/her response to the complaint, referring to any documentation previously made available to the Sub-Committee and anything said by the witnesses.
 - (6)The Member may call witnesses (subject to any limit on the number of witnesses the Member may call imposed by virtue of paragraph 9 above)

and ask them to give their evidence. Wherever possible, evidence shall have been put into writing before the hearing and copies circulated with the Agenda. Where evidence has been put into written form, the Chair may dispense with verbal evidence if the Member about whom the complaint has been made (or his/her representative) and the Monitoring Officer agree.

(7) After each witness has given their evidence, the Monitoring Officer and Members of the Committee will have the opportunity to ask questions of each witness through the Chair.

(8) The Chair of the Committee will then allow the Monitoring Officer and Members of the Committee to ask questions of the Member.

22. Where the Member seeks to dispute any matter in the ESO's report which he/she had not given notice of intention to dispute in his/her written statement in response, the Monitoring Officer shall draw this to the attention of the Sub-Committee. The Sub-Committee may then decide:

- not to admit such dispute but to proceed to a decision
- to admit the dispute, but to invite the Monitoring Officer to respond
- to adjourn the meeting to enable the Monitoring Officer to investigate and report on the dispute or to invite the ESO to attend

Decision by the Sub-Committee

23. The Sub-Committee will consider the representations and evidence in private and conclude which of the following findings to adopt:

- That there is no evidence of any failure to comply with the Code of Conduct
- That the Member has failed to comply with the Code of Conduct, but that no action needs to be taken
- That the Member has failed to comply with the Code of Conduct and should be:
 - censured, or
 - restricted access to the premises and resources of authority for a maximum period of three months (but ensuring that such restrictions will not unnecessarily restrict the Member's ability to carry out his/her responsibilities as an elected or co-opted member
 - suspended or partially suspended for a maximum period of three months, or

- suspended or partially suspended for a maximum period of three months or until such time as he/she submits a written apology or undertakes any training or conciliation specified by the Sub-Committee
24. In deciding what penalty to set, the Sub-Committee will consider all relevant circumstances including those covered in the Guidance produced by the Standards Board for England. If it considers it appropriate to do so, the Sub-Committee may return to the hearing to announce its finding and to seek any further comments from the Monitoring Officer, the ESO or the Member before making any decision with regard to sanction.
 25. The Sub-Committee will then return and the Chair will announce the decision of the Panel and the reasons for that decision.
 26. If the matter is a complicated one, where the complaint has a number of aspects, the Sub-Committee can decide to consider the evidence and reach a finding on each aspect separately.
 27. The Sub-Committee will then consider in open session whether there are any recommendations which it should make to the Standards Committee arising from consideration of the allegation. For example, providing recompense to any person who has suffered detriment as a result of the breach of the Code of Conduct or related matters; for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct, for rectifying any deficiency in the authority's decision making procedures or for preventing or deterring any further breaches of the Code of Conduct.

Appeal

28. Where the Sub-Committee determines that the Member has failed to comply with the Code of Conduct the Monitoring Officer shall inform the Member of his or her right to appeal and the procedure for that.

Notice of findings

29. The Monitoring Officer will make a short written decision available on the day of the hearing and a full written decision in draft will be prepared by the following day.
30. Within two weeks of the end of the hearing the Monitoring Officer circulate a notice of the full written decision, in the format recommended by the Standards Board, to the Member, the Complainant (where possible), the ESO concerned, the Standards Committee and any other authority concerned.
31. At the same time the Monitoring Officer shall arrange for a summary of the findings to be published in two newspapers circulating in the area of the Authority and on the council's web site.
32. Where the Sub-Committee determines that there has not been a breach of the Code of Conduct, the notice specified in paragraph 33 shall state that the Sub-Committee found that the Member had not failed to comply with the code of

conduct and shall give its reasons for reaching that finding. The notice shall not be published in local newspapers if the Member so requests.

33. Where the Sub-Committee determines that there has been a failure to comply with the Code of Conduct but no action is required, the notice specified in paragraph 33 shall
- (i) state that the Sub-Committee found that the Member had failed to comply with code of conduct but that no action needs to be taken in respect of that failure;
 - (ii) specify the details of the failure;
 - (iii) give reasons for the decision reached;
 - (iv) state that Member concerned may apply for permission to appeal against the determination.
34. Where the Sub-Committee determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice specified in paragraph 33 shall
- (i) state that the Sub-Committee found that the Member had failed to comply with code of conduct but that no action needs to be taken in respect of that failure;
 - (ii) specify the details of the failure;
 - (iii) give reasons for the decision reached;
 - (iv) specify the sanction imposed, and
 - (v) state that Member concerned may apply for permission to appeal against the determination.

Confidentiality and disclosure of information

35. Where the Chair of the Sub-Committee considers that the ESO's report and/or any of the written statements in response is likely to disclose "exempt information" (as defined in Schedule 12A to the LGA 1972 and regulations), and in consequence that it is likely that the Sub-Committee will, during consideration of these papers, not be open to the public, he/she shall instruct the Head of Central Administration to not provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.
36. The Hearing will be held in public apart from the following three situations:
- Where 'confidential information' is to be revealed, the Sub-Committee must hold such parts of a meeting in private. Confidential information is information provided by a government department under the condition that it must not be revealed, and information that cannot be revealed under any legislation or by a court order.
 - Where 'exempt information' is to be revealed the Sub-Committee may exercise their discretion in deciding whether or not to exclude the public. The categories of exempt information are set out in Schedule 12A to the

LGA 1972 and regulations and include information relating to the personal circumstances of any person.

- It is considered that the public should be excluded by reason of the provisions of the European Convention on Human Rights.

Local Investigation

B. THE LOCAL AUTHORITIES (CODE OF CONDUCT) (LOCAL DETERMINATION) (AMENDMENT) REGULATIONS 2003

APPROVED BY STANDARDS COMMITTEE - 1 FEBRUARY 2005

1 Introduction

- 1.1 The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004 now enable the Standards Board for England to refer complaints of Councillor misconduct to the Monitoring Officer of a local authority for local investigation, instead of investigation by the Standards Board's Ethical Standards Officers, before a complaint is determined by the Authority's Standards Committee (or Sub-Committee). The Standards Board has published guidance as to how local authorities should arrange for the conduct of such local investigations. The regulations also make important amendments to the powers of Standards Committees, even in cases which have been investigated by an Ethical Standards Officer.
- 1.2 This is a further step in giving local authority Standards Committees responsibility for complaints of Councillor misconduct, and will assist the Standards Board in ensuring that the less serious complaints are dealt with promptly.
- 1.3 This report sets out the implications of the regulations and a procedure for such local investigations, leading to a hearing by the Standards Committee or a hearing sub-committee set up by the Committee under the Local determination procedure.

2 Pre-Investigation

- 2.1 When the Standards Board receives a complaint, it has first to decide whether the complaint appears to relate to a possible failure to comply with the Code of Conduct, and then whether it merits investigation. The Standards Board will now notify the Monitoring Officer of the complaint at this early stage and ask for background information, in order to ensure that it only refers for investigation those complaints which really merit such investigation. Whilst there is no duty on the Monitoring Officer to seek to resolve the complaint at this stage, and many complaints will not be capable of such local resolution, this may enable the Monitoring Officer in appropriate cases to explore whether there is anything which the Councillor and/or the authority could do to resolve the complaint and thereby avoid the time and cost of a formal investigation. Such local resolution would be effected by securing the agreement of the

complainant, or otherwise persuading the Standards Board, that the complaint be not investigated or that no action is required on it.

3. Local Investigations

3.1 Receipt of the Complaint

3.1.1 Under the new regulations, where the case is referred by the Standards Board for investigation, it will go to an Ethical Standards Officer who will decide whether to allocate it to one of the Standards Board's own investigators or to refer it to the authority's Monitoring Officer for local investigation. The ESO will not refer matters for local investigation where the serious nature of the matter means that it is likely to require a sanction in excess of the Standards Committee's maximum sanction of 3 months' suspension. Other criteria highlighted by the Standards Board are:

- the matter does not appear to need the heavier penalties available only to The Adjudication Panel for England;
- the allegation is of an entirely local nature and does not raise matters of principle;
- the initial investigation by an ethical standards officer has highlighted issues that are more to do with the effective governance of the authority than an individual's misconduct.

3.1.2 The ESO is less likely to refer cases if there is evidence that a local investigation would be perceived as unfair or biased or there are any relevant local political issues that may have a bearing on the investigation.

3.1.3 In referring a complaint to the Monitoring Officer, the ESO will send a copy of the original complaint letter and of any other relevant information which he/she possesses. In exceptional cases, such as a single letter containing a number of different complaints, the ESO may edit the complaint letter and merely pass on those parts relevant to the particular complaint.

3.1.4 On receipt of the referred complaint, the Monitoring Officer will notify the Councillor and the complainant, and will arrange for the investigation.

3.1.5 At this stage the Monitoring Officer will notify the members of the Standards Committee in a confidential memorandum that he/she is conducting an investigation, but will not at this stage inform the Committee of the identity of either the Member or the complainant. The Monitoring Officer will also provide:

- (i) a brief description of the conduct which is the subject of the allegation;
- (ii) the section(s) of the Code of Conduct or local protocol which appear to him to be relevant to the allegation; and
- (iii) of the identity of the Investigating Officer.

3.1.6 The Monitoring officer will also inform the Chair, in confidence, of the name of the Councillor against whom the complaint is made, and the identity of the

person making the complaint, unless it is the view of the Monitoring Officer that such identification might prejudice the investigation or put the complainant at risk.

3.2 Appointment of the Investigating Officer

- 3.2.1 The Monitoring Officer is the principal adviser to the Standards Committee and the primary contact for Councillors who have enquiries on standards issues, such as whether they have a personal or prejudicial interest in a particular matter. That role may be incompatible with personally undertaking the Investigating Officer role, which includes presenting the investigation report at any local standards hearing, so the Monitoring Officer will normally need to appoint another person to undertake the investigation.
- 3.2.2 The Monitoring Officer will either appoint another officer of the authority to undertake the investigation, or may decide that in the circumstances of the case it may be appropriate to appoint an outside investigator, either from another authority or an experienced external investigator. The Monitoring Officer has a statutory power to make such appointments, and to make payments to outside investigators where appropriate.
- 3.2.3 The Investigating Officer will be required to produce a full report, setting out his/her conclusions as to the facts of the matter and whether the Councillor did or did not fail to comply with the Code of Conduct. In the rare cases where an external investigator may be appointed, the Monitoring Officer will arrange for the Council to grant an indemnity against the legal costs of defending any defamation claim and any damages which might be awarded, and will arrange for the Council to insure this risk.
- 3.2.4 The position of the Monitoring Officer as principal point of advice to individual members on standards issues will sometimes give rise to a further conflict of interest which would rule the Monitoring Officer out from acting as the adviser to the Standards Committee for individual case hearings. In such cases the Monitoring Officer will arrange for another officer to act as the adviser to the Standards Committee for individual case hearings.

3.3 Procedure for Local Investigations

- 3.3.1 A procedure for local investigations, which will form part of the instructions to the Investigating Officer and will inform both the Councillor and the complainant as to how the matter will be dealt with, is attached as Appendix 1 (see below). Under this procedure, the investigation would run as follows:
- a. The Monitoring Officer advises the Councillor and the Complainant of receipt of the complaint, of the identity of the Investigating Officer and of the Investigation Procedure. He/she will also provide the Councillor with a copy of the complaint;
 - b. The Investigating Officer will contact the Councillor and the complainant for their comments and to identify any persons who the

Investigating Officer should interview and any evidence which he/she should examine;

- c. The Investigating Officer will conduct such interviews as appear to him/her to be necessary, including more detailed interviews with the Councillor if required;
 - d. The Interviewing Officer will send his full draft report to the Councillor and the complainant, and appropriate extracts to any person who has provided evidence which he/she has relied upon in writing the report, and give them 10 days for them to send him/her any comments or suggested corrections on the draft report;
 - e. The Interviewing Officer will produce a final report, taking account of any such comments and suggested corrections, and send it to the Monitoring Officer;
 - f. Where the Interviewing Officer concludes in the final report that there has not been a failure to comply with the Code of Conduct, the Monitoring Officer will submit the report to the Standards Committee. The Standards Committee will consider the report and any representations from the Councillor and will either:
 - i. accept the Investigating Officer's conclusions and take no further action, or
 - ii. resolve that the matter should be considered at a formal hearing. Note that this is not a finding of fault on the part of the Councillor but merely a conclusion that they are not prepared at that stage to accept the Investigating Officer's conclusions and that the matter merits examination at a formal hearing.
 - g. Where the Investigating Officer concludes that there has been a failure to comply with the Code of Conduct, the matter must go to a formal hearing without such a preliminary step.
 - h. If the matter goes to a formal hearing, that hearing will be conducted in line with the Council's procedure for Local Determination (as amended), except that the Investigating Officer will take the place of the Standards Board's representative in presenting the report and introducing any relevant evidence and witnesses.
- 3.3.2 Under this procedure, in order to prevent any prejudice to the Standards Committee's role in eventually determining the complaint, members of the Standards Committee will not be advised of the progress of that investigation, until they receive the agenda and papers, including the Investigating Officer's report, for the meeting which is to consider that report.

3.4 Additional Failures to Comply with the Code of Conduct

- 3.4.1 The Regulations provide that where a matter is referred for local investigation, the Investigating Officer's remit is limited to the conduct which comprises the subject matter of the original complaint. Accordingly, where the Investigating Officer identifies additional matters outside the scope of the original complaint, he/she will not be able to add them into his/her investigation.
- 3.4.2 However, the Investigating Officer's remit is to conclude whether the conduct constitutes a failure to comply with the Code of Conduct, and he/she is therefore entitled to conclude that the conduct constitutes a failure to comply with paragraphs of the Code of Conduct other than those specifically cited by the complainant.
- 3.4.3 By way of example, if the complaint were one of rudeness by one Councillor to another, the Investigating Officer would not be entitled to include in his investigation any other instances of such rudeness, but would be entitled to conclude that the instance complained of constituted a failure to treat with respect even if the original complaint only suggested that it was conduct likely to bring the authority into disrepute.

3.5 Reference back to the Standards Board

- 3.5.1 The Regulations (and the recommended investigation procedure) provide that, at any time during the course of an investigation, the Investigating Officer can report to the Monitoring Officer who can request the ESO to resume responsibility for the investigation. The final decision to resume such responsibility rests with the ESO.
- 3.5.2 Such a situation may arise in circumstances where, during the course of the investigation, it may become apparent that the conduct complained of is more serious than originally assessed by the ESO, and should be heard by a National Adjudication Panel Case Tribunal, with powers to impose sanctions of up to one year's suspension or up to five year's disqualification, rather than a Standards Committee with a limited power to suspend the Councillor for up to 3 months.

4 Local Hearings

The Regulations also make certain changes in respect of the conduct of local hearings. The Council's procedure for Local Determination will therefore need to be amended to take account of these changes, as follows:

4.1 Timing

- 4.1.1 Where a matter is the subject of local investigation, the hearing must be held (i.e.: completed) within 3 months of the date on which the Investigating Officer presents his/her final report to the Monitoring Officer.

4.2 Additional Evidence

4.2.1 The regulations now state specifically that if the Standards Committee, in the course of a hearing, feels that it needs additional evidence in order to come to a determination of the matter, it can adjourn and request the Monitoring Officer to provide such further information or undertake further investigation, but the Committee can only do so once on any one matter.

4.3 Sanctions

4.3.1 The regulations now make it clear that the Standards Committee has the flexibility to combine sanctions. Accordingly, the Committee can now set the sanctions in any particular case as any one, or combination, of the following:

- a. censure;
- b. restriction of access to Council premises or use of Council resources for up to 3 months;
- c. a requirement to give a written apology;
- d. a requirement to undergo training;
- e. a requirement to undertake conciliation;
- f. suspension or partial suspension for a period of up to 3 months, and
- g. suspension or partial suspension until the Councillor undertakes training or conciliation or provides a written apology.

4.3.2 The Standards Committee could, in an appropriate case, determine that the member should be subject to a 3-month suspension from the authority but that, if he/she were to provide a written apology and undergo training, the suspension would be reduced to a 2-month partial suspension from just the Planning Committee.

4.4 Reference back to the Standards Board

4.4.1 The regulations also allow the Standards Committee to ask the Standards Board to resume responsibility for a matter at any stage. This would normally be where the Investigating Officer's report identifies conduct of such seriousness that the Committee believes that its maximum sanction would be inadequate, but it could be relevant if so many members of the Standards Committee were conflicted out of any hearing on a matter that it would not be possible to hold a hearing, or if the Committee felt that local circumstances made it impossible to hold a proper and impartial hearing on the matter. Such a request must be directed to the ESO, who has the final decision whether to resume responsibility for the case. Such a request cannot be made once the hearing has been concluded.

5 Local Protocols

- 5.1 The Council has adopted the following local protocols as additional local guidance for members:
- a. Protocol on Member / Officer Relations
 - b. Planning Code of Conduct

These local protocols do not form part of the Code of Conduct for Members and so are not enforced by the Standards Board for England unless the particular conduct is also a failure to comply with the Code of Conduct, for example where a failure to treat an officer with mutual respect, as required by the Member / Officer relations Protocol also constitute conduct likely to bring the authority into disrepute under the Code of Conduct.

- 5.2 The Council has delegated authority to the Standards Committee to issue reprimands to individual Councillors or groups in circumstances where allegations are made of breaches of the codes of practice. To ensure the process for enforcing such protocols are fair, the same procedures for local investigation and local hearings will be applied to complaints of breach of local protocols, in cases where the Monitoring Officer is unable to resolve the matter to the satisfaction of the complainant, and there would be no scope for referring the matter back to the Standards Board for England.

APPENDIX 1

Reading Borough Council

Procedure for Local Investigation of Referred Complaints

1. Introduction and Summary

- 1.1 This note sets out the procedure which will be followed in the local investigation of allegations of misconduct by Councillors¹. No departure will be made from this procedure unless and until the Monitoring Officer² has first notified the Councillor against whom the allegation has been made of the proposed variation to the procedure and the reasons for that variation.
- 1.2 This procedure applies to breaches of the authority's Code of Conduct for Members. The authority has also resolved that the same procedure shall apply to the investigation of allegations of breaches of the authority's local protocols³, in so far as they apply to Councillors.
- 1.3 Where the Standards Board for England receives an allegation that a Councillor has breached the authority's Code of Conduct for Members, the Board refers the allegation to an Ethical Standards Officer for investigation⁴. At any point in that investigation the Ethical Standards Officer may determine that the allegation should be referred to the authority's Monitoring Officer. If the matter is referred before the Ethical Standards Officer has completed his/her investigation, the Monitoring Officer is then required to arrange for an Investigating Officer to investigate the allegation and to report the matter to the authority's Standards Committee or to a Sub-Committee of the Standards Committee convened for the purpose⁵. Similarly, when the Monitoring Officer receives an allegation of a failure by a Councillor to comply with a local protocol, and s/he is of the opinion that the allegation merits investigation and cannot be resolved through conciliation or mediation, s/he shall arrange

¹ This procedure will apply to allegations of breach of the authority's Code of Conduct by elected and co-opted members of the authority and by the directly elected mayor of the authority (if any), and the word "Councillor" is to be taken to refer to all such persons.

² The "Monitoring Officer" is an officer of the Council who has been designated as the authority's Monitoring Officer under section 5 of the Local Government and Housing Act 1989

³ Authorities may supplement their Code of Conduct for Members with local protocols which do not form part of the Code of Conduct. Allegations of breach of a local protocol may also constitute breaches of the Code of Conduct, and so fall within the jurisdiction of the Standards Board. Where a particular allegation of breach of protocol does not form a breach of the Code of Conduct, it would fall to be investigated and determined by the authority concerned.. Accordingly this procedure will apply equally to allegations of breach of a local protocol, but by virtue of a delegation from Council rather than by virtue of the Local Authorities (Code of Conduct)(Local Determination)(Amendment) Regulations 2004 – SI 2004 No. 2617.

⁴ Section 58(2), Local Government Act 2000.

⁵ Where an authority determines that individual allegations shall be considered by a Sub-Committee, or Regulations require that a complaint be considered by a Sub-Committee, references in this procedure to the Standards Committee should be read as being references to such a Sub-Committee.

for an Investigating Officer to investigate the allegation and to report the matter to the authority's Standards Committee.

- 1.4 Where the Investigating Officer has found, after investigation, that the Councillor has not acted in breach of the authority's Code of Conduct for Members or a local protocol, the Standards Committee must meet to decide whether to accept that finding or to proceed to a formal hearing. Where the Investigating Officer has found that there has been a failure to comply with the Code of Conduct for Members or a local protocol, or where the Standards Committee decides to hold a full hearing, there will then be a formal hearing to determine whether a breach of the authority's Code of Conduct has occurred and whether any action should be taken in consequence..
- 1.5 In this process, the function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the Standards Committee, to enable the Standards Committee to come to an informed decision as to whether the Councillor has failed to comply with the authority's Code of Conduct for Members or a local protocol, and upon any consequential action. The Standards Committee acts in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Councillor on the balance of the information available to it, and may commission further investigation or information if it needs to do so in order to come to a decision.

2. Interpretation

- (a) 'Councillor means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Councillor's representative.
- (b) 'Investigating Officer" means the Ethical Standards Officer (ESO) who referred the report to the authority (and his/her nominated representative) or, in the case of matters that have been referred for local investigation, references to the Investigating Officer mean the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer, and his or her representative).⁶
- (c) "The Matter" is the subject matter of the Investigating Officer's report.
- (d) 'The Standards Committee' refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing, unless the context indicates that it refers only to the Standards Committee itself.

3. Notification of Reference of Allegation to the Monitoring Officer

⁶ This definition has been amended to make it clear that, when the Monitoring Officer arranges for someone else to undertake the investigation, the definition of the "Investigating Officer" no longer includes the Monitoring Officer.

(a) Appointment of Investigating Officer

Upon receipt of the allegation from an Ethical Standards Officer, the Monitoring Officer will appoint an Investigating Officer in respect of the allegation and instruct him/her to conduct an investigation of the allegation and to report thereon to the authority's Standards Committee. The Investigating Officer will normally be an officer of the authority⁷, but on rare occasions the Monitoring Officer may consider it appropriate to appoint an officer of another local authority, or an external Investigating Officer.

(b) Notification to the Councillor

The Monitoring Officer will then notify⁸ in writing the Councillor against whom the allegation is made:

- (i) that the allegation has been referred to him for local investigation and determination;
- (ii) the identity of the person making the allegation (unless identification of the complainant might prejudice the investigation or put the complainant at risk);
- (iii) of the conduct which is the subject of the allegation;
- (iv) of the section(s) of the Code of Conduct or local protocol which appear to be relevant to the allegation;
- (v) of the procedure which will be followed in respect of the allegation, and of the identity of the Investigating Officer.
- (vi) The Monitoring Officer shall provide the Councillor with a copy of any report received from the Ethical Standards Officer.

(c) Notification to the Standards Committee

At the same time as notifying the Councillor, the Monitoring Officer will notify each Member of the Standards Committee in writing of the matters set out in paragraphs 2(b)(i) - (iv) and (vi) above.

(d) Notification to the Person who made the Allegation

At the same time as notifying the Councillor, the Monitoring Officer will notify the person who made the allegation in writing of the matters set out in paragraphs 2(b)(i) - (iv) and (vi) above.

(e) Initial response of the Councillor

⁷ There are two distinct roles, that of the Investigating Officer and that of legal adviser to the Standards Committee. The Monitoring Officer may him/herself take on the role of Investigating Officer. Where he/she does so, he/she must also arrange for a separate legal adviser to the Standards Committee in respect of the allegation.

⁸ In very exceptional cases, where the Monitoring Officer has reason to believe that there is a serious risk of intimidation of witnesses or destruction of evidence, the Monitoring Officer may initiate an investigation before notifying the Councillor.

In notifying the Councillor of receipt of the allegation, the Monitoring Officer shall request the Councillor to respond to the Investigating Officer in writing within 14 days of notification as follows:

- (i) advising the Investigating Officer whether the Councillor admits or denies the breach of the Code of Conduct or local protocol which is the subject of the allegation;
- (ii) listing any documents which the Councillor would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected,
- (iii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of a person or organisation whom the Councillor would wish the Investigating Officer to interview in the course of any investigation of the allegation, and
- (iv) providing the Investigating Officer with any information which the Councillor would wish the Investigating Officer to seek from any person or organisation.

(f) Supporting information from the person who made the allegation

In notifying the person who made the allegation as above, the Monitoring Officer will request the person to respond to the Investigating Officer within 14 days:

- (i) listing any documents which the person would wish the Investigating Officer to take into account in any investigation of the allegation, where possible providing copies of these documents, and informing the Investigating Officer of where the original documents may be inspected,
- (ii) providing the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of a person or organisation whom the person would wish the Investigating Officer to interview in the course of any investigation of the allegation, and
- (iii) providing the Investigating Officer with any information which the person would wish the Investigating Officer to seek from any person or organisation.

4. Conduct of Investigation

(a) Purpose of the Investigation

The purpose of the Investigating Officer's investigation is to enable him/her to prepare and present to the Standards Committee a report which, together with any report provided by the Ethical Standards Officer (where appropriate), would provide the Standards Committee with sufficient information to determine whether the Councillor has acted in breach of the Code of Conduct or local protocol and, where there has been a breach of the Code of Conduct

or local protocol, whether any action should be taken in respect of the Councillor or in consequence of the breach, and what any such action should be.

(b) Termination of the Investigation

The Investigating Officer may terminate his/her investigation at any point, where he/she is satisfied that he/she has sufficient information to enable him/her to report to the Standards Committee and to enable the Standards Committee to come to a considered decision on the allegation.

(c) Additional Matters

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a breach of the Code of Conduct or local protocol by the Councillor other than the breach which he/she is currently investigating, the Investigating Officer shall either:

- (i) *(where the additional matter relates to an apparent breach of the authority's Code of Conduct by a member of the authority)* report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs 3(b)(iii) and (iv) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct,. The Monitoring Officer will then determine whether to report the additional matter to the Standards Board;
- (ii) *(where the additional matter constitutes an apparent breach of the authority's local protocols but not a breach of the Code of Conduct by a member of the authority)* report the matter to the Monitoring Officer who will provide the Councillor with details of the matter in the form set out in paragraphs 3(b)(iii) and (iv) above and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the authority's local protocols. The Monitoring Officer will then take a decision whether to refer the matter to an Investigating Officer for local investigation and report to the Standards Committee as appropriate. Where the original matter relates to an allegation of breach of a local protocol, and the additional matter relates to a further breach of a local protocol of the same authority, the Monitoring Officer may, with the consent of the Councillor, request the original Investigating Officer to extend his investigation to include the additional matter;
- (d) Following notification to the Councillor, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. Where the Councillor has provided the Investigating Officer with the information requested in accordance with Paragraphs 3(e)(ii) and (iii) above, the Investigating Officer shall include in this list each document,

person and organisation referred to in that response, unless he/she is of the opinion that the inclusion of that document, person or organisation would unreasonably delay the completion of the investigation rather than to contribute to the accuracy of the Investigating Officer's final report. The Investigating Officer may supplement or amend this list at any stage of the investigation.

(e) Production of documents, information and explanations

- (i) In the course of the investigation, the Investigating Officer (or any person authorised on his/her behalf) may make such enquiries of any person or organisation, and request any person or organisation to provide any document or information which is in his/her/its possession or control, or provide any explanation, as he/she thinks necessary for the purposes of carrying out the investigation.
- (ii) In the course of the investigation, the Investigating Officer (or any person authorised on his/her behalf) may require any authority of which the Councillor is a member to provide any document which is in its possession or control which he/she thinks necessary for the purposes of carrying out the investigation.

(f) Interviews

(i) Requesting attendance

In the course of the investigation the Investigating Officer may request any person to attend and appear before him/her or otherwise provide any information, document or explanation for the purpose of Paragraph 3(e), as he/she thinks necessary for the purposes of carrying out the investigation.

(ii) Representation

Any person who appears before the Investigating Officer arrange to be accompanied at their own expense by a friend, who may be a solicitor.

(iii) Notes of interviews

Where practicable, following the interview the Investigating Officer shall produce a written note of the material points of the interview, provide two copies of that note to the person(s) interviewed and ask them to return one copy signed as a correct record of the interview, with such corrections or amendments as they may feel necessary for that purpose.

(g) Costs

The Investigating Officer may, where he/she considers that it is appropriate in order to facilitate the conduct of the investigation, pay to any person who provides any document, information, advice or explanation in response to

his/her request, such fees or allowances as he/she considers to be appropriate subject to a maximum ceiling set by the Monitoring Officer.

(h) Reference back to the Standards Board (allegations of breach of the Code of Conduct for Members only)

At any point in the course of the investigation, if the Investigating Officer is of the opinion

- (i) that the seriousness of the matters which he/she is investigating, including any additional matters identified under Paragraph 3(c) above, is such that they may merit the application of a sanction beyond the powers of the Standards Committee, or
- (ii) that the nature of the allegations is such that it would be inappropriate for the Standards Committee to determine the matter,

he/she may, after consulting the Monitoring Officer, suspend his/her investigation and the Monitoring Officer shall then request the Ethical Standards Officer to resume his investigation of the matter.

Where the Ethical Standards Officer does resume his investigation, the Monitoring Officer shall ensure that the Councillor concerned, the person who made the complaint, and the members of the Standards Committee is informed of such resumption. Where the Ethical Standards Officer declines to resume his investigation, the Monitoring Officer shall instruct the Investigating Officer to resume his/her investigation.

5. The Draft Report

- (a) When the Investigating Officer is satisfied that he/she has sufficient information to meet the requirement set out in Paragraph 3(a), or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall prepare a draft report setting out:
 - (i) the details of the allegation;
 - (ii) the relevant provisions of statute, of the Code of Conduct and any relevant local Protocols
 - (iii) the Councillor's initial response to notification of the allegation (if any);
 - (iv) the relevant information, advice and explanations which he/she has obtained in the course of the investigation;
 - (v) a list of any documents relevant to the matter;
 - (vi) a list of those persons whom he/she has interviewed and those organisations from which he/she has sought information;
 - (vii) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
 - (viii) a statement of his/her draft findings of fact;
 - (ix) his/her conclusion as to whether the Councillor has or has not failed to comply with the Code of Conduct for Members or a local protocol, and

- (x) any recommendations which the Investigating Officer is minded to make to the Standards Committee for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct or local protocol, for rectifying any deficiency in the authority's decision-making procedures or for preventing or deterring any breach of the Code of Conduct or local protocol or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach.
- (b) The draft reports should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the investigating Officer will present a final report to the Standards Committee once he/she has considered any comments received on the draft report.
- (c) The Investigating Officer shall then send a copy of his/her draft report in confidence to the Councillor and the person making the allegation, and request that they send any comments thereon to him/her within 14 days.
- (d) The Investigating Officer may send a copy of, or relevant extracts from his/her draft report in confidence to any person on whose evidence he/she has relied in compiling the draft report, and request that they send any comments thereon to him/her within 14 days.

6. The Final Report

- (a) After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Monitoring Officer the final report. The final report should state that the report represents the Investigating Officer's final findings and will be presented to the Standards Committee, and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents of telephone conversations, letters, and notes of interviews with witnesses;
- (b) The Monitoring Officer shall then send a copy of the final report to the Councillor, advising that:
 - (i) where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members or a local protocol, he/she will refer the report to the Standards Committee for their consideration, and
 - (ii) where the final report concludes that there has been a failure by the Councillor to comply with the Code of Conduct for Members or with a local protocol, he/she will refer the report to the Standards Committee for a formal hearing.
- (c) The Monitoring Officer shall ensure that, when the agenda for the Standards Committee is sent out to members of the Standards Committee, including the final report, the agenda and the report are also sent to:

- (i) The person who made the complaint;
- (ii) The Ethical Standards Officer

together with a note explaining the circumstances under which the Standards Committee may conduct a hearing into the allegations, and the procedure for these events.

(d) Where the Standards Committee considers the report, it shall make one of the following findings:

- (i) That it accepts the Investigating Officer's finding that the Councillor has not failed to comply with the Code of Conduct for Members as set out in the allegation;
- (ii) That it accepts the Investigating Officer's finding that, on the facts as set out in the report, the Councillor has not failed to comply with a local protocol, or
- (iii) That the matter should be considered at a hearing of the Standards Committee, conducted in accordance with the authority's adopted Procedure for Local Determination Hearings.⁹

(e) Where the Standards Committee finds that there has been no failure to comply with the Code of Conduct or with a local protocol, the Monitoring Officer shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, together with a copy of the Investigating Officer's report to

- (i) The Councillor;
- (ii) The Ethical Standards Officer;
- (iii) The Standards Committee, if the finding was made by a Sub-Committee of the Standards Committee;
- (iv) The Standards Committee of any other local authority of which the Councillor is also a member
- (v) The person who made the allegation.

And shall ask the Councillor whether he objects to the publication of a notice of the finding in at least one local newspaper, and arrange for the publication of such a notice unless the Councillor so objects.

(f) Where the Standards Committee finds that the matter should be considered at a full hearing, or the Investigating Officer's report contains a finding that the Councillor did fail to comply with the Code of Conduct or a local protocol, the Monitoring Officer shall arrange for the matter to be considered at such a hearing in accordance with the authority's adopted Procedure for Local Determination Hearings, subject to the following variations:

⁹ Note that this is not a finding that there has been a failure to comply with the Code of Conduct for Members or with a local protocol, but simply that, on the basis of the Investigating Officer's report, the Standards Committee is not at this stage prepared to come to a final conclusion that there has been no such failure to comply, and that the matter merits consideration at a full hearing.

- (i) The hearing shall be conducted no sooner than 14 days from, and no later than 3 months from the date on which the Monitoring Officer received the report of the Investigating Officer;
- (ii) the report of the Investigating Officer shall be treated as if it constituted the report of the Ethical Standards Officer;
- (iii) the Monitoring Officer will not conduct Pre-Hearing enquiries of the Councillor, and
- (iv) the Investigating Officer shall be responsible for presenting the report to the Standards Committee and introducing any witnesses whom he considers that the Standards Committee should hear in order to be able to give the matter proper consideration.

Part 5 - Codes and Protocols

Members' Code of Conduct

THE MODEL CODE OF CONDUCT - AUTHORITIES OPERATING EXECUTIVE ARRANGEMENTS

Adopted by Council, 23 April 2002

PART 1

GENERAL PROVISIONS

Scope

1 (1) A Member must observe the authority's code of conduct whenever s/he -

(a) conducts the business of authority;

(b) conducts the business of the office to which s/he has been elected or appointed; or

(c) acts as a representative of the authority

and references to a member's official capacity shall be construed accordingly.

(2) An authority's code of conduct shall not, apart from paragraphs 4 and 5 (a) below, have effect in relation to the activities of a member undertaken other than in an official capacity.

(3) Where a member acts as a representative of the authority -

(a) on another relevant authority, s/he must, when acting for that other authority, comply with the other authority's code of conduct; or

(b) on any other body, s/he must when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

(4) In this code, "member" includes a co-opted member of an authority.

General obligations

2. A member must -
 - (a) promote equality by not discriminating unlawfully against any person;
 - (b) treat others with respect; and
 - (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
3. A member must not -
 - (a) disclose information given to him/her in confidence by anyone, or information acquired which s/he believes is of a confidential nature, without the consent of a person authorised to give it, or unless s/he is required by law to do so; nor
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
4. A member must not in his/her official capacity, or any other circumstance, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or authority into disrepute.
5. A member -
 - (a) must not in his/her official capacity, or any other circumstance, use his/her position as a member improperly to confer on or secure or him/herself or any other person, an advantage; and
 - (b) must, when using or authorising the use by others of the resources of the authority -
 - (i) act in accordance with the authority's requirements; and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.
6. (1) A member must when reaching decisions -
 - (a) have regard to any relevant advice provided to him/her by -
 - (i) the authority's Chief Finance Officer acting in pursuance of his/her duties under section 114 of the Local Government Finance Act 1988; and
 - (ii) the authority's Monitoring Officer acting in pursuance of his/her duties under section 5(2) of the Local Government Act 1989; and

(b) give the reasons for those decisions in accordance with the authority's and any statutory requirements in relation to the taking of an executive decision.

(2) In sub paragraph (1)(b) above and in paragraph 9(2) below, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

7. A member must, if s/he becomes aware of any conduct by another member which s/he reasonably believes involves a failure to comply with the authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him/her to do so.

PART 2

INTERESTS

Personal Interests

8. (1) A member must regard him/herself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 14 and 15 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other Council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend or -

(a) any employment or business carried on by such persons;

(b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(d) any body listed in sub-paragraphs (a) to (e) of paragraph 15 below in which such persons hold a position of general control or management.

(2) In this paragraph -

(a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and

(b) "partner" in sub-paragraph (2)(a) above means a member of a couple who live together.

Disclosure of Personal Interests

9. (1) A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Subject to paragraph 12(1)(b) below, a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

Prejudicial Interests

- 10.(1) Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest in one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgement of the public interest.
- (2) A member may regard him/herself as not having a prejudicial interest in a matter if that matter relates to -
 - (a) another relevant authority of which s/he is a member;
 - (b) another public authority in which s/he holds a position of general control or management;
 - (c) a body to which s/he has been appointed or nominated by the authority as its representative;
 - (d) the housing functions of the authority where the member holds a tenancy or lease with a relevant authority, provided that he does not have arrears of rent with the relevant authority of more than two months, and provided that those functions do not relate particularly to the member's tenancy or lease;
 - (e) the functions of the authority in respect of school meals, transport and travelling expenses, where the members is a guardian of parent of a child in full time education, unless it relates particularly to the school which the child attends;
 - (f) the functions of the authority in respect of the statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 [24], where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and
 - (g) the functions of the authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 [25] or section 18 of the Local Government and Housing Act 1989 [26].

Overview and Scrutiny Committees

- 11.(1) For the purpose of this Part, a member must if he is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee, regard himself as having a personal and a prejudicial interest if that consideration relates to a decision made, or action taken, by another of the authority's
- (a) committees or sub-committees; or
 - (b) joint committees or joint sub-committees
- of which s/he may also be a member.
- (2) But sub-paragraph (1) above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in Relation to disclosed Interests

- 12.(1) Subject to sub-paragraph (2) below, a member with a prejudicial interest in any matter must -
- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless s/he has obtained a dispensation^[27] from the authority's Standards Committee;
 - (b) not exercise executive functions in relation to that matter; and
 - (c) not seek improperly to influence a decision about that matter.
- (2) A member with a prejudicial interest may, unless that interest is of a financial nature, and unless it is an interest of the type describes in paragraph 11 above, participate in a meeting of the authority's -
- (a) overview and scrutiny committees; and
 - (b) joint or area committees,
- to the extent that such committees are not exercising functions of the authority or its executive.

13. For the purpose of this Part, "meeting" means any meeting of -
- (a) the authority;
 - (b) the executive of the authority; or
 - (c) any of the authority's or its executive's committees, sub-committees, or area committees.

PART 3

THE REGISTER OF MEMBER'S INTERESTS

Registration of Financial and Other Interests

14. Within 28 days of the provisions of any authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if this is later), a member must register his financial interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of -
- (a) any employment or business carried on by him/her;
 - (b) the name of the person who employs or has appointed him/her, the name of any firm in which s/he is a partner, and the name of any company for which s/he is a remunerated director;
 - (c) the name of any person, other than a relevant authority, who has made a payment to him/her in respect of his election or any expenses incurred by him/her in carrying out his duties;
 - (d) the name of any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (e) a description of any contract for goods, services or works made between the authority and him/her or a firm in which he is a partner, a company of which he is remunerated director, or a body of the description specified in sub-paragraph (d) above;
 - (f) the address or other description (sufficient to identify the location) of any land in which s/he has a beneficial interest and which is in the area of the authority;
 - (g) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which s/he is a partner, a company of which s/he is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and
 - (h) the address or other description (sufficient to identify the location) of any land in the authority's area in which s/he has a licence (alone or jointly with others) to occupy for 28 days or longer.
15. Within 28 days of the provisions of the authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his other

interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's Monitoring Officer of his/her membership of or position of general control or management in any -

- (a) body to which s/he has been appointed or nominated by the authority as its representative;
 - (b) public authority or body exercising functions of a public nature;
 - (c) company, industrial and provident society[28], charity, or body directed to charitable purposes;
 - (d) body whose principle purposes include the influence of public opinion or policy; and
 - (e) trade union[29] or professional association.
16. A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 14 and 15 above, provide written notification to the authority's Monitoring Officer of that change.

Registration of Gifts and Hospitality

17. A member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority's Monitoring Officer of the existence and nature of that gift or hospitality.

PART 4

DEFINITION OF " FRIEND "

18. With reference to para 8(1) above, the Standards Committee, on 25 March 2004, agreed the following local interpretation of the term "friend" :
- (a) The fact that Members knew each other and frequently attended the same functions in their position as Councillors, did not in itself constitute a friendship insofar as the need to declare an interest under the Code of Conduct was concerned;
 - (b) To establish whether their relationship went beyond that in (a) above, Members should consider issues such as:
 - Whether they knew each other's families
 - Whether they visited one another's homes on a regular basis
 - Whether they were close, or there were any other particular connections;and if having done this, they were in any doubt about whether their relationship could be considered a "friendship", then they should declare a personal and prejudicial interest, and take no part in the particular process under consideration.

PART 5

THE GENERAL PRINCIPLES

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusion.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their ace, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

APPENDIX F

LIST OF GIFTS/HOSPITALITY OFFERED TO COUNCILLORS: 1.4.2005-31.3.2006

Date	Description	Name of cllr	Offered by	Accepted
8.7.05	Lunch at Renaissance during presentation on Chatham Place proposal	Collins Dymond Green Hanley Page Pugh (attended but did not have lunch)	AMEC	Yes
27.7.05	2 tickets for Romeo & Juliet (Abbey Ruins)	Grieve Wilton	Progress Theatre/RBC	Yes
End July 05	WOMAD tickets	4 tickets : Skeats 2 tickets: Chaudhri, Collins, Crisp, Cumpsty, Ennis, Fry, Gittings, Goodall, Green, Grieve, Hanley, Hartley, Hendry, Hoskin, Howarth, Janjua, T Jones, Kayes, GM Khan, GF Khan, Maskell, McKenzie, Page, Ralph, Singleton-White, R Stainthorp, S Stainthorp, Swaine, Tickner, Waite, Wilton	RBC	Yes
End August 05	Reading Festival tickets @ £94 each	2 tickets: Crisp, Cumpsty, Ennis, Fry, Gittings, Goodall, Grieve, Hartley, Hendry, Hoskin, Howarth, GF Khan, GM Khan, Skeats, R Stainthorp, S Stainthorp, Tickner, Waite, Wilton 1 ticket: Sutton	Mean Fiddler	Yes
25.8.05	Book, silk square, photos - gift for Cllr Sutton's attendance at Symposium in Nagoya, Japan	Sutton	Norihiro Yekoyama, Director of Enterprise Agency, Japan	Yes
7.10.05	Hexagon concert - 2 tickets each	Green McKenzie	Hexagon	Yes
11.10.05	Radio worth £75 (to listen to the Imam)	Gul Khan Haji Khan	Nabishi UK	Yes
16.1.06	2 naval photo pictures	Skeats	Naval Association	Yes
28.1.06	2 theatre tickets	Grieve	Hexagon	Yes
7.3.06	2 panto tickets	McKenzie	Hexagon/RSL	Yes