

READING BOROUGH COUNCIL  
REPORT BY MONITORING OFFICER

TO:	STANDARDS COMMITTEE		
DATE:	13 JULY 2010	AGENDA ITEM:	2
TITLE:	TERMS OF REFERENCE AND ANNUAL REPORT		
CHAIRMAN:	JOHN HICKS	PORTFOLIO:	
SERVICE:	CENTRAL ADMINISTRATION	WARDS:	BOROUH-WIDE
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To set out the Committee's terms of reference and constitutional role for the Municipal Year 2010/11, to update the Committee on developments and complaints during the 2009/10 Municipal Year, and to look forward to the current Municipal Year.
- 1.2 The arrangements for the local assessment of complaints became operable from 8 May 2008, and the Committee agreed a new Local Assessment Procedure and a Councillor Complaints Procedure at its meeting on 15 July 2008. It agreed a publicity protocol to support these procedures at its meeting on 14 July 2009. Over the past year, the Local Investigation Procedure document has been re-drafted to align with the Local Assessment Procedure.
- 1.3 Your attention is drawn to the following relevant parts of the Council's constitution and other documents as attached:
- A: Article 9 - The Standards Committee (terms of reference)
  - B: Part 5 - Code of Conduct for Members
  - C: Complaints about Councillors Procedure
  - D: Local Investigation Procedure (revised)
  - E: List of Gifts / Hospitality Registered by Councillors 2009/10
- 1.4 Over the Municipal Year 2009/10 the local Assessment Sub-Committee met on three occasions, to consider four complaints. The Sub-Committee agreed to take no further action in two; in one it asked me to take alternative action not amounting to an investigation; in one it asked me to conduct an investigation, which is continuing. Therefore over the past year there have been no findings of breaches of the Code of Conduct by Members of the Council.

- 1.5 In one of the four complaints, where the Assessment Sub-Committee decided to take no further action, the complainant exercised his right to request a review of this decision. Therefore the Assessment Review Sub-Committee has met once over the past Municipal Year, to review the Assessment Sub-Committee's decision. The Review Sub-Committee also agreed to take no further action.
- 1.6 At your meeting on 14 July 2009, you considered and expressed general concern about the use being made by some Councillors of personal blog sites and news forums. This followed the receipt of advice from Standards Board for England (now known as Standards for England) in response to an enquiry from the Council on this matter. You also recommended to the Council that it should adopt the practice of including a standing "Declarations of Interest" item at the beginning of all meetings involving Councillors. These matters were drawn to the attention of full Council on 13 October 2009, when it received the Minutes of your meeting. The Council agreed to adopt the practice of having a standing "Declarations of Interest" item, which was put into place straight away.
- 1.7 During the spring of 2009 the Chairman, Mr Hicks, met separately with the Chief Executive, the Leader of the Council, and with Councillors Cumpsty and Bayes as Leaders of the Conservative and Liberal Democrat groups, to share the Committee's thinking on a number of matters, including Councillors' use of internet sites, and generally to promote high standards. He has asked that a further round of individual meetings be arranged for this summer, following the local elections on 6 May 2010.
- 1.8 Over the past Municipal Year there has been no change to the Committee's independent Membership (see para. 4.6 below).

## **2. RECOMMENDED ACTION**

- 2.1 That the Committee's terms of reference and constitutional role be noted;
- 2.2 That the revised Local Investigation Procedure (Appendix D) be adopted;
- 2.3 That the list of gifts and hospitality registered by Members in the financial year 2009/10 be received (Appendix E).
- 2.4 That the Chair present these Minutes to the next full Council meeting (19 October 2010), and use that meeting to express to all Councillors matters of concern to the Committee, to be identified at tonight's meeting.

## **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 first adopted in April 2002.

- 3.2 Responsibility for enforcing compliance with the code is split currently 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 First-tier Tribunal (formerly 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 introduced new Regulations which allowed the ESO to hand over the investigation of minor breaches of the Code of Conduct to the Council's Monitoring Officer (MO). 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 In 2007, Parliament passed the Local Government and Public Involvement in Health Act. This included provisions to allow the Secretary of State to issue Regulations to introduce the local assessment of allegations about the Conduct of Councillors, by the local Standards Committee.
- 3.6 In 2008 the Government issued Regulations which introduced local assessment of complaints from 8 May 2008. As a consequence, all complaints about Councillors must now be made directly to the Standards Committee of the authority on which the Councillor is a Member.
- 3.7 At your meeting on 13 July 2008, you adopted a new Local Assessment procedure into alleged breaches of the Members' Code of Conduct, and a local Complaints Procedure, *Complaints Against Councillors*, which is published on the Council's website.

#### 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 In investigating and determining complaints, the test that must be applied 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 new Model Code, is attached at **Appendix B**.

#### 4.3 Local Assessment

4.3.1 The Committee's procedure for undertaking the initial local assessment of complaints was approved in July 2008, and is set out in Part 5 of the Council's constitution. Each complaint is considered, within 28 days of receipt, by a local Assessment Sub-Committee of three Members, including (and chaired by) an independent Member. The Assessment Sub-Committee may come to four findings on any complaint:

- Direct the Monitoring Officer to investigate the complaint
- Refer the complaint to the Standards Board for England for investigation
- Direct the Monitoring Officer to take other appropriate action short of a formal investigation
- No further action

4.3.2 A promotional leaflet and application form was also approved in July 2008. They can be accessed from the Council's website, under "Complaints". See also **Appendix C**. The leaflet was designed as part of a wider exercise to review and promote the Council's complaints procedures generally. It is also available at the Civic Offices and in public libraries.

4.3.3 If complainants are dissatisfied with the Local Assessment Sub-Committee's decision, they may seek a review in writing within 30 calendar days of notification of the decision. If they do this, then their complaint will be considered by a Review Sub-Committee made up of three new Members of the Committee including (and chaired by) another independent Member. This body's decision will be final.

#### 4.4 Local Investigation

4.4.1 If the Local Assessment Sub-Committee refers the matter to me for investigation, I will ask an independent person to conduct an investigation and to report back to me, usually within three months. I then will report the results of the investigation to a Consideration of Hearing Sub-Committee. This is also composed of three Members, including (and chaired by) an independent Member (who can be the same as on the original Local Assessment Sub-Committee). The investigation will be undertaken in line with the local investigation procedure.

4.4.2 The Consideration of Hearing Sub-Committee will decide, on the basis of the investigating officer's report, whether the investigation suggests that a breach of the Code of Conduct may have occurred that is sufficient to warrant a formal hearing. If it does so conclude, then I will convene a Hearing Sub-Committee within a further three months, to hear the complaint in line with the Council's local determination procedure. This Sub-Committee must also be chaired by an independent Member.

4.4.3 The Committee's procedure for investigating complaints referred to the Monitoring Officer for local investigation is also set out in Part 5 of the Council's constitution.

4.4.4 The local investigation procedure was adopted by the Standards Committee on 1 February 2005. This was before Parliament introduced local assessment, and the procedure therefore was based on a system where the Standards Board referred complaints to local authorities for investigation. I have reviewed the procedure over the past year, to align it to the Local Assessment procedure. The revised version is attached at **Appendix D**, for adoption tonight.

#### 4.5 Local Determination

4.5.1 The Committee's procedure for considering cases referred to it by the Standards Committee or the Standards Board for local determination is set out in Part 5 of the Council's constitution. 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.

4.5.2 This procedure also needs review to align it to Local Assessment and Local Investigation. I shall be doing this over the next 12 months.

#### 4.6 Committee Membership

4.6.1 Over the past year the Committee's independent Members have been John Hicks, and Rev. Brian Shenton, who were both appointed following a recruitment process run during the spring of 2007; and Tina Barnes, who was appointed in December 2008. Mr Hicks has been the Chairman since May 2008.

4.6.2 For the Municipal Year 2009/10, the Councillor members of the Committee were Councillors Beard, Byrne, Maskell, Skeats, Tickner and Watson, with Councillors Bayes, Hanley and Steele as the named substitutes.

4.6.3 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. CODE OF CONDUCT

5.1 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 discussion paper in December 2005, and a consultation paper on a draft new Model Code of

Conduct in January 2007. Following consultation with members of this Committee, I responded to the consultation paper on behalf of the Council in March 2007.

5.2 The Department of Communities and Local Government (DCLG) issued the Local Authorities (Model Code of Conduct) Order 2007 on 4 April 2007. This prescribed a revised model Code of Conduct, which came into effect within three months.

5.3 At your meeting on 17 July 2007 you agreed and recommended to full Council a revised Reading Code of Conduct for Members, based on the new Model Code. This was adopted by full Council on 15 October 2007, since when all Councillors have signed to say that they will abide by it.

## 6. INTERESTS

6.1 Under the Code of Conduct, there are 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. This requirement has been modified in the new Code to allow the Member to make representations, answer questions and give evidence before leaving.

6.2 It is important to separate personal interests from the common law principles of bias and predetermination. These may still apply, even if there is no personal interest

➤ Bias is “an attitude of mind which prevents the decision maker from making an objective determination of the issue he has to resolve”. This could include membership of a body that has lobbied for or against the issue being decided. The test of bias is whether the relevant circumstances “would lead a fair-minded and informed observer to conclude that there was a real possibility, or a real danger, the two being the same, that the tribunal was biased”

➤ Predetermination is making up your mind in advance of taking the decision. This applies particularly to planning and licensing, where Councillors must consider on merits of individual case as presented to committee. Councillors cannot take part in decisions on individual applications if they have already made up their mind. However, predisposition is not the same as predetermination.

➤ Councillors who may have predetermined their position on a planning or licensing application may still attend meeting to speak on the application through meeting’s normal procedures, and need not leave the meeting. However, they cannot take part in the debate or vote on the application.

## 7. COMPLAINTS

## 7.1 Complaints to Monitoring Officer

7.1.1 Since your meeting in July 2009, I have received four formal written complaints about Councillors, of which two came from members of the public, and two from fellow Councillors. In each case the complaint was referred to the Assessment Sub-Committee for initial consideration. The outcomes are set out below.

Ref 09/ 10	Received	Date of Assessment Sub-Ctte (ASC)	Complainant	Description of complaint	Decision of ASC	Further developments
001	29 July 2009	8 Sept 2009	Councillor	<ul style="list-style-type: none"> <li>• Failure to treat others with respect</li> <li>• Disclosing confidential information without consent</li> <li>• Bringing office / authority into disrepute</li> </ul>	Other action short of formal investigation	MO wrote to both Cllrs (complainer and complained about)
002	15 Feb 2010	11 March 2010	Councillor	<ul style="list-style-type: none"> <li>• Using position to secure personal advantage</li> <li>• Bringing office / authority into disrepute</li> </ul>	Investigation	Continuing
003	23 Feb 2010	11 March 2010	Member of public	<ul style="list-style-type: none"> <li>• Using position to secure personal advantage / disadvantage</li> <li>• Bringing office / authority into disrepute</li> </ul>	No further action	Review Sub-Ctte 24 May 10  No further action
004	25 March 2010	14 April 2010	Member of public (applicant)	<ul style="list-style-type: none"> <li>• Failure to treat others with respect</li> </ul>	No further action	

7.1.2 Each complaint was made about a different Councillor.

7.1.3 Three complaints were considered by the Local Assessment Committee within 28 days of receipt. The fourth coincided with the summer holidays, but was considered within six weeks. In each case a Decision Notice was issued to the complainant and the Councillor complained about. A brief Minute was taken and published on the Council's website.

7.1.4 As mentioned above, in one complaint (002) the Sub-Committee instructed me to undertake an investigation. This is being done by the Corporate Projects Officer (Roger Penfold). Due to complications in identifying and interviewing witnesses, and the understandable focus on the Parliamentary election of many of those involved, the investigation is likely to take four months to complete. The results of the investigation will be considered by a Consideration of Hearing Sub-Committee (CHSC) in the early autumn.

## 7.2 Other Complaints

7.2.1 Over the past year I have received a number of preliminary enquiries about complaints, including the use by Councillors of personal blogsites. However, there has been a noticeable reduction in the number of complaints about blogsites compared with last year.

### 7.3 Local Codes of Conduct and Protocols

7.3.1 The constitution contains the following protocols of relevance to Councillors:

- Planning code of conduct
- Protocol on Member:Officer Relations
- Council Publicity and Elections
- Working with Reading's MPs

7.3.2 In addition, during 2005 the Head of Legal Services and I issued guidance to Councillors on interests in licensing matters. During 2009/10 these have been updated due to legislative changes. From 29 January 2010, Section 33 of the Police and Crime Act 2009 has amended Section 13(3) of the Licensing Act 2003 to add "members of the relevant licensing authority" to the list of interested parties. Councillors, whether or not they reside in the vicinity of a premises with a premises licence, can now make representations on licence applications or apply to have a licence reviewed. Councillors can also attend and speak at hearings provided they have submitted a relevant representation, in accordance with The Licensing Act 2003 (Premises licences and club certificates) Regulations 2005 (Statutory Instrument No. 42).

### 7.4 Standards for England

7.4.1 The new Government announced on 28 May 2010 that its planned Decentralisation and Localism Bill will include a proposal to 'abolish the Standards Board regime'. The Chair and Chief Executive of Standards for England responded as follows

"We are very disappointed at the Government's decision to abolish the local government standards regime.

Since 2007, Standards for England has dealt only with those matters which local authorities could not deal with themselves. Our recent review of this devolved local framework found that it is delivering increased confidence in the accountability of local politicians, improved member behaviour and contributing to better governance.

We do not have clear details as yet of what is proposed for the future, but for now the local standards framework remains pending legislative change. Our priorities are to fulfil our statutory duties, to support local authorities in maintaining high standards and to assist the government in developing and implementing any new arrangements"

7.4.1 Standards for England have now cancelled their annual autumn conference; and are no longer collecting quarterly monitoring statistics from local authorities.



## 8. OPERATIONAL ISSUES

### 8.1 Training

- 8.1.1 There were no local elections in May 2009, therefore I did not have to provide induction training on standards for new Councillors. In May 2010, I ran an induction course on standards for all six new Councillors.
- 8.1.2 I propose to offer a further training session this autumn on the Code of Conduct, Interests, and Local Protocols.
- 8.1.3 Over the past year, Councillor Steele, and former Councillor Byrne, attended a training course on Misconduct and the Code, run by Peter Keith-Lucas of Bevan Brittan, on 23 September 2009. In addition, as Monitoring Officer I also attended a refresher training course on *Implementing Codes of Conduct*, run by Peter Keith-Lucas of Bevan Brittan on 11 February 2010.
- 8.1.4 The following current Committee Members and Deputies have attended training on the Member Code of Conduct and local assessment / investigation:

Member	Course	Provider	Trainer
Mrs Barnes	Misconduct & the Code	Bevan Brittan - London - 29 May 2009	Peter Keith-Lucas
Cllr Beard	Local assessment training	Wokingham, 11 September 2009	Colin Lawley (WBC)
Mr Hicks	Code of Conduct	Bevan Brittan - London - April 2008	Peter Keith-Lucas
Cllr Maskell	Local assessment training	Wokingham, 11 September 2009	Colin Lawley (WBC)
Cllr Skeats	Local Investigation / determination	Bevan Brittan - in house course	Peter Keith-Lucas
Cllr Steele	Misconduct & the Code	Bevan Brittan - London - Sept 2009	Peter Keith-Lucas
Cllr Tickner	Local assessment	Bevan Brittan - London - April 2008	Peter Keith-Lucas
	Local investigation / determination	Bevan Brittan - Slough - 2004	Peter Keith-Lucas

- 8.1.4 Rev. Shenton, and Councillors Rynn and Watson, have not yet received any dedicated training on aspects of the standards complaints procedure. Councillor Rynn is new to the Committee this year. Rev Shenton, and Councillor Watson, have a working knowledge of standards and disciplinary procedures through their employment.

### 8.2 Gifts and Hospitality

- 8.2.1 The Register of Gifts and Hospitality offered to Councillors in the financial year 2009/10 attached at **Appendix F**. Under para. 15 of the Code of Conduct, Members must give me notification of all gifts and hospitality with a value of over £25. There is an additional column showing the value of the gift. The

Councillor Services team also adds all declared gifts to the Councillor's personal register of interests entry.

## **6. CONTRIBUTION TO STRATEGIC AIMS**

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

## **7. COMMUNITY ENGAGEMENT AND INFORMATION**

7.1 None last year.

## **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.

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).

8.3 Sections 183-201 of the Local Government and Public Involvement in Health Act 2007 amended Section 58 of the Local Government Act 2000, and added new Sections 57A-C to allow the introduction of local assessment. The Government subsequently issued the Standards Committee (England) Regulations 2008 which implemented these changes from 8 May 2008.

## **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 will generate 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 (£32.25 a day).

## **10. BACKGROUND PAPERS**

Attached

Standards Board - Local Assessment of Complaints

Bevan Brittan - Initial Assessment of Standards Complaints - Assessment and Review Criteria

## Article 9 - The Standards Committee

### 6. STANDARDS COMMITTEE

As set out in Article 9 of the Constitution, 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 receive and assess allegations about Council Members involving a breach of the Code of Conduct; and to hear appeals against such assessments.
  2. Subject to the outcome of (1) above:
    - a) to commission the investigation of allegations about the personal conduct of Council Members involving a breach of the Code of Conduct by the Monitoring Officer under the Council's Local Investigation Procedure, and to receive and consider the Monitoring Officer's investigation report; or
    - b) to refer more serious complaints to the Standards Board for England for investigation by an Ethical Standards Officer (ESO);
    - c) to ask the Monitoring Officer to take steps other than carrying out an investigation under Section 13 of the Standards Committee (England) Regulations 2008.
  3. Subject to the outcome of (2) above, to hear and determine allegations about the personal conduct of Council Members involving a breach of the Code of Conduct under the Council's local determination procedure or, where appropriate, to refer such allegations to the Standards Board for England for determination.
  4. To determine 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.
  5. 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 First-Tier Tribunal (Local Government Standards in England).

6. To monitor the probity and propriety of all aspects of Council business.
7. To scrutinise the conduct of individual Councillors, political groups and informal groupings, 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.
8. To advise the Council on the adoption or amendment of national and local codes of conduct and to monitor their effectiveness.
9. 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.
10. 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 Standards for England as it sees appropriate; the Committee may also refer any such matter to the relevant Political Group(s) for their consideration.
11. 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;
12. 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.



## THE MEMBERS' CODE OF CONDUCT

### *PART 1*

#### GENERAL PROVISIONS

##### Introduction and Interpretation

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (See Part 4 below)
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:
  - (1) "meeting" means any meeting of—
    - (a) the authority;
    - (b) the executive of the authority;
    - (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;
  - (2) "member" includes co-opted members and appointed members as well as Councillors.

##### Scope

2. 1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
  - (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.
- 2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- 3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted
- 4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).
- 5) Where you act as a representative of your authority—
  - (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### General Obligations

3.
  - 1) You must treat others with respect.
  - 2) You must not—
    - (a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006)];
    - (b) bully any person;
    - (c) intimidate or attempt to intimidate any person who is or is likely to be—
      - (i) a complainant,
      - (ii) a witness, or
      - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
    - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
4. You must not—

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is—
      - reasonable and in the public interest; and
      - made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
6. You—
- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
  - (b) must, when using or authorising the use by others of the resources of your authority—
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
  - (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
7. 1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—
- (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,
- where that officer is acting pursuant to his or her statutory duties.
- 2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

*PART 2*

INTERESTS

Personal Interests

8. 1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body—
  - exercising functions of a public nature;
  - directed to charitable purposes; or
  - one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),of which you are a member or in a position of general control or management;
- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in your authority's area in which you have a beneficial interest;



- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
  - (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- 2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body 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 person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

### Disclosure of Personal Interests

9. 1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you 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) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- 3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

- 4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- 5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- 6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- 7) In this paragraph, "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

### Prejudicial Interest Generally

10.
  - 1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is 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 your judgement of the public interest.
  - 2) You do not have a prejudicial interest in any business of the authority where that business—
    - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
    - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
    - (c) relates to the functions of your authority in respect of—
      - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
      - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
      - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

### **Prejudicial Interests arising in relation to Overview and Scrutiny Committees**

11. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
  - b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

### **Effect of Prejudicial Interests on Participation**

12. 1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
    - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's standards committee;
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- 2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations,

answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### *PART 3*

#### REGISTRATION OF MEMBERS' INTERESTS

##### Registration of Members' Interests

13. 1) Subject to paragraph 14, you must, within 28 days of—
- (a) this Code being adopted by or applied to your authority; or
  - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- 2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

##### Sensitive Information

14. 1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- 2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- 3) In this Code, "sensitive information" means information the availability of which for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

##### Registration of Gifts and Hospitality

15. You 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*

### 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.

John Painter

May 2007



## Complaints about Councillors

You can make a complaint about a Councillor if you consider that the Councillor has acted in a way that breaches the Code of Conduct for Members. The code can be found on the Council's website: here is the reference <http://www.reading.gov.uk/councilanddemocracy/General.asp?id=SX9452-A782B536>

### What is the Code of Conduct?

The Code is a national document set out by the Government, which Parliament has said all Members of a local authority must observe. It sets out the standards of moral and ethical conduct that are expected from a Member.

Councillors are the elected Members of the Borough Council. The Code will also apply to any appointed members of Council Committees.

All Councillors, when they are elected, sign to say that they will observe the Code as part of their declaration of acceptance of office.

The Code of Conduct says that Councillors **MUST DO** the following things:

- Follow the Code when they are representing the Council
- Declare any personal and prejudicial interests they have in the business of the authority
- Register their personal interests in the Council's Register of Members Interests, and keep their entry up-to-date. The Register can also be found on the Council's website, at <http://www.reading.gov.uk/councilanddemocracy/councillorinformation/General.asp?id=SX9452-A77FE0D0>
- Treat others with respect
- Register gifts and hospitality received in their role as a Councillor, worth more than £25

The Code of Conduct says that Councillors **MUST NOT DO** the following things:

- Bring the Council or their office into disrepute;
- Use the Council's resources for party political purposes;
- Compromise the impartiality of people who work for the Council;
- Discriminate against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age;
- Bully, intimidate or attempt to intimidate others;

- Use their position improperly for personal gain or to advantage their family members, friends or close associates;
- Attend meetings or be involved in decision making where they have a prejudicial interest - except when speaking when the general public are also allowed to do so;
- Disclose confidential information, other than in exceptional circumstances;
- Prevent anyone from getting information they are entitled to.

The Code of Conduct applies to Councillors when they are:

- Carrying out Council business;
- Carrying out the business of an office to which they have been elected or appointed by the Council (eg Leader, Chair);
- Acting as a representative of the Council.

The Code does not apply to Councillors' personal life, except in the following circumstances:

- their actions are bringing their office or the authority into disrepute - in these cases it only applies to unlawful activities outside the Councillors' official duties which could damage the reputation of local government;
- they are using their position to gain an advantage for themselves or to advantage or disadvantage somebody else.

### What are Interests?

Councillors will have a *Personal Interest* in any item of business:

- that affects their own well-being or finances, or the well-being or finances of their family or close associates;
- more than most other people who live in the area affected by the item of business.

A personal interest will become a *Prejudicial Interest* if it affects the Councillors, or their family or close associates in the following ways:

- it affects their finances, or
- it relates to a licensing, planning or other regulatory matter, and
- a reasonable member of the public with knowledge of the facts would believe the interest was likely to harm the Councillors' ability to judge the public interest.

### How do I Complain?

If you have evidence that a Councillor has acted in a way that breaches the Code of Conduct, you can complain to the Council's Monitoring Officer, at the following address:

John Painter  
Monitoring Officer  
Reading Borough Council



Civic Offices  
Reading RG1 7TD

Your complaint must be in writing. You can submit it in three ways:

- By letter (post to above address - or fax - 0118 939 0591)
- By e-mail - to [Cttee.Services@reading.gov.uk](mailto:Cttee.Services@reading.gov.uk)
- By completing the proforma below.

In your complaint you must specify the following:

- Name of Councillor
- When the breach occurred
- Details of breach - ie the thing you are complaining about
- The redress you are seeking - ie what would you like the Councillor to do about it?

### **What will happen when I complain?**

Firstly, the Council's Monitoring Officer will acknowledge receipt of your complaint. He may also contact you to clarify any aspects of the complaint.

The Monitoring Officer will then submit your complaint to an Assessment Sub-Committee of the Council's Standards Committee which will meet to consider your complaint within four weeks.

Every local authority is required by law to have a Standards Committee. In Reading, this is made up of seven Councillors and three independent Members (people who are not Councillors and who have been appointed to the Committee to be independent of the Council).

The Standards Committee will set up an assessment sub-committee to consider your complaint. This will be made up of three members of the Standards Committee, one of whom must be an independent Member, who will chair the sub-committee.

The sub-committee will meet in private. Neither you, nor the Councillor you are complaining about, will be able to attend it. Its business must remain confidential.

### **What will the Assessment Sub-Committee consider?**

The sub-committee will have to answer two questions:

- 1) On the evidence available to it from the complaint, is it likely that a breach of the Code of Conduct may have occurred?
- 2) If so, is the likely breach sufficiently serious to warrant a formal investigation?

The complaint will have to link back to the Code of Conduct. The sub-committee will therefore check to establish that at the time of the complaint the Councillor was

carrying out Council business in some way. The sub-committee will normally reject a complaint that you were making about Councillors which was about their behaviour in their private life, for example as a neighbour.

Where the Councillor was carrying out Council business, the sub-committee will also want to establish that the actions complained about involved a breach of the Code.

The sub-committee will normally reject:

- Anonymous complaints
- Complaints about actions that occurred more than 12 months before;
- Complaints about comments made in the cut and thrust of political debate;
- Minor complaints that it sees as trivial, vexatious, malicious, politically motivated or made on a tit-for-tat basis - unless these suggest a more deep-seated problem;
- Complaints that are similar to a previously investigated complaint where there is nothing further to be gained from an investigation;
- Complaints about a Councillors' private life which are unlikely to affect their fitness for office;
- Complaints where there is insufficient information to justify an investigation, or where an investigation is unlikely to be able to come to a firm conclusion on the matter

In addition, the sub-committee will consider whether a formal investigation is the right level of response to the matter complained about.

### **What will happen when the sub-committee has met?**

After the sub-committee has met to consider your complaint, the Monitoring Officer will then write to you to let you know the outcome. The will aim to do this within five working days of the sub-committee meeting.

The Sub-Committee may come to one of four decisions:

- Do direct the Council's Monitoring Officer to have the complaint investigated formally
- In serious cases, to refer the complaint to the Standards Board for England for national investigation
- To direct the Monitoring Officer to take other appropriate action short of formal investigation
- To take no further action

If the sub-committee decides that your complaint should be investigated further, the Monitoring Officer will appoint an Investigating Officer to do this. This person is most likely to be an officer of the Council. The investigation will follow the Council's local investigation procedure. This can also be found on the Council's website, at [http://www.reading.gov.uk/Documents/Committee\\_Services/part5localinvestigation.pdf](http://www.reading.gov.uk/Documents/Committee_Services/part5localinvestigation.pdf)

- The Investigating Officer will ask to interview you about the complaint. S/he will also interview the Councillor about whom you are complaining. S/he will ask both of you to identify the witnesses you would like the Investigating Officer to interview, and the evidence that both of you consider that s/he should examine.
- Depending on the complexity of the matter complained about, the Monitoring Officer will ask the Investigating Officer to report back to him with the results of the investigation within two to three months.
- The Monitoring Officer will then submit the report to a meeting of the Standards Committee, which will decide whether the report demonstrates that there has been a breach of the Code of Conduct that should be considered at a formal hearing. If the Committee decides this is the case, then the Committee will set up a hearing sub-committee, to meet within three months.

In some cases, the sub-committee may consider that your complaint could amount to a breach of the Code of Conduct, but the breach is not sufficiently serious to merit the costs of a formal investigation. It may alternatively conclude that the complaint may be a symptom of wider conflicts within the authority. In such cases it may direct the Monitoring Officer to take other appropriate action short of formal investigation. This can include:

- Providing training for Councillors
- Securing conciliation or mediation
- Reviewing procedures to reduce conflict

If the sub-committee decides that your complaint should not be investigated further, the Monitoring Officer will write to you, again within five working days, to explain why the sub-committee came to this decision.

#### **What can I do if I am unhappy with the sub-committee's decision?**

If you are dissatisfied with the decision, you may appeal against it. You must do this within 30 calendar days of receiving the Monitoring Officer's letter, in writing to the Monitoring Officer. The Monitoring Officer will then call a meeting of an appeals sub-committee of the Standards Committee. This will be made up of three different Members, including a different independent Member as chair. They will meet within a month to review your complaint and your grounds for appeal. The Monitoring Officer will write to you to let you know their decision. The appeals sub-committee's decision will be final.

# READING BOROUGH COUNCIL

## *COMPLAINTS ABOUT COUNCILLORS*

### COMPLAINT FORM

NB - You should only complete the parts of this form in boxes. The remainder of the form is explanatory text.

#### YOUR DETAILS

##### 1. Who are you?

Title:	
First name:	
Surname:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile phone:	
E-mail address:	

We will tell the following people that you have made this complaint:

- The Councillor(s) you are complaining about
- The Council's Monitoring Officer
- The Members of the assessment sub-committee.

We will tell them your name, but not your address. The Monitoring Officer will be given full details of your complaint. He will provide the Councillor(s) and the assessment sub-committee with a summary of your complaint, unless in his judgment it is necessary for them to have the full details in order to deal with it.

If you have serious concern about your name, or the full details, of your complaint being given to the Councillor(s) you are complaining about, and/or the assessment sub-committee, please fill in section 8 of this form, below.

2. Please tick which of the following descriptions fits you best:

<input type="checkbox"/> Member of the public <input type="checkbox"/> Councillor or Co-opted Member of the authority <input type="checkbox"/> Independent member of the Standards Committee <input type="checkbox"/> MP <input type="checkbox"/> Monitoring officer <input type="checkbox"/> Other Council employee <input type="checkbox"/> Other
---

**YOUR COMPLAINT**

4. Who are you complaining about?

Which Councillors or Members do you believe have breached the Code of Conduct?

Title	First name	Surname	Position in Council (eg Leader, Chair of Committee)

5. Which part of the Code of Conduct do you think they have breached?

Please tick - you may tick more than one box

<input type="checkbox"/> Not following the Code when they are representing the Council <input type="checkbox"/> Not declaring any personal and prejudicial interests they have in the business of the authority <input type="checkbox"/> Not registering their personal interests in the Council's Register of Members Interests, and keep their entry up-to-date. <input type="checkbox"/> Not treating others with respect <input type="checkbox"/> Not registering gifts and hospitality received in their role as a Councillor, worth more than £25
---

<input type="checkbox"/> Bringing the Council or their office into disrepute <input type="checkbox"/> Using the Council's resources for party political purposes
---

- |  |
|--|
| <ul style="list-style-type: none"><li><input type="checkbox"/> Compromising the impartiality of people who work for the Council</li><li><input type="checkbox"/> Discriminating against people on the grounds of race, gender, disability, religion or belief, sexual orientation and age</li><li><input type="checkbox"/> Bullying, intimidating or attempting to intimidate others</li><li><input type="checkbox"/> Using their position improperly for personal gain or to advantage their family members, friends or close associates</li><li><input type="checkbox"/> Attending meetings or being involved in decision making where they have a prejudicial interest - except when speaking when the general public are also allowed to do so</li><li><input type="checkbox"/> Disclosing confidential information, other than in exceptional circumstances</li><li><input type="checkbox"/> Preventing anyone from getting information they are entitled to.</li></ul> |
|--|

## 6. How has the Code of Conduct been breached?

Please set out in the box below what the Councillor or Member has done which you believe has breached the Code of Conduct.

Where you are complaining about more than one Councillor or Member, you should make clear what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information that you want the assessment sub-committee to take into account when considering your complaint. You should, where possible:

- Be specific about what exactly you are alleging the Councillor said or did
  - eg - If you are complaining that the Councillor insulted you, you should state what the Councillor said.
- Provide details of the dates and times of the alleged incidents
  - If you cannot give precise dates, then give a general timeframe
- Confirm whether there were any witnesses - and if so, give their names and contact details if known
- Provide all relevant background information

## Details of Complaint

Please continue on another sheet if you need more space

### 7. Redress

How would you like the Councillor(s) you are complaining about, to remedy your complaint?

### 8. Disclosure of Personal Information

In the interests of fairness and natural justice, we believe that any Councillor(s) who is/are complained about have a right to know:

- that a complaint has been made about them
- who has made the complaint
- what the complaint is

We will not withhold your identify or the details of your complaint unless you specifically ask us to do so, and then only in the following circumstances:

- to preserve the evidence
- to protect you or other witnesses from intimidation or bullying
- where there is a legal requirement not to disclose
- where the information you are providing in your complaint would be exempt or confidential under the Freedom of Information Act 2000 or Data Protection Act 1998, and the public interest would not be best served by disclosing it

Please provide details of why you believe we should not disclose your name or details of your complaint

## 9. Additional Help

Complaints must be made in writing - including fax or electronic submissions.

If you have a disability that prevents you from making your complaint in writing, please ring the Monitoring Officer on (0118) 939 0797 to discuss other ways for you to make your complaint.

If English is not your first language, please contact the Council's translation and interpretation service on 0118 939 0033.

**If you would like this note  
printed in large print and double**

space, please ring the Monitoring Officer on 939 0744.

Chair, Standards Committee  
July 2008



# Local Investigation

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

APPROVED BY STANDARDS COMMITTEE - 13 JULY 2010

### 1 Introduction

- 1.1 The Standards Committee (England) Regulations 2008 transferred the responsibility for considering complaints that a Member of the authority may have breached the Member Code of Conduct from the Standards Board for England to the Standards Committee of each local authority, from 8 May 2008. The Reading Standards Committee adopted a procedure for dealing with Complaints about Councillors at its meeting on 15 July 2008. This is published on the Council's website.

### 2 Pre-Investigation

- 2.1 Complaints must be made in writing to the Council's Monitoring Officer. S/he will refer them for initial consideration by an Assessment Sub-Committee of the Standards Committee. The Standards Committee, on 15 July 2008, also adopted a Local Assessment Procedure, which is set out in the Council's constitution.
- 2.2 Under the Local Assessment Procedure, and Section 57A(2) of the Local Government Act 2000 (as amended), the Sub-Committee, when considering complaints, can come to one of four decisions:
- To refer the complaint to the Standards Board for England ("Standards for England")
  - To refer the complaint to the Monitoring Officer for investigation
  - To refer the complaint to the Monitoring Officer for alternative action not amounting to investigation
  - To take no action in respect of the complaint
- 2.3 This procedure deals with the process to be followed when the Assessment Sub-Committee refers a complaint to the Monitoring Officer for local investigation.

### 3. Local Investigations

#### 3.1 Receipt of the Complaint

- 3.1.1 When instructed to investigate a complaint, the Monitoring Officer will notify the Councillor and the complainant, and will arrange for the investigation. The Decision Notice of the Assessment Sub-Committee will set out:
- (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/her to be relevant to the allegation; and
  - (iii) the identity of the Investigating Officer.

3.1.2 The Monitoring Officer will supply the Councillor complained about and the Investigating Officer with a copy of the Local Investigation Procedure. S/he will also advise them both of the timescale for the investigation.

### 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 will run as follows:

- a. The Monitoring Officer advises the Councillor and the Complainant of the instruction from the Assessment Sub-Committee to investigate the complaint, the identity of the Investigating Officer and of the Investigation Procedure. S/he will also provide the Councillor with details 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 s/he 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 Investigating Officer will send his/her full draft report to the Councillor and the complainant, and appropriate extracts to any person who has provided evidence which s/he 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 Investigating Officer will produce a final report, taking account of any such comments and suggested corrections, and send it to the Monitoring Officer;
- f. The Monitoring Officer will submit the Investigating Officer's report to a further Sub-Committee of the Standards Committee. This is called the "Consideration of Hearing" Sub-Committee. It may be comprised of the same Members of the Standards Committee who made up the Assessment Sub-Committee that first considered the complaint, but need not be.
- g. The Monitoring Officer will submit the Investigating Officer's report to the Consideration of Hearing Sub-Committee under his/her own covering report. The reports must make one of the following findings:
  - There has been a failure to comply with the Code
  - There has not been a failure to comply with the Code
- h. Where the reports conclude that there has not been a failure to comply with the Code of Conduct, the Monitoring Officer will ask the "Consideration of Hearing" Sub-Committee to consider the report and any representations from the Councillor. The Sub-Committee may either:
  - i. accept the Investigating Officer's conclusions and take no further action, or
  - ii. resolve that the complaint 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.
- i. Where the reports conclude that there has been a failure to comply with the Code of Conduct, the Monitoring Officer will ask the Sub-Committee to agree with this finding and to resolve either:
  - i that the complaint should be considered at a formal hearing, or
  - ii. that the complaint be referred to the Standards Board for consideration by the First-tier Tribunal (Local Government Standards in England) (formerly the Adjudication Panel for England)
- j. If the complaint 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 for the Consideration of Hearing Sub-Committee, including the reports of the Investigating Officer and Monitoring Officer, for the meeting which is to consider that report.

### **3.4 Additional Failures to Comply with the Code of Conduct**

3.4.1 During the course of an investigation, the Investigating Officer may uncover evidence of conduct by the Member complained about, or other Members, that breaches the Code of Conduct but extends the scope of the instruction to investigate given to the Monitoring Officer by the Assessment Sub-Committee.

3.4.2 In such cases the Investigating Officer will report these breaches to the Monitoring Officer. The Monitoring Officer may:

- i. tell the person who provided the evidence to the Investigating Officer that the evidence cannot be included in the current investigation, but the person may make a separate complaint to the Standards Committee
- ii. refer the evidence to the Assessment Sub-Committee as a new complaint
- iii. refer the original case back to the Assessment Sub-Committee , if:
  - the new evidence suggests that the complaint is more or less serious than when first considered by the Sub-Committee, to the extent that had the Sub-Committee been aware of the new evidence it might have come to a different decision about how the complaint should be dealt with
  - the subject Member has died, is seriously ill, has resigned from the authority or has ceased to be a Member of the authority, and it is no longer appropriate to carry on with the investigation

3.4.3 The Investigating Officer's remit is to conclude whether the conduct constitutes a failure to comply with the Code of Conduct, and s/he 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.

3.4.4 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 References from and back to the Standards Board**

3.5.1 The 2008 Regulations provide that Ethical Standards Officers appointed by Standards for England may also refer complaints about Members of the authority to the Monitoring Officer. This will normally be by way of a direction for other action rather than for investigation.

- 3.5.2 During the course of an investigation referred by an Ethical Standards Officer (ESO), the Monitoring Officer may request the ESO to take back the complaint in the following circumstances:
- i. the Monitoring Officer has uncovered a further possible breach that relates directly to the investigation, revealing for example a consistent pattern of behaviour
  - ii. the Monitoring Officer has been experienced obstruction which is preventing him/her from completing the investigation, for example the Councillor complained about has refused to cooperate with the investigation
- 3.5.3 When requesting that an investigation is referred to an ESO, the Monitoring Officer must state in writing to the ESO the reasons why s/he considers that the ESO should carry out the investigation. Any such request must be made before the completion of the investigation.
- 3.5.4 The Monitoring Officer may ask an ESO to take on a case only once during any investigation. The ESO will respond within 21 days. The response will be either to accept the complaint or to direct the Monitoring Officer to continue with the investigation.

## **4 Local Hearings**

- 4.1 These will be held under the Council's procedure for Local Determination. Hearings will be heard by a separate Sub-Committee of the Standards Committee, called the Hearings Sub-Committee, called specifically to hear the complaint. The Hearings Sub-Committee will normally be comprised of different Members from the Assessment Sub-Committee, and will be chaired by a (different) Independent Member.
- 4.2 In certain circumstances, the Standards Committee may determine that the hearing should be by the full Committee.

### **4.1 Timing**

- 4.1.1 The Monitoring Officer will normally ask the Investigating Officer to complete and produce the final report back on the investigation within three months.
- 4.1.2 The Monitoring Officer will normally call a meeting of the Consideration of Hearing Sub-Committee within one month of receiving the final report from the Investigating Officer
- 4.1.3 Where the Consideration of Hearing Sub-Committee determines that a hearing shall be held, the Monitoring Officer will aim to call the Hearing Sub-Committee within two months of the decision of the Hearing Sub-Committee. The Hearing Sub-Committee must be held within three months of the date that the Monitoring Officer completes his/her investigation report.

### **4.2 Additional Evidence**

- 4.2.1 If the Hearing Sub-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 Sub-Committee may 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 6 months, provided that these restrictions both:
  - are reasonable and proportionate to the nature of the breach, AND
  - do not unduly restrict the Member's ability to perform as a Member;
- c. a requirement to give an apology in a specified form;
- d. a requirement to undergo specified training;
- e. a requirement to undertake conciliation;
- f. suspension or partial suspension for a period of up to 6 months
- g. suspension or partial suspension until the Councillor undertakes training or conciliation or provides a written apology in the form specified by the Sub-Committee.

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 s/he 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.

## 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 failure to comply with them does not constitute a Breach of the Code unless the particular conduct is also a failure to comply with the Code of Conduct. For example a failure to treat an officer with mutual respect, as required by the Member / Officer Relations Protocol may 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 is 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 Committee.

## 6 Confidentiality

- 6.1 The information that the Investigating Officer and Monitoring Officer obtain during a local investigation is covered by Section 63 of the Local Government Act 2000 (as amended by the Local Government and Public Involvement in Health Act 2007). It must be treated as confidential until the investigation is completed. This is to ensure that the investigation is seen as fair, unbiased and conducted with integrity.
- 6.2 The fact that an investigation is being conducted does not need to remain confidential. The Minutes of the Assessment Sub-Committee will be published on the Council's website. The Standards Committee has adopted a Media Protocol, which the Monitoring officer and Committee Members will follow in dealing with media enquiries about investigations.
- 6.3 The Investigating Officer will conduct interviews in confidence.
- 6.4 Both the Assessment Sub-Committee and the Consideration of Hearing Sub-Committee will meet in private and in confidence. However, the Hearing Sub-Committee will be called as a public meeting, although it will be subject to the Access to Information Regulations and may therefore resolve to exclude the press and public if it considers that there may be a disclosure of exempt information under any paragraph of the Local Government (Access to Information) (Variation) Order 2006.

## 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 Councillors<sup>1</sup>. No departure will be made from this procedure unless and until the Monitoring Officer<sup>2</sup> 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 protocols<sup>3</sup>, in so far as they apply to Councillors.
- 1.3 Where the Monitoring Officer receives a written allegation that a Councillor has breached the authority's Code of Conduct for Members, the Monitoring Officer will refer the complaint to a Sub-Committee of the Standards Committee for assessment. At the assessment stage the Standards Committee can take one of four decisions, including to refer the complaint to the Monitoring Officer for investigation.
- 1.4 In such cases, the Monitoring Officer will arrange for an Investigating Officer to investigate the complaint and to report the matter to the authority's Standards Committee or to a Sub-Committee of the Standards Committee convened for the purpose<sup>4</sup>. 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 for an Investigating Officer to investigate the allegation and to report the matter to the authority's Standards Committee.
- 1.5 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

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<sup>1</sup> 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.

<sup>2</sup> 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

<sup>3</sup> 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.

<sup>4</sup> 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.



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..

- 1.6 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 person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer, and his or her representative).<sup>5</sup>
- (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

### (a) Appointment of Investigating Officer

Upon receipt of an instruction to investigate an allegation from the Standards Committee, 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 back to the Monitoring Officer. The Investigating Officer will normally be an officer of the authority<sup>6</sup>, but on rare occasions the Monitoring Officer may consider it appropriate to appoint an officer of another local authority, or an external Investigating Officer.

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<sup>5</sup> 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.

<sup>6</sup> 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 s/he does so, s/he must also arrange for a separate legal adviser to the Standards Committee in respect of the allegation.

(b) Notification to the Councillor

The Monitoring Officer will then notify<sup>7</sup> in writing the Councillor against whom the allegation is made:

- (i) that the allegation has been referred to him/her 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.

(c) Notification to the Standards Committee

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

Following the Monitoring Officer notifying the Councillor of receipt of the allegation, the Investigating Officer shall request the Councillor to respond to him/her 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

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<sup>7</sup> 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.

The Investigating Officer will also request the person who made the complaint to respond to him/her 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 will 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 s/he is satisfied that s/he has sufficient information to enable the Monitoring Officer 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 s/he 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 Committee;
- (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 s/he 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 s/he 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 s/he 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 s/he thinks necessary for the purposes of carrying out the investigation.

(ii) Representation

Any persons who appear before the Investigating Officer may 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 s/he 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 s/he considers to be appropriate subject to a maximum ceiling set by the Monitoring Officer.

5. The Draft Report

(a) When the Investigating Officer is satisfied that s/he 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, s/he 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 s/he 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 s/he has interviewed and those organisations from which s/he 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 s/he 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 s/he 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 for presentation 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, s/he 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, s/he 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 the person who made the complaint, 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.<sup>8</sup>
- (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;

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<sup>8</sup> 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.

- (ii) The Standards Committee, if the finding was made by a Sub-Committee of the Standards Committee;
- (iii) The Standards Committee of any other local authority of which the Councillor is also a member
- (iv) 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:
  - (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 Monitoring Officer will not conduct Pre-Hearing enquiries of the Councillor, and
  - (iii) the Investigating Officer shall be responsible for presenting the report to the Standards Committee and introducing any witnesses whom s/he considers that the Standards Committee should hear in order to be able to give the matter proper consideration.

### GIFTS TO COUNCILLORS 2009/10

Ward		Councillor	Gift	From	Date	Reading Festival Aug 09
ABBEY	Lab	AYUB, Mohammed	None			0
THAMES	Con	BALLSDON, Isobel	Microsoft Office Publisher 2007 - £116, Bottle of Champagne – cost unknown First Class Rail Fare to Oxford - £38	Constituent Constituent Constituent	09/05/09 19/07/09 04/03/10	2
REDLANDS	Lib D	BAYES, Kirsten	None			0
TILEHURST	LibD	BEARD, Peter	None			0
REDLANDS	Lib D	BENSON, Daisy	None			2
MINSTER	Con	BYRNE, Terry	None			0
PEPPARD	Con	CHOWDHARY, Jamie	None			2
CAVERSHAM	Con	CUMPSTY, Andrew	None			0
TILEHURST	LibD	DUVEEN, Ricky	None			0
SOUTHCOTE	Lab	EDWARDS, Deborah	None			0
SOUTHCOTE	Lab	ENNIS, John	None			2
KATESGROVE	LibD	EPPS, Gareth	None			2
MINSTER	Lab	GITTINGS, Paul	None			2
REDLANDS	Lib D	GOODALL, Glenn	None			2
WHITLEY	Lab	HANLEY, Jim	None			0
TILEHURST	LibD	HARRIS, Chris	None			2
CHURCH	Con	HARRIS, Tim	None			2
PARK	Lab	HARTLEY, Jon	None			2
NORCOT	Lab	HOSKIN, Graeme	Tickets to see the Idiot Colony at South street - £24 3 x tickets for panto at Hexagon - £48		Oct 09  Dec 09	2
PARK	Con	HUSSAIN, Wazir	None			0
CHURCH	Con	JANJUA, Azam	None			0
NORCOT	Lab	JONES, Peter	None			0
BATTLE	Indep	JONES, Tony	None			0



### GIFTS TO COUNCILLORS 2009/10

Ward		Councillor	Gift	From	Date	Reading Festival Aug 09
BATTLE	Lab	KHAN, Gul	None			2
NORCOT	Lab	LOVELOCK, Jo (Leader)	None			0
CAVERSHAM	Con	LUCKETT, Dave	Beer and Cider Festival	CAMRA	May 09	2
BATTLE	Lab	MASKELL, Chris	None			0
PARK	Lab	MERRIOTT, Shirley	None			2
WHITLEY	Lab	ORTON, Mike	None			0
ABBEY	Lab	PAGE, Tony (Deputy Leader)	Supper LGA AGM – approx £50	Price Waterhouse Cooper	Jul 09	0
MAPLEDURHAM	Con #	PUGH, Fred	None			0
PEPPARD	Con	RALPH, Mark	None			2
SOUTHCOTE	Lab	RUHEMANN, Pete	None			0
KENTWOOD	Con	RYNN, Jenny	None			2
WHITLEY	Lab	SINGLETON-WHITE, Mary	None			0
THAMES	Con	SKEATS, Jeanette	2 x Tickets to Henley Regatta – value unknown Bouquet - value unknown	Thames Valley Chamber of Commerce Reading in Bloom Cttee	Jun 09 30/09/09	2
KATESGROVE	Lab	STAINTHORP, Richard	None			2
CAVERSHAM	Con	STANWAY, Tom	None			0
KENTWOOD	Con	STEELE, Tom	None			0
THAMES	Con	STEVENS, David	None			0
KATESGROVE	LibD	SWAINE, Warren	None			2
ABBEY	Lab	TICKNER, Bet	None			2
CHURCH	Con	TOWNEND, Mike	None			2
KENTWOOD	Con	WARMAN, Emma	None			2
MINSTER	Lab	WATSON, Debbie	None			2
PEPPARD	Con	WILLIS, Richard	Buffet lunch offered while attending Local Liaison Committee – under £25 Lunch offered while attending Local Liaison Committee– under £25	AWE AWE	11/06/09 26/03/10	0