



STANDARDS COMMITTEE – PANEL HEARING

AGENDA

**Friday 2 October 2009
at 10.00 am**

Council Chamber
Town Hall
Saturday Market Place
King's Lynn
Norfolk
PE30 1EX



INVESTOR IN PEOPLE



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本文件可以应要求，制作成中文 (简体字) 版本。

ئەم بەلگەيە بە پيى داواكارى بە زمانى كوردى ش دەس دەكهەويت

Este documento puede solicitarse en español.

Borough Council of
**King's Lynn &
West Norfolk**



King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
Telephone: 01553 616377
Fax: 01553 691663

24 September 2009

Dear Member

Standards Committee – Panel Hearing

You are hereby invited to attend a meeting of the above Committee to be held on **Friday 2 October 2009**, in the **Council Chamber, Town Hall, Saturday Market Place, King's Lynn** starting at **10.00 am** to discuss the business shown below.

Yours sincerely

Chief Executive

A G E N D A

1 APOLOGIES

To receive any apologies for absence.

2 DECLARATIONS OF INTEREST

Please indicate whether the interest is a personal one only or one which is also prejudicial. A declaration of an interest should indicate the nature of the interest and the agenda item to which it relates. In the case of a personal interest, the member may speak and vote on the matter. If a prejudicial interest is declared, the member should withdraw from the room whilst the matter is discussed.

These declarations apply to all those members present, whether the member is part of the meeting, attending to speak as a local member on an item or simply observing the meeting from the public seating area.

3 **TO CONSIDER THE LOCAL INVESTIGATION AS TO
ALLEGATIONS AGAINST COUNCILLOR MRS S MELTON OF
SNETTISHAM PARISH COUNCIL**

Paperwork:

Legal Adviser's Pre-Hearing Summary Report
Investigating Officer's Report
Hearing Procedure

To: **Panel Members:** Mr M Sale (Independent Member), Mr J Dawson
(Parish Representative), Councillor A Tyler,

N Leader, Legal Services Manager/Monitoring Officer

T Campion, Investigating Officer

Mr M Thorpe – Complainant

Snettisham Parish Councillor Mrs S Melton

For Information only

Councillor I Goodson, D Harwood, J Legg and C Walters

Mr R Steward (Independent Member), Mr G Brierley (Independent
Member), Mr H Malik (Parish Representative) and Mr D
Shepperson (Parish Representative)

Management Team

Parish/Town Councils

Press

Contact: Wendy Vincent, Democratic Services Officer, (01553) 616377 or
wendy.vincent@west-norfolk.gov.uk

Standards Committee

Pre Hearing Summary Report

Authority of the Standards Committee:	Borough Council of King's Lynn & West Norfolk
Authority of the Member:	Snettisham Parish Council
Member Subject to Complaint:	Parish Councillor Mrs Sybil Melton
Complainant:	Mr Michael Thorpe
Standards Board Case Reference Number:	Snettisham 1
Chair of the Standards Committee:	Mr Martin Sale
Monitoring Officer for the Borough Council:	Mrs Nicola Leader
Investigating Officer:	Mrs Nicola Leader
Legal Adviser to Standards Committee:	Miss Teresa Campion

This report is produced in relation to the hearing before the Standards Committee to take place on Friday 2nd October 2009 at 10.00am in the Committee Suite, Kings Court, Chapel Street, Kings Lynn.

1 Summary of the Allegation:

The Complainant has made an allegation against Parish Councillor Mrs Sybil Melton, Chairman of Snettisham Parish Council failed to declare a prejudicial interest and leave the Parish Council meeting on the 5th January 2009 during the determination of an item of business to consider the Clerk's hours and rate of pay.

2 Summary of History of the Matter:

- 2.1 The Complainant completed a Complaint Form referring the above matter to the Borough Council of Kings Lynn and West Norfolk for investigation.
- 2.2 The Local Investigation was carried out by Mrs Nicola Leader, Monitoring Officer and the Investigating Officer in this case. The Investigating Officer presented her final report on 5th August 2009.
- 2.3 Further to this the Pre Hearing Process has been conducted by the Investigating Officer. The Legal Adviser to the Standards Committee has prepared this report in respect of the allegation.

3 Relevant Sections of the Code of Conduct:

- 3.1 Snettisham Parish Council adopted the Parish Council's Model Code of Conduct ("the Code") as it is set out in The Parish Councils (Model Code of Conduct) Order 2007 on the 4th July 2007 and accordingly it is against this code the determination has to be made. The relevant sections of the Code are as set out below:

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 judgment 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.

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

4 Pre Hearing Process:

- 4.1 In accordance with the Standards Committee Hearing Procedure as adopted on the 30th August 2006 the Investigating Officer wrote to Parish Councillor Mrs Sybil Melton on the 5th August 2009 informing her of the hearing and requesting responses the standard pre hearing forms (section 5e of the procedure). Mrs Melton responded on the 20th August.

5 Findings of fact which are agreed:

- 5.1 In addition to the comments made by Mrs Melton as to the facts of this matter than in relation to the investigation into her alleged breach of the Code of conduct to the Investigating Officer as part of the investigation process Mrs Melton has added further comment in response to the pre-hearing forms which is attached to this report. It is accepted that Parish Councillor Mrs Melton declared a personal interest at the Parish Council meeting on 5th January 2009 in agenda item No. 5, that is the item relating to the Clerk's pay and said that she would leave the meeting while the item was discussed but when the item came to be discussed her fellow councillors unanimously agreed that they did not feel it necessary for Parish Councillor Mrs Melton to leave the room.

As a matter of fact Parish Councillor Mrs Melton did not leave the meeting and indicated to the Investigating Officer that she would not intentionally breach the Code of Conduct and had nothing to gain from the decision of the Parish Council to increase the Clerk's hours.

6 Findings of fact which are not agreed:

- 6.1 Parish Councillor Mrs Melton has not made any further comments as to the facts of this matter save those attached.

7 Points of Dispute:

- 7.1 No specific points of dispute have been raised.

8 Attendance and Representation:

- 8.1 Parish Councillor Mrs Melton has indicated that she will be present at the hearing and will represent herself.
- 8.2 Mrs Melton has indicated that she intends to call two of her own witnesses, Parish Councillor Mrs Ann Houghton and Parish Cllr Mr David Bocking.
- 8.3 The Investigating Officer has been invited to attend the hearing.

9 Background papers:

9.1 The final report of the Investigating Officer

The hearing will be conducted in accordance with the standard hearing procedures of the committee as adopted August 2006.

This summary has been produced by the Legal Advisor to the Standards Committee Miss Teresa Campion on 2nd September 2009.

Other evidence relevant to the complaint:

The actual post was advertised for the same as the previous clerk at 31 hours.

The present Clerk was at that time acting unpaid clerk for 19 months and had been working 24 hours per week.

After being selected for the clerk's position in November 2005 for 31 hours per week (following the interviews of the short-listed applicants by Parish Councillors, Chief Executive of the Norfolk Association of Parish & Town Councils and a member of public), as there was still ongoing costs regarding the previous clerk, Mrs Boughen offered to try and manage on the 24 hours she had been working, and would see how she got on.

After 3 years Councillors were aware that many hours were being worked without pay. The Clerk did at no time request more hours but Councillors asked for it to be placed on the agenda for the hours to be brought back to the originally contracted hours. Salaries were not increased, as these are set out by NALC, as nationwide salary scales for clerks, but the hours just increased to the 31 hours given when the job was originally awarded to her.

Workload had increased considerably with the compiling, editing and printing of our own 40 page newsletters, the setting up and management of 50 new allotments and the management of the village hall, playing field and pavilion.



Sybil Melton

FINAL REPORT

PRIVATE AND CONFIDENTIAL

Case Reference: Snettisham 01

Report of an investigation under Section 59 of the Local Government Act 2000 by Nicola Leader, Monitoring Officer of the Borough Council of King's Lynn and West Norfolk into an allegation concerning Snettisham Parish Councillor Mrs Sybil Melton.

Date: 5th August 2009

Contents

- 1 Executive summary**
- 2 Mrs Sybil Melton's official details**
- 3 The relevant legislation and protocols**
- 4 The evidence gathered**
- 5 Summary of the material facts**
- 6 Additional submissions**
- 7 Reasoning as to whether there have been not been failures to
comply with the Code of Conduct**
- 8 Finding**

Appendix A Schedule of evidence taken into account.

1 Executive summary

- 1.1 A complaint has been made by Mr Michael Thorpe that Mrs Sybil Melton, the Chairman of Snettisham Parish Council failed to declare a prejudicial interest and leave the Parish Council meeting on the 5th January 2009 during the determination of an item of business to consider the Clerk's hours and rate of pay. A copy of the complaint form is included at No.1 Appendix A.
- 1.2 The outcome of the investigation is a finding of a breach of Paragraphs 10 and 12 of the Snettisham Parish Council's Code of Conduct.

2 Mrs Melton's official details

- 2.1 Mrs Melton has been a member of Snettisham Parish Council for 18 years.
- 2.2 Mrs Melton gave a written undertaking to observe Snettisham Parish Council's Code of Conduct on the 9th May 2007. A copy of Mrs Melton's declaration is included at No.2 of Appendix A.

3 The relevant legislation and protocols

- 3.1 Snettisham Parish Council adopted the revised Model Code of Conduct on the 4th July 2007 in which the following paragraphs are included:

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 judgment 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.*

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

4 The evidence gathered

4.1 I have taken account of the following information:

- the written complaint from Mr Thorpe.
- evidence from Mrs Melton obtained during an interview I conducted with her on the 18th June 2009 included at No.4 of Appendix A.
- the minutes of the meeting of Snettisham Parish Council held on 5th January 2009 and the amendment to those minutes included at No.3 of Appendix A.

4.2 The complaint is clearly made out I have not found it necessary to request any further information from the complainant.

5 Summary of the material facts

At a meeting of the Snettisham Parish Council on the 5th January 2009 there was an item on the agenda to discuss employees rates and hours of pay. One of those employees was Mrs Melton's daughter Mrs Beverley Boughen who is employed as the Parish Clerk. The Parish Council agreed at that meeting that the Clerk's hours should be increased to 31 hours per week. (from 24 hours).

Paragraph 3 of the minutes of the Parish Council meeting of the 5th January 2009 record that no declarations of interests were received.

However, the amended minutes of the meeting of the 5th January 2009 state that Cllr Melton declared a personal interest in agenda item No.5, that is the item relating to the Clerk's pay and said she would leave the meeting while the item was discussed but that when the item came to be discussed her fellow councillors unanimously agreed that they did not feel it necessary for Councillor Melton to leave the meeting.

As a matter of fact Mrs Melton did not leave the meeting.

6 Mrs Melton's additional submissions

In response to the draft report Mrs Melton replied by stating that she had not intentionally breached the Code and that she wished to reiterate that she herself had nothing to gain from the decision of the Parish Council to increase the Clerk's hours.

7 Reasoning as to whether there have been failures to comply with the Code of Conduct.

7.1 The question that falls to be determined is whether Mrs Melton's personal interest, which she declared at the meeting on the 5th January was also a prejudicial interest. Mrs Melton quite properly declared a personal interest because the item relating to employees rates and hours of pay was in my opinion a decision likely to affect her daughter, as one of those employees more than it would affect the majority inhabitants of the Parish.

7.2 The Guide for members produced by the Standards Board in May 2007 sets out the test for a prejudicial interest. It states that;

"Your personal interest will be a prejudicial interest in a matter if all of the following conditions are met :

a) The matter does not fall within one of the exempt categories of decisions

b) The matter affects your financial interests or relates to a licensing or regulatory matter.

And

(c) A member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.

- 7.3 The matter does not fall within one of the exempt categories of decisions
The first element of the test is met. The matter does not fall within one of the exempt categories of decisions set out in Paragraph 10(2) of the Code. It is therefore necessary to consider whether the second element is satisfied.
- 7.4 The matter affects a members financial position or the financial position of any person or body through whom the member has a personal interest or the matter relates to a regulatory matter that affects the member or any person or body with which the member has a personal interest. or the matter relates to an approval, consent, licence, permission or registration that affects the member or any person or body with which the member has a personal interest.
- 7.5 The matter under consideration by the Parish Council was the question of whether to increase the Clerk's hours which would have the effect of increasing the Clerk's salary. This element of the test is therefore met because the decision being taken clearly affected Mrs Melton's daughter's financial position.
- 7.6 A member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgement of the public interest.
- 7.7 There is obviously an element of subjectivity to this limb of the test but in my view the relationship between Mrs Melton and her daughter is a significant relationship and I am of the view therefore that a member of the public knowing of the mother and daughter relationship would think that it would be likely to prejudice Mrs Melton's judgement.
- 7.8 A consequence of Mrs Melton's failure to declare a prejudicial interest was that she did not leave the meeting room whilst the matter of her daughter's hours was considered. Unfortunately, Mrs Melton's failure amounts to a further breach of Paragraph 12 of the Code of Conduct which provides that members with prejudicial interests must withdraw from the room or chamber where a meeting considering the business in which they have a prejudicial interest is being held

8 Finding

- 8.1 I find that there has been a breach by Mrs Melton of Paragraph 10 and Paragraph 12 of Snettisham Parish Council's Code of Conduct.

Nicola Leader.
05.08.09

Appendix A

1. Complaint Form.
2. Mrs Melton's Declaration of Acceptance of Office.
3. Minutes of meeting of Snettisham Parish Council 5th January 2009.
4. Notes of interview with Mrs Melton dated 24.06.09.
5. Schedule to Model Code of Conduct.



COUNCILLORS' CODE OF CONDUCT COMPLAINT FORM

ONCE COMPLETED PLEASE RETURN TO: Legal Services, Borough Council of
King's Lynn & West Norfolk, King's Court, Chapel Street, King's Lynn, Norfolk,
PE30 1EX

Your details

1 Please provide us with your name and contact details

Title:	Mr
First name:	MICHAEL D.
Last name:	THORPE
Address:	
Daytime telephone:	
Evening telephone:	SAME
Mobile telephone:	
Email address:	
Signature:	
Date:	15-04-2009

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However if your complaint is referred for investigation, we will tell the following people that you have made this complaint:

- the Councillor(s) you are complaining about
- the Monitoring Officer of the authority
- the Parish or Town Clerk (if applicable)



If you need this document in large print, audio Braille, alternative format or in a different language, please contact Democratic Services on 01553 616632

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2 Please tell us which complainant type best describes you:

- ☒ Member of the public
- ☐ An elected or co-opted Councillor of an Authority
- ☐ An independent Councillor of the Standards Committee
- ☐ Member of Parliament
- ☐ Local Authority Monitoring Officer
- ☐ Other Council Officer or Authority employee
- ☐ Other ()

3 Equality monitoring

Please complete and return the attached Ethnicity and Diversity Monitoring Form. Although this is not compulsory it would be helpful as we need to ensure that we do not inadvertently discriminate against anyone.

Making your complaint

4 Please provide us with the name of the Councillor(s) you believe have breached the Code of Conduct and the name of their Council:

Title	First name	Last name	Council name
Mrs	SYBIL	MELTON	SNETHISHAM

5 Please explain in this section (or on separate sheets) what the Councillor has done that you believe breaches the Code of Conduct and the relevant paragraph(s) of the Code. If you are complaining about more than one Councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Standards Committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the Councillor said or did. For instance, instead of writing that the Councillor insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

PLEASE REFER TO ATTACHMENT (1.)
FOR MY DETAILS OF COMPLAINT.

Only complete this next section if you are requesting that your identity is kept confidential

- 6 In the interests of fairness and natural justice, we believe Councillors who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The assessment sub-committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

- 7 Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2005, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

Further information to help you complete this form can be found on the accompanying guidance notes.

BREACH OF THE CODE OF CONDUCT

I as a parishioner am fully aware of the fact that, the chairman of the Snettisham Parish Council, Mrs Sybil Melton is the mother of the Clerk of that Council Mrs Beverley Boughen. Therefore I believe that the Chairman Councillor Melton has breached the Code of Conduct. I believe this breach took place at the 5th January 2009 Meeting of the Snettisham Parish Council, held in the Parish Office. I believe there were no members of the public present at this meeting.

While searching for other information on the Snettisham Parish Council Website I found the Minutes of the meeting held on the 5th January 2009 and I realised that the minutes were recorded incorrectly. There was no Declaration of Interest declared in the minutes, no Resolution to Exclude the members of public passed on either the Agenda or Minutes of this meeting, and no Resolution to adjourn the meeting to allow for Public Question time. Also these minutes were not circulated to the public with the following monthly agendas as normal.

(Copy of Agenda and Minutes - Attachments (3.) (3a) - Website copies(4.) (4a.)

At this meeting the Clerks hours were increased to 31 hours per week. (minute 5.) An increase of 6 hours, which amounts to approximately £3,600 per year.

At the Snettisham Monthly Meeting on 1st April 2009 I asked both the Clerk and the Chairman, if the Chairman Councillor Melton declared an interest and left the room before this item was discussed. The Chairman said that she had declared an interest, but the councillors present said, she could stay in the room. The Clerk agreed with what the Chairman said. I believe that because the Chairman failed to leave the room during the discussion of (minute 5.) she has breached the Code of Conduct.

(The Code of Conduct Chapter 3. Page 26 - Attachment (2.)

Although it is not illegal for relatives to work together, it must intimidate the other members of the council and put them in an impossible and compromising position. I would have thought that any group of people that had to work closely as a team would find this, a very difficult situation. Also where relatives are work together, there is an even greater need for the correct procedures, to be seen to be followed, in the spirit of open government.

Yours sincerely

Mr M.D. Thorpe

Key points:

If you have a **prejudicial interest** in a matter being discussed at a meeting, you must declare that you have a prejudicial interest and the nature of that interest as soon as that interest becomes apparent to you.

You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is the case, you can also attend the meeting for that purpose.

However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the vote on the matter.

In addition, you must not seek to **improperly influence** a decision in which you have a prejudicial interest. This rule is similar to your general obligation not to use your position as a member improperly to your or someone else's advantage or disadvantage.

Do I have a statutory right to speak to the meeting?

The Code of Conduct does not provide you with a general right to speak to a meeting where you have a prejudicial interest. However, in limited circumstances, legislation may provide you with a right to speak (for example, licensing hearings and standards hearings) which the Code of Conduct recognises. If so, you will be allowed to exercise that right to speak. Your monitoring officer should be able to confirm whether this is relevant to your case.

If I don't have a statutory right, will I be allowed to speak to the meeting?

The Code of Conduct aims to provide members with the same rights as ordinary members of the public to speak on certain matters in meetings, despite having a prejudicial interest. These rights are usually governed by your authority's constitution, procedure rules or standing orders, and may be subject to conditions including time limits or the fact that representations can only be made in writing.

If an ordinary member of the public would be allowed to speak to a meeting about an item, you should be provided with the same opportunity. You will be able to make representations, answer questions or give evidence, even if you have a prejudicial

**Minutes of the meeting of Snettisham Parish Council held on Mon.
5th January at 7.00pm.**

PRESENT: Cllr D. Bocking, Cllr D. Drewery, Cllr A. Gascoigne, Cllr A. Houghton,
Cllr R. Kerr, Cllr S. Melton, Cllr J. Purcell, Cllr B. Wardlow.

1. The Chairman welcomed everyone to the meeting.
2. Apologies were received and accepted from Cllr D. Phillips and Cllr E. Langford.
3. Declarations of interest – none received.
4. To receive the resignation of a parish councillor – A letter was received from Cllr D. Ebbs, and read out by the clerk. It was agreed to send a letter of thanks to Mr Ebbs for his time, and hard work as a councillor.
5. To discuss the employees' hours and rates of pay – It was agreed that the clerk's hours should be increased to 31 hours per week. It was also agreed that the village cleaner should have an increase in hourly rate.
6. To set the budget and precept for 2009/2010 – Councillors worked through the budget for 2009/10 and agreed each item. The precept was set at £45,000.
7. The prices for car park passes for this season are to remain the same as last year, with parishioners £6.00 per year (if purchased week beginning 9th March) and £12.00 at any other time, £25.00 for non- residents, £2.50 for day passes and £1.50 for motor cycles per day.

With no further business, the meeting closed at 8.55pm.

Signed.....Chairman Date.....

SNETTISHAM PARISH COUNCIL

Mrs Beverley Boughen, Clerk to the Council

73 Lynn Road, Snettisham, King's Lynn, Norfolk. PE31 7QA.

Tel: 01485 543721 fax: 01485 543721 Email:

23rd December 2008.

Dear Member,

You are hereby summoned to attend a finance meeting of Snettisham Parish Council to be held on **Monday 5th January 2009 at 7.30pm** at The Parish Council Office, Lynn Road. The business to be transacted is listed below.

Yours Sincerely,

Beverley Boughen

Beverley Boughen,
Clerk.

AGENDA

1. Welcome from the Chairman.
2. To receive, consider and accept apologies for absence.
3. To receive declarations of interest on agenda items.
4. To receive the resignation of a parish councillor.
 - 4a. To elect a new Deputy Chairman.
5. To discuss the hours and salaries of staff..
6. To set the budget and precept for the year 2009/10.
7. To discuss the charges for car park passes at the beach car park.

Minutes of the meeting of Snettisham Parish Council held on Mon.

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Cllr R. Kerr, Cllr S. Melton, Cllr J. Purcell, Cllr B. Wardlow.

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5. To discuss the employees' hours and rates of pay – It was agreed that the clerk's hours should be increased to 31 hours per week. It was also agreed that the village cleaner should have an increase in hourly rate.



**DECLARATION OF ACCEPTANCE OF OFFICE
BY THE CHAIRMAN OF A PARISH COUNCIL**

or

BY A PARISH COUNCILLOR

1, (i).....SYBIL E. MELTON.....
having been elected to the office of (ii).....Chairman.....
of (iii).....SNETTISHAM PARISH.....Council

declare that I take that office upon myself, and will duly and faithfully fulfil the duties of it according to the best of my judgement and ability. I undertake to observe the Parish Council Code as to the conduct which is expected of members of

(iii).....SNETTISHAM PARISH.....Council

Signed.....S E Melton.....Date.....9/5/07.....

This declaration was made and signed before me.

Signed.....D. E. Ebb......Date.....9/5/07.....

*Member/~~Proper Officer~~ of (iii).....Snettisham Parish Council.....Council
* ~~Delete as appropriate~~

- (i) Insert the name of the person making the declaration
- (ii) Insert 'member', 'chairman' or 'mayor' as appropriate
- (iii) Insert the name of Parish or Town Council

THIS DOCUMENT MUST BE RETAINED BY THE PARISH/TOWN COUNCIL

**Minutes of the meeting of Snettisham Parish Council held on Mon.
5th January at 7.00pm.**

PRESENT: Cllr D. Bocking, Cllr D. Drewery, Cllr A. Gascoigne, Cllr A. Houghton, Cllr R. Kerr, Cllr S. Melton, Cllr J. Purcell, Cllr B. Wardlow.

1. The Chairman welcomed everyone to the meeting.
2. Apologies were received and accepted from Cllr D. Phillips and Cllr E. Langford.
3. Declarations of interest – none received.
4. To receive the resignation of a parish councillor – A letter was received from Cllr D. Ebbs, and read out by the clerk. It was agreed to send a letter of thanks to Mr Ebbs for his time, and hard work as a councillor.
- 4a. Election of Deputy Chairman – Cllr Houghton was proposed by Cllr Melton, seconded by Cllr Bocking and all councillors voted in favour, it was therefore agreed that Cllr Houghton should be elected as Deputy Chairman.
5. To discuss the employees' hours and rates of pay – It was agreed that the clerk's hours should be increased to 31 hours per week. It was also agreed that the village cleaner should have an increase in hourly rate.
6. To set the budget and precept for 2009/2010 – Councillors worked through the budget for 2009/10 and agreed each item. The precept was set at £45,000.
7. The prices for car park passes for this season are to remain the same as last year, with parishioners £6.00 per year (if purchased week beginning 9th March) and £12.00 at any other time, £25.00 for non- residents, £2.50 for day passes and £1.50 for motor cycles per day.

With no further business, the meeting closed at 8.55pm.

Signed... *S E Melton* ...Chairman Date... *4th/2/09* ...

AMENDMENT TO BE ATTACHED TO THE MINUTES OF THE MEETING
HELD ON JANUARY 5th 2009.

AMENDMENT TO AGENDA ITEM NO. 3, TO READ: Cllr S. Melton declared a personal interest in agenda item No. 5 and would leave the meeting while the item is discussed.

AMENDMENT TO AGENDA NO. 5, TO BEGIN:

When this item was discussed councillors unanimously agreed that they did not feel it necessary for Councillor Melton to leave the meeting.

She took no part in the debate and did not vote.

This amendment was unanimously agreed as agenda item No. 8 of meeting held on Wednesday 6th May.

Signed..... *S S Melton*
D. Bocking Date..... *8-5-09*
B C Wardlaw

Notes of Interview between Nicola Leader and Mrs Melton in relation to the complaint by Mr Thorpe 18th June 2009

NL invited Mrs Melton to comment on the allegation by Mr Thorpe

Mrs Melton explained that she did not think that she had a prejudicial interest in the agenda item relating to the clerks hours because she had nothing to gain from the decision.

Mrs Melton said that although she didn't feel that her interest was prejudicial she was going to leave the meeting because she didn't want anyone to feel awkward by her being present but the other members present told her not to be so silly and to stay because the decision was only one involving increasing the clerks hours to those that a previous clerk had undertaken.

Nicola Leader
24.06.09

5

SCHEDULE THE MODEL 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 (13).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—

“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;

“member” includes a co-opted member and an appointed member.

(5) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

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(14));
 - (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.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of subparagraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

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—

(aa) reasonable and in the public interest; and

(bb) 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(15).

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.

(13) See the Relevant Authorities (General Principles) Order 2001 (S.I. 2001/1401). Back [13]

(14) 2006 c.3. Back [14]

(15) 1986 c.10. Back [15]

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—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) 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—
 - (i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(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(16).

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.

-
- (16) See the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations (S.I 2000/3272). Back [16]

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 whose availability 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.

EXPLANATORY NOTE

(This note is not part of the Order)

The Order contains a model code of conduct as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in England and Wales. The Secretary of State has power to issue such a code under section 50 of the Local Government Act 2000. Under section 51 of that Act, each authority must adopt a code of conduct applying to its members and co-opted members which must incorporate any mandatory provisions of the Code. Under section 51(5), where an authority does not adopt such a code within six months of the Order coming into force, the mandatory provisions of the Code will apply to the members of the authority until it adopts its own code.

Article 1 provides that this Order applies to specified authorities in England and police authorities in England and Wales.

Article 2 provides that a model code is set out in the Schedule to the Order, and states which of its provisions are mandatory.

Article 3 disapplies the statutory provisions relating to the National Code of Local Government Conduct and members' interests.

Article 4 revokes—

the Local Authorities (Model Code of Conduct) (England) Order 2001(17);

the Parish Councils (Model Code of Conduct) Order 2001(18);

the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(19); and

the Police Authorities (Model Code of Conduct) Order 2001(20).

These Orders continue to have effect in relation to misconduct committed before the date when the new code is adopted or applied to an authority.

Article 4(3) provides that orders made under section 83 of the Local Government Act 1972 shall have effect for the purpose of prescribing the form of a declaration of acceptance of office.

In the **Schedule to the Order**—

Paragraph 1 of the Code provides that the Code applies to any member of an authority and that it is the responsibility of each member to comply with the Code.

Paragraph 2 of the Code provides that the Code applies whenever a member is acting in his or her

official capacity, and in relation to conduct in a member's private capacity the code only applies where such conduct has resulted in a criminal conviction. Additionally, where a member is acting as a representative of his or her authority, he or she must continue to observe the authority's code, unless he or she is subject to another relevant authority's code, or unless (in relation to any other body) it conflicts with any other legal obligations.

Paragraph 3 of the Code provides that members must treat others with respect and not do anything which may cause their authority to breach equality legislation, or which compromises the impartiality of those who work for the authority or bully anyone or intimate persons involved in code of conduct cases.

Paragraph 4 of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Paragraph 5 of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Paragraph 6 of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.

Paragraph 7 of the Code provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Paragraph 8 of the Code provides a list of matters which constitute a personal interest.

Paragraph 9 of the Code provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

Paragraph 10 of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

Paragraph 11 of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

Paragraph 12 of the Code provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

Paragraph 13 of the Code provides that a member must notify the monitoring officer of his or her personal interests and any change to those interests must also be notified.

Paragraph 14 of the Code provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

(17) S.I. 2001/3575. Back [17]

(18) S.I. 2001/3576. Back [18]

(19) S.I. 2001/3577. Back [19]

(20) S.I. 2001/3578. Back [20]

**THE BOROUGH COUNCIL OF KING'S LYNN AND
WEST NORFOLK**

STANDARDS COMMITTEE

HEARING PROCEDURE

Adopted 30 August 2006

STANDARDS COMMITTEE HEARING PROCEDURE

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THE BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK

STANDARDS COMMITTEE HEARING PROCEDURE

1. INTERPRETATION

- (1) '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 nominated representative.
- (2) 'Investigating Officer' means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the Investigating Officer mean the person appointed by the Monitoring Officer to undertake that investigation (which may include the Monitoring Officer, and his or her nominated representative).
- (3) "The Matter" is the subject matter of the Investigating Officer's report.
- (4) 'The Standards Committee' refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing.
- (5) "The Committee Clerk" means an officer of the authority responsible for supporting the Standards Committee's discharge of its functions and recording the decisions of the Standards Committee.
- (6) 'Legal Advisor' means the officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- (7) "The Chairman" refers to the person presiding at the hearing.

2. MODIFICATION OF PROCEDURE

The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion that such a variation is necessary in the interests of fairness.

3. REPRESENTATION

The Councillor may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person, the cost of such representation must be met by the member, unless the Standards Committee or the Council has expressly agreed to meet all or any part of that cost.

4. PRE-HEARING PROCEDURE (ESO'S REPORT)

Upon reference of a matter from an Ethical Standards Officer for local determination following completion of the Ethical Standards Officer's report, the Monitoring Officer shall:

- (a) Arrange a date for the Standards Committee's hearing;
- (b) Send a copy of the report to the Councillor and advise him of the date, time and

place for the hearing;

- (c) Send a copy of the report to the person who made the allegation and advise him of the date, time and place for the hearing;
- (d) Notify the Parish or Town Council of the matter and of the date, time and place of the hearing;
- (e) Request the Councillor to complete and return the model Pre-Hearing Forms A, B, D and E, as recommended by the Standards Board for England within 14 days of receipt;
- (f) In the light of any Pre-Hearing Forms returned by the Councillor, determine whether the Standards Committee will require the attendance of the Ethical Standards Officer and any additional witnesses at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;
- (g) Prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and highlighting the issues which the Standards Committee will need to address, and
- (h) Arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent to:
 - (i) All members of the Standards Committee who will conduct the hearing;
 - (ii) The Councillor;
 - (iii) The person who made the allegation, and
 - (iv) The Investigating Officer.

5. PRE-HEARING PROCESS (LOCAL INVESTIGATION)

Upon receipt of the final report of the Investigating Officer including a finding that the Councillor failed to comply with the Code of Conduct for Members or the Standards Committee finds that the matter should be considered at a formal hearing, the Legal Advisor shall:

- (a) Arrange a date for the Standards Committee's hearing;

(The hearing must be conducted no earlier than 14 days after, and within 3 months of the date when the Investigating Officer delivers his/her final report to the Monitoring Officer)
- (b) Send a copy of the report to the Councillor and advise him of the date, time and place for the hearing;
- (c) Send a copy of the report to the person who made the allegation and advise him of the date, time and place for the hearing;
- (d) Notify the Parish or Town Council of the matter and of the date, time and place of the hearing;
- (e) Request the Councillor to complete and return the model Pre-Hearing Forms A, B, D and E, as recommended by the Standards Board for England within 14 days of receipt;

- (f) In the light of any Pre-Hearing Forms returned by the Councillor, determine whether the Standards Committee will require the attendance of the Investigating Officer and any additional witnesses at the hearing to enable it to come to a properly considered conclusion at the hearing, and arrange for their attendance;
- (g) Prepare a Pre-Hearing Summary Report setting out the course of the allegation, investigation and Pre-Hearing Process and highlighting the issues which the Standards Committee will need to address, and
- (h) Arrange that the agenda for the hearing, together with the Pre-Hearing Summary Report and copies of any relevant documents are sent to:
 - (i) All members of the Standards Committee who will conduct the hearing;
 - (ii) The Councillor;
 - (iii) The person who made the allegation, and
 - (iv) The Investigating Officer.

6. LEGAL ADVICE

The Standards Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Standards Committee should be shared with the member and the Investigating Officer if they are present.

7. SETTING THE SCENE

At the start of the hearing, the Chairman shall introduce each of the members of the Standards Committee, the member (if present), the Investigating Officer (if present) and any other officers present, and shall then explain the procedure which the Standards Committee will follow in the conduct of the hearing.

8. PRELIMINARY PROCEDURAL ISSUES

The Standards Committee shall then deal with the following preliminary procedural matters in the following order:

(a) Disclosures of interest

The Chairman shall ask members of the Standards Committee to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.

(b) Quorum

The Chairman shall confirm that the Standards Committee is quorate

(c) Hearing procedure

The Chairman shall ask the parties to confirm that they know the procedure which the Standards Committee will follow in determining the matter.

(d) Proceeding in the absence of the member

If the Councillor is not present at the start of the hearing:

- (i) the Chairman shall ask the legal advisor whether the Councillor has indicated his/her intention not to attend the hearing;
- (ii) the Standards Committee shall then consider any reasons which the Councillor has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
- (iii) if the Standards Committee is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iv) if the Standards Committee is not satisfied with such reasons, or if the Councillor has not given any such reasons, the Standards Committee shall decide whether to consider the matter and make a determination in the absence of the Councillor or to adjourn the hearing to another date.

(e) Exclusion of Press and Public

The Standards Committee may exclude the press and public from its consideration of a matter where it appears likely that confidential or exempt information will be disclosed in the course of its consideration.

The Chairman shall ask the Councillor, the Investigating Officer and the legal adviser to the Standards Committee whether they wish to ask the Standards Committee to exclude the Press or public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for so doing and ask for responses from the others and the Standards Committee shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the Standards Committee does not resolve to exclude press and public, the agenda and any documents which have been withheld from the press and public in advance of the meeting shall then be made available to the press and public.

9. THE HEARING OF THE ALLEGATION OF MISCONDUCT

The Standards Committee will then address the issue of whether the Councillor failed to comply with the Code of Conduct in the manner set out in the Investigating Officer's report.

- (a) The Chairman shall ask the Councillor to confirm that he/she maintains the position as set out in the pre-hearing summary.
- (b) The Pre-Hearing Process: Summary

The Chairman will ask the legal advisor to present his/her report, highlighting any points of difference in respect of which the Councillor has stated that he/she disagrees with any finding of fact in the Investigating Officer's report. The Chairman will then ask the Councillor to confirm that this is an accurate summary of the issues and ask the Councillor to identify any additional points upon which he/she disagrees with any finding of fact in the Investigating Officer's report.

- (i) If the Councillor admits that he/she has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report, the Standards Committee may then make a determination that the Councillor

has failed to comply with the Code of Conduct in the manner described in the Investigating Officer's report and proceed directly to consider whether any action should be taken.

- (ii) If the Councillor identifies additional points of difference, the Chairman shall ask the Councillor to explain why he/she did not identify these points as part of the pre-hearing process. He/she shall then ask the Investigating Officer (if present) whether he/she is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Standards Committee is not satisfied with the Councillor's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the Councillor to challenge the veracity of those findings of fact which are set out in the Investigating Officer's report but in respect of which the Councillor did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigating Officer and/or any additional witnesses to attend the hearing.

(c) Presenting the Investigating Officer's report

- (i) If the Investigating Officer is present, the Chairman will then ask the Investigating Officer to present his/her report, having particular regard to any points of difference identified by the Councillor and why he/she concluded, on the basis of his/her findings of fact that the Councillor had failed to comply with the Code of Conduct. The Investigating Officer may call witnesses as necessary to address any points of difference.
- (ii) If the Investigating Officer is not present, the Standards Committee shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the Investigating Officer. In the absence of the Investigating Officer, the Standards Committee shall determine on the advice of the legal Advisor which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses' attention to any relevant section of the Investigating Officer's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- (iii) No cross-examination shall be permitted but, at the conclusion of the Investigating Officer's report and/or of the evidence of each witness, the Chairman shall ask the Councillor if there are any matters upon which the Standards Committee should seek the comments of the Investigating Officer or the witness.

(d) The Councillor's response

- (i) The Chairman shall then invite the Councillor to respond to the Investigating Officer's report and to call any witnesses as necessary to address any points of difference.
- (ii) No cross-examination shall be permitted but, at the conclusion of the Councillor's evidence and/or of the evidence of each witness, the Chairman shall ask the Investigating Officer if there are any matters upon which the Standards Committee should seek the comments of the Councillor or the witness.

(e) Witnesses

- (i) The Standards Committee shall be entitled to refuse to hear evidence from the Investigating Officer, the Councillor or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the code of conduct.
- (ii) Any member of the Standards Committee may address questions to the Investigating Officer, to the Councillor or to any witness.

(f) Additional Evidence

At the conclusion of the evidence, the Chairman shall check with the members of the Standards Committee that they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter.

- (g) If the Standards Committee at any stage prior to determining whether there was a failure to comply with the Code of Conduct are of the opinion that they require additional evidence on any point in order to be able to come to a considered conclusion on the matter, the Standards Committee may (on not more than one occasion) adjourn the hearing and make a request to the Investigating Officer to seek and provide such additional evidence and to undertake further investigation on any point specified by the Standards Committee
- (h) Determination as to whether there was a failure to comply with the Code of Conduct.
 - (i) At the conclusion of the Councillor's response, the Chairman shall ensure that each member of the Standards Committee is satisfied that he/she has sufficient information to enable him/her to determine whether there has been a failure to comply with the code of conduct as set out in the Investigating Officer's report.
 - (ii) Unless the determination merely confirms the Councillor's admission of a failure to comply with the Code of Conduct (as set out in Paragraph 6(a)(i) above), the Standards Committee shall then retire to another room to consider in private whether the Councillor did fail to comply with the Code of Conduct as set out in the Investigating Officer's report.
 - (iii) The Standards Committee shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
 - (iv) The Standards Committee's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the Investigating Officer, the Councillor or a witness, or to seek the legal advice from or on behalf of the Monitoring Officer. If it requires any further information, it may adjourn and instruct an officer or request the Councillor to produce such further evidence to the Standards Committee.
 - (v) At the conclusion of the Standards Committee's consideration, the Standards Committee shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among Councillors.
 - (vi) The Standards Committee shall then return to the main hearing room and the Chairman will state the Standards Committee's principal findings of fact and their determination as to whether the Councillor failed to comply with the Code of Conduct as set out in the Investigating Officer's report. Where the legal advisor has provided legal advice to the committee during their deliberations the legal advisor will outline the advice sought

and given.

10. IF THE COUNCILLOR HAS NOT FAILED TO FOLLOW THE CODE OF CONDUCT

If the Standards Committee determines that the Councillor has not failed to follow the Code of Conduct in the manner set out in the Investigating Officer's report:

- (a) The Chairman will announce the Standard's Committee decision that the Councillor has not failed to follow the Code of Conduct in respect of the alleged matter. The Chairman will then move on to make any other announcements (if appropriate) as follows:
- (b) If the Standards Committee apprehends, from the evidence which they have received during the hearing, that a Councillor has failed to comply with the Code of Conduct (other than the matter which the Standards Committee has just determined), the Chairman shall outline the Standards Committee's concerns and state that the Standards Committee has referred this additional or alternative failure to the Monitoring Officer with a view to a further allegation being made to the Standards Board for England.
- (c) The Chairman should then set out any recommendations which the Standards Committee is minded to make to the authority with a view to promoting high standards of conduct among Councillors and seek the views of the Councillor, the Investigating Officer and the legal advisor before the Standards Committee finalises any such recommendations.
- (d) Finally, the Chairman should ask the Councillor whether he/she wishes the authority not to publish a statement of its finding in a local newspaper.

11. ACTION CONSEQUENT UPON A FAILURE TO COMPLY WITH THE CODE OF CONDUCT

- (a) The Chairman shall ask the Investigating Officer (if present, or otherwise the legal advisor) whether, in his/her opinion, the Councillor's failure to comply with the Code of Conduct is such that the Standards Committee should impose a sanction and, if so, what would be the appropriate sanction.
- (b) The Chairman will then ask the Councillor to respond to the Investigating Officer's advice.
- (c) The Chairman will then ensure that each member of the Standards Committee is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.
- (d) Any member of the Standards Committee may address questions to the Investigating Officer or to the Councillor as necessary to enable him/her to take such an informed decision.
- (e) The Chairman should then set out any recommendations which the Standards Committee is minded to make to the authority with a view to promoting high standards of conduct among Councillors and seek the views of the Councillor, the Investigating Officer and the legal advisor;
- (f) The Standards Committee shall then retire to another room to consider in private whether to impose a sanction, (where a sanction is to be imposed) what sanction to impose and when that sanction should take effect, and any recommendations

which the Standards Committee will make to the authority.

- (g) At the completion of their consideration, the Standards Committee shall return to the main hearing room and the Chairman shall state the Standards Committee's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Standards Committee will make to the authority.

12. REFERENCE BACK TO THE ETHICAL STANDARDS OFFICER

If, at any time before the Standards Committee has determined upon any appropriate sanction, the Standards Committee considers that the nature of the failure to comply with the Code of Conduct for Members is such that the appropriate sanction would exceed the powers of the Standards Committee, the Standards Committee may instruct the Monitoring Officer to request the Ethical Standards Officer to resume responsibility for the conduct of the matter, and may adjourn the hearing until the Monitoring Officer advises the Standards Committee of the Ethical standards Officer's response to such a request.

13. THE CLOSE OF THE HEARING

- (a) The Standards Committee will announce its decision on the day of the hearing and provide the Committee Clerk with a short written statement of their decision, which the Committee Clerk will deliver to the Councillor as soon as practicable after the close of the hearing;
- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Committee Clerk will produce a formal written notice of the Standards Committee's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required) within two weeks of the close of the hearing to:
- the Councillor
 - the Investigating Officer
 - the Members of the Standards Committee
 - any Parish or Town Council concerned in the meeting
 - the person who made the allegation

and shall arrange for a summary of the findings and the penalty imposed for the breach of the Code of Conduct to be published in one or more newspapers independent of the Council and circulating in the area.

14. APPEALS.

The Councillor may appeal against the decision of the Standards Committee by writing to the President of the Adjudication Panel for England, ensuring that his letter sets out the grounds for such an appeal, includes a statement as to whether or not he consents to the appeal being heard by way of written representations, and is received by the President within 21 days of the date of the written notice of decision under Paragraph

9(c)

End.