

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



STANDARDS COMMITTEE

AGENDA

**Friday 18 June 2010
at 10.30 am**

Committee Suite
King's Court
Chapel Street
King's Lynn
Norfolk



INVESTOR IN PEOPLE



If you require parts of this document in another language, large print, audio, Braille or any alternative format please contact the Council Information Centre on 01553 616200 and we will do our best to help.

LATVIAN

Ja Jums nepieciešamas daļas no šī dokumenta citā valodā, lielā drukā, audio, Braila rakstā vai alternatīvā formātā, lūdzu, sazinieties ar Padomes informācijas centru (Council Information Centre) pa 01553 616200 un mēs centīsimies Jums palīdzēt.

RUSSIAN

Если вам нужны части этого документа на другом языке, крупным шрифтом, шрифтом Брайля, в аудио- или ином формате, обращайтесь в Информационный Центр Совета по тел.: 01553 616200, и мы постараемся вам помочь.

LITHUANIAN

Jeį pageidaujate tam tikros šio dokumento dalies kita kalba, dideliu šriftu, Brailio raštu, kitu formatu ar norite užsisakyti garso įrašą, susisiekite su Savivaldybės informacijos centru (Council Information Centre) telefonu 01553 616200 ir mes pasistengsime jums kiek įmanoma padėti.

POLISH

Jeśli pragną Państwo otrzymać fragmenty niniejszego dokumentu w innym języku, w dużym druku, w formie nagrania audio, alfabetem Braille'a lub w jakimkolwiek innym alternatywnym formacie, prosimy o kontakt z Centrum Informacji Rady pod numerem 01553 616200, zaś my zrobimy, co możemy, by Państwu pomóc.

PORTUGUESE

Se necessitar de partes deste documento em outro idioma, impressão grande, áudio, Braille ou qualquer outro formato alternativo, por favor contacte o Centro de Informações do Município pelo 01553 616200, e faremos o nosso melhor para ajudar.

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

10 June 2010

Dear Member

Standards Committee

You are hereby invited to attend a meeting of the above Committee to be held on **Friday 18 June 2010**, in **Meeting Rooms 1, 2 and 3, Ground Floor, King's Court, Chapel Street, King's Lynn** starting at **10.30 am** to discuss the business shown below.

Yours sincerely

Chief Executive

AGENDA

1 APOLOGIES

To receive any apologies for absence.

2 PREVIOUS MINUTES

To approve the Minutes of the following meetings (previously circulated):

Full Standards Committee

17 December 2009

Standards Committee – Panel Hearing

5 February 2010

21 April 2010

Local Assessment Sub-Committees

17 December 2009

10 February 2010

4 March 2010

25 March 2010

19 April 2010

23 April 2010

24 May 2010

3 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.

4 TRAINING DVD – STANDARDS FOR ENGLAND

Members will be invited to view the latest training DVD issued by Standards for England.

5 ANNUAL REPORT FOR 2009

To receive the annual report from the Monitoring Officer (attached at pages 1 to 4).

6 DISPENSATION REQUESTS – APPLICATION PROCESS AND CRITERIA FOR DETERMINATION

To receive a report from the Monitoring Officer (attached at pages 5 to 19).

7 NOTIFICATION PROCEDURES FOR COMPLAINTS AGAINST PARISH/TOWN COUNCILS

To receive a report from the Monitoring Officer (attached at pages 20 to 21).

8 STANDARDS FOR ENGLAND BULLETIN PROVIDING THE POLICY UP TO DATE POLICY INFORMATION AND NEWS

To receive the February Edition of the above bulletin (attached at pages 22 to 29).

9 UPDATE ON COMPLAINT (24/10) FROM THE INVESTIGATING OFFICER

To receive a verbal report from the Investigating Officer.

10 **UPDATE FROM THE MONITORING OFFICER IN RESPECT OF COMPLAINT REF: 25/10**

To receive a verbal report from the Monitoring Officer.

11 **EXCLUSION OF THE PRESS AND PUBLIC**

To consider passing the following resolution:

RESOLVED: That under Section 100(a)(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act.

12 **UPDATE ON INVESTIGATIONS UNDERTAKEN TO DATE**

To receive the information held on investigations undertaken to date. T Campion and J Bullen (Deputy Monitoring Officers) have been invited to attend for this item.

RETURN TO OPEN SESSION

13 **ANY OTHER BUSINESS**

14 **DATE OF NEXT MEETING OF THE FULL STANDARDS COMMITTEE**

To be agreed.

To: Councillor I Goodson, D Harwood, J Legg, A Tyler and C Walters

Mr M Sale (Independent Member), Mr R Steward (Independent Member), Mr G Brierley (Independent Member), Mr J Dawson (Parish Representative), Mr H Malik (Parish Representative), Mr D Shepperson (Parish Representative)

N Leader, Legal Services Manager/Monitoring Officer
T Campion, Solicitor and Deputy Monitoring Officer
J Bullen, Senior Lawyer

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

Item 5

REPORT TO STANDARDS COMMITTEE

Date of meeting: 18th June 2010

ANNUAL REPORT 2009/10

a) Terms of Reference

The Standards Committee promotes and maintains high standards of conduct by the Members of the Borough Council of King's Lynn and West Norfolk and of the 101 Parish and Town Councils within the Borough. The Committee advises on the Code of Conduct (and assists, revises and consults thereon when required). The Standards Committee facilitates Members training on Conduct issues and helps Members to observe the Code of Conduct. When necessary, the Committee also holds local hearings and determines complaints against Members.

The Committee is scheduled to meet four times per year with the scope for additional meetings, convened with the agreement of the Chairman, if particular circumstances appertain.

There is also a Local Assessment sub-committee and a Review sub-committee which meet more regularly as part of the procedure for considering complaints.

b) Membership

The Standards Committee has a membership of eleven, comprising five elected Councillors (appointed in accordance with the Council's political balance) and six independent members.

Presently the membership of the Standards Committee comprises:

- i. Mr Martin Sale (Independent Member) (Chair of the Committee)
- ii. Mr R Steward (Independent Member)
- iii. Mr G Brierley (Independent Member)
- iv. Mr J Dawson (Parish Member)
- v. Mr H Malik (Parish Member)
- vi. Mr D Shepperson (Parish Member)
- vii. Councillor I Goodson
- viii. Councillor D Harwood
- ix. Councillor J Legg
- x. Councillor A Tyler
- xi. Councillor C Walters

The Standards Committee is supported by the Borough Solicitor/Monitoring Officer, who is the principal advisor to the Committee.

Principal Activities in 2009/2010

c). Complaints against Members

Since May 2008 complaints about Councillors with respect to the Code of Conduct for Members and Co-opted Members, have been delegated to the relevant local authority to determine. Previously complaints were submitted directly to the Standards Board for England.

During the course of 2009 a total of 15 complaints were received. Some complaints contained allegations against more than one member and/or more than one allegation.

Each complaint has been referred to an initial Assessment Sub-Committee to determine if there may have been a breach of the Code of Conduct. The Assessment sub-committee has a number of options open to it. It may refer the allegation to the Monitoring Officer for investigation or some other action such as mediation or training; refer the allegation to the Standards Board for England or decide that no action should be taken in respect of the allegation.

Standards for England have set a target of 20 working days in which Assessment Sub-Committees should meet to initially assess complaints against Members and the Committee has been able to meet this target.

A number of these complaints were referred on for local investigation by the Monitoring Officer resulting in the commencement of 10 investigations (some comprising several allegations). One complaint was referred to the Monitoring Officer to take 'Other Action'.

If the complainant is unhappy with the decision of the Assessment Sub-Committee they may request a review of the sub-committees decision. In 2009 one request for a review was received. The Review Sub-Committee upheld the decision not to refer the complaint for investigation.

In some cases there was found to be no breach of the Code of Conduct and with the agreement of the Standards Committee the cases were closed There have been 3 panel hearings which have resulted in findings of breaches of the Code. One involved a Borough Councillor who was censured for the breach and the other two involved Parish Councillors one of whom was censured and one who was suspended for three months.

In addition, 1 complaint was withdrawn after an investigation was completed and two investigations were discontinued following the resignation of the members who were the subjects of the complaints.

The annual number of complaints looks set to continue to increase as at the end of April 2010 a total of 9 complaints have already been received.

d) Meetings

During 2009 the Standards Committee met quarterly on the 24th March; 22nd June; 28th September and 17th December.

There were 10 meetings of the Assessment Sub-Committee and one meeting of the Review Sub-Committee.

e) Reports

During 2009 the Standards Committee received reports from the Monitoring Officer on;

- Member/Officer Protocol (subsequently adopted on 25th June 2009).
- Notifications to Parish Councils concerning complaints.
- Revisions to Members Code of Good Practice For Development Control.
- New Standards Committee Regulations relating to the establishment of joint standards committees and dispensations.

f) Changes to the Council Website

There is a web page for making complaints against Councillors. It contains links to the Code of Conduct and a complaint form and supporting guidance notes complaint against which was published on the website page in January 2009.

The Standards Board for England's website is also an excellent resource for all issues relating to Standards (www.standardsboard.gov.uk).

g) Training

Two Ethical Governance workshops presented by EERA for Borough members were organised on the 2nd and 10th March. 14 Borough Members and 7 officers from Legal and Democratic Services attended. The feedback was positive.

h) Conclusion

The work of the Standards Committee is full and varied and the likelihood is that it will increase over the coming months and years. The Committee has made great strides during the year to increase its profile and in rationalising its procedures. The introduction on 8th May 2008 of the "Going Local" agenda has effectively transformed the role and function of the Standards Committee.

Local Authorities now have greater responsibility for their own ethical agenda, with Standards Committees and Monitoring Officers having an essential role to play in ensuring that the Code of Conduct is adhered to and in championing high standards throughout the authority.

2. Financial implications

None.

3. Statutory Consideration

None

4, Risk Assessment

None

5. Access to Information

None

Item 6

REPORT TO STANDARDS COMMITTEE

Date of meeting: 18th June 2010

Dispensation Requests – Application Process and Criteria for Determination

Summary

A report to;

1. Establish a Dispensation Sub-Committee to consider requests for dispensations.
2. To agree the criteria which the Standards Committee will apply in determining dispensation requests.

RECOMMENDATION

- (i) The Standards Committee note the Standards For England guidance on Dispensations
- (ii) The criteria for granting dispensations and the application form attached at Appendix 2 of the report be adopted
- (iii) That a Dispensation Sub-Committee be established to consider requests for dispensations as set out in paragraphs 2.9 and 2.10 of the report.

1 Background

1.1 At its meeting in September 2009 Members received a report on the introduction of new Standards Committee (Further Provisions) Regulations 2009. These Regulations included new provisions relating to the granting of dispensations. Standards for England has issued guidance to help Standards Committees consider applications for dispensations.

2.1 A copy of the guidance is attached at Appendix 1.

2.2 The Regulations allow the Committee to grant dispensations for Local Authority Members permitting them to speak only or to speak and vote at a meeting when they have a prejudicial interest.

2.3 The Standards Committee may grant a dispensation to a member or a co-opted member of the Borough Council if the following criteria are met:

2.4.1 where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting

- 2.4.2. where the number of members prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of the voting would be prejudiced.
- 2.5 In the case of a Town or Parish Council a dispensation may only be granted where more than 50% of the members who would be entitled to vote are otherwise prohibited from voting.
- 2.6. The Standards Committee must ignore any dispensations that have already been granted to any members when considering whether the criteria apply.
- 2.7 The Regulations make two exceptions to the above rules. Dispensations cannot be granted even if the criteria are met in the following circumstances:
- 1) to allow a member of an overview and scrutiny committee to vote on any decisions made by any body of which they were a member at the time the decision was taken
 - 2) to allow an executive member with a prejudicial interest in an item of executive business to take an executive decision about it on their own. It should be noted that the constitution does not currently allow members of the executive to take individual decisions.
- 2.8 The guidance highlights the need for information to be made available to all members on the criteria to be applied and the process to be followed to obtain a dispensation. The proposed application form, criteria for granting dispensations and guidance notes are attached at Appendix 2 for consideration.
- 2.9 Members will note that the guidance from Standards for England makes reference to Section 54A (1) of the Local Government Act 2000 which allows a sub-committee to be set up to deal with dispensations. The Committee may consider this as a sensible way forward as members are rarely aware of the number of members who may be unable to consider a matter by reason of prejudice in time for an application for a dispensation to be brought before a regular Standards Committee. It is recommended that a sub-committee be established comprising of 3 members drawn from the Standards Committee. The Quorum of the Sub Committee would be three members with an independent co-opted member as Chairman, one elected member of the Council and one Town/Parish representative. The authority to determine the members of the sub-committee shall be delegated to the Monitoring Officer.
- 2.10 The suggested terms of reference are:
- To consider applications for dispensations in accordance with the Standards Committee (Further Provisions) (England) Regulations 2009 and any criteria adopted by the Standards Committee.

3. Legal Implications

The provisions for the granting of dispensations must comply with the Standards Committee (Further Provisions) (England) Regulations 2009.

4. Financial Implications

None

5. Statutory Consideration

The Standards Committee (Further provisions) England Regulations 2009.

6. Risk Assessment

Failure to observe the provisions of the regulations may result in the Council and/or Committee acting unlawfully

7. Access to Information

- The Standards Committee (Further provisions) England Regulations 2009.
- Standards Board Guidance on the granting of dispensations

Item 6 Appendix 1

DISPENSATIONS

contents

Introduction	2
Dispensations	3
Granting dispensations under the new regulations	3
Legal requirements for granting dispensations	4
Issues and criteria to consider when granting dispensations	5
Considerations for dealing with dispensation requests	5
Practical guidance on the process for granting dispensations and recording them	6

introduction

This guidance on dispensations is aimed at standards committees. It is not mandatory but has been written to help describe when standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest.

dispensations

Granting dispensations under the new regulations

The legislation states standards committees can grant dispensations for members allowing them to speak and vote at a meeting when they have a prejudicial interest. The criteria for granting these dispensations changed in June 2009

Concerns were raised by some authorities, as well as the Standards Board for England, about the provisions of previous dispensation regulations. Due to these concerns, the Standards Committee (Further Provisions) (England) Regulations 2009 (the regulations) revoke the previous regulations. They replace them with new provisions to clarify the grounds on which standards committees may grant dispensations to local authority members.

Under Section 54A(1) of the Local Government Act 2000 an authority's standards committee can set up a sub-committee to consider requests for dispensations. Any reference in this guidance to the standards committee includes any sub-committee which has this function.

Dispensations may be granted for speaking only, or for speaking and voting. The 2007 Code of Conduct (the Code) relaxed the provisions for restricting members from speaking. Therefore, the need to request a dispensation in this respect is now limited to circumstances where the public do not have the right to speak, or to where a parish or police authority has not adopted paragraph 12(2) of the Code.

Part 4 of the regulations sets out the

circumstances in which a standards committee can grant dispensations to members of relevant authorities in England, and police authorities in Wales. If a member acts in accordance with the granting of a dispensation, taking part in business otherwise prohibited by an authority's code of conduct would not result in a failure to comply with that code.

A standards committee may grant a dispensation to a member or co-opted member of an authority in the following circumstances:

- where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting **OR**
- where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

Note: Although the Regulations are not explicit, political balance is a legal formula, set out in the Local Government and Housing Act 1989 and associated regulations. It applies only to relevant authorities and places an obligation on them to reflect the political balance of their elected members when determining who should sit on certain committees. It does not apply to parish councils.

Standards committees must ignore any dispensations that have already been given to others at the meeting to decide whether either of these criteria apply.

There are two **exceptions** to this:

- Members cannot be given a dispensation allowing them to vote in

dispensations

overview and scrutiny committees about decisions made by any body they were a member of at the time the decision was taken.

- A dispensation cannot be given to allow an executive member with a prejudicial interest in an item of executive business to take an executive decision about it on their own.

The dispensation granted may apply to just one meeting or it may be applicable on an ongoing basis. However, the dispensation cannot be used to allow participation in the business of the authority if it was granted more than four years ago.

Legal requirements for granting dispensations

- 1) Standards committees can grant a dispensation if more than 50% of members have a prejudicial interest in an item of business to be discussed at a meeting which is covered by their code of conduct. They must ignore any members who have already been granted dispensations when doing this (see paragraph [*]). The list of meetings is set out in paragraph 1(4) of the Model Code of Conduct contained in the Local Authorities (Model Code of Conduct) Order 2007. These are meetings of:

- the authority
- its executive and its committees and sub-committees
- any other committees, sub-committees, joint committees, joint sub-committees or area committees of the authority.

- 2) Standards committees can grant a dispensation for an item of business if the political balance of a meeting would be upset enough to prejudice the outcome of the vote. They must ignore any members who have already been granted dispensations when doing this (see paragraph [*]). This means that due to the number of members who are prevented from voting the political balance of the committee is changed. This is similar to a provision that has been in existence in Wales for some time. As before, this does not apply to parish councils as they are not bound by the political balance rules.

[*]The requirement to ignore any members who have already been granted dispensations means that standards committees should disregard any previously granted dispensations in order to work out whether the two circumstances above apply.

So, if there were ten members on a committee, six of whom would not be able to vote on some business, all six can claim a dispensation. If previously granted dispensations were not disregarded, once two people had been granted dispensations, the remaining four would be ineligible because at that point 50% of the committee would be able to vote.

In addition it is necessary to consider if any of the exceptions set out above apply.

dispensations

Issues and criteria to consider when granting dispensations

The number of members in each political group on an authority could affect the eligibility to apply for a dispensation.

In situations where one political party has a large majority on an authority, and therefore on its committees, members of that political party will not be eligible to apply for a dispensation frequently under the criterion for political balance (see page 3). Where an authority has two or more political parties, and the number of members that each party has is fairly evenly balanced, the eligibility to apply for a dispensation will rise.

Clearly there is a difference between being eligible to apply for a dispensation and it being appropriate for that dispensation to be granted. We recommend that the standards committee considers the need for criteria to be applied to requests for dispensations. The committee will need to balance the prejudicial interest of the member seeking the dispensation to vote on an item of business, against the potential effect on the outcome of the vote if the member is unable to do so.

Considerations for dealing with dispensation requests

Q. Is the nature of the member's interest such that allowing them to participate would not damage public confidence in the conduct of the authority's business?

For instance, it is unlikely that it would be appropriate to grant a dispensation

to a member who has a prejudicial interest arising as a result of an effect on their personal financial position or on that of a relative. The adverse public perception of the personal benefit to the member would probably outweigh any public interest in maintaining the political balance of the committee making the decision. This is especially where an authority has well-established processes for members on committees to be substituted by members from the same political party.

However, the prejudicial interest could arise from the financial effect the decision might have on a public body of which they are a member. In such cases, it is possible that any public interest in maintaining the political balance of the committee making the decision might be given greater prominence.

Q. Is the interest common to the member and a significant proportion of the general public?

For example, the member might be a pensioner who is considering an item of business about giving access to a local public facility at reduced rates for pensioners. Some cautious members might regard this as a possible prejudicial interest. However, as a significant proportion of the population in the area are also likely to be pensioners, it might be appropriate to grant a dispensation in these circumstances.

dispensations

Q. Is the participation of the member in the business that the interest relates to justified by the member's particular role or expertise?

For instance, a member might represent the authority on another public body – such as a fire or police authority – and have particular expertise in the work of that body. Therefore it may be appropriate for that member to be allowed to address the decision-making body, even where there is no right for the public to do so. This would mean that the body would have the benefit of the member's expertise before making a decision which would benefit it financially.

Q. Is the business that the interest relates to about a voluntary organisation or a public body which is to be considered by an overview and scrutiny committee? And is the member's interest not a financial one?

In circumstances such as these, the standards committee might believe that it is in the interests of the authority's inhabitants to remove the incapacity from speaking or voting.

Practical guidance on the process for granting dispensations and recording them

The process for making requests for dispensations, the criteria that will be applied and the process that will be followed when the request is considered should all be clearly understood by those

concerned. Therefore, standards committees should set all this out and make it available to members.

A member must submit an application in writing explaining why a dispensation is desirable. Only the member can do this – they can't ask somebody else to do it on their behalf. It is sensible to send that application to the monitoring officer so that they can arrange for it to be considered by their standards committee.

A standards committee meeting must be convened to consider the application for a dispensation. Therefore, it is not possible to grant a dispensation as a matter of urgency to deal with emergency business.

The committee must consider the legal criteria set out on pages 3–4, including the exceptions. They must also consider any other relevant circumstances. These can include any local criteria they have adopted.

The committee will need to consider whether the member making the request will be allowed to make oral representations to the committee or whether the application will be dealt with only through written representations.

A standards committee has the discretion to decide the nature of any dispensation. For example, the committee may consider that it is appropriate that the dispensation allows the member to speak and not vote, or to fully participate and vote. The committee can also decide how long the dispensation should apply, although it cannot be longer than four years.

dispensations

It is our view that the regulations do not allow standards committees to issue general dispensations to cover members for any situation where a prejudicial interest may arise. The regulations refer to circumstances that arise at “a meeting”. Therefore, we would expect most dispensations to cover a specific item of business at one meeting of the authority.

The decision must be recorded in writing and must be kept with the register of interests established and maintained under Section 81 (1) of the Local Government Act 2000.

Standards committees can refuse to grant a dispensation. The regulations allow for standards committees to use their discretion rather than impose an obligation for them to grant dispensations.



Application Form for a Dispensation

Note: *The Regulations require a request to be made in writing by the Member who is seeking the dispensation. An individual request must be made by each Member who wishes to seek a dispensation. It is not possible for the town or parish clerk to request a general dispensation on behalf of the Members. Until the Dispensation is granted you cannot participate in any consideration of the matter in which you have a prejudicial interest.*

To: The Standards Committee

c/o Nicola Leader, Monitoring Officer
Borough Council of King's Lynn & West Norfolk
King's Court
Chapel Street
King's Lynn
PE30 1EX

1	Name of Member seeking a dispensation <i>Note: The application must be submitted by the individual member seeking the dispensation</i>	
2	Name of Council	
3	Nature of interest for which dispensation is being sought	
4	Nature and duration of dispensation sought. <i>Dispensations may be granted for speaking only or for speaking and voting. They may be granted to allow a member to speak only or to speak and vote at a specified meeting or may be granted for a period of time not exceeding 4 years.</i>	

5	Reasons why the Standards Committee should grant the request for dispensation. Please refer to the grounds under which a dispensation can be given as set out in the guidance notes which accompany this form and the criteria adopted by the Committee.	
6	For which type of meeting is the dispensation sought? (Full Council, Committee or Sub Committee).	
7	Are there any other factors that might help the Standards Committee to reach a decision on the application?	

Signed:

Date:

Name:

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

Guidance to Members of Borough Council of King's Lynn & West Norfolk and Town and Parish Councils within the Borough seeking a Dispensation from the Standards Committee

When might it be appropriate to request a dispensation?

The Code of Conduct provides that if an elected or co-opted Member has a prejudicial interest in a matter that is to be discussed at a meeting of the Council they should not speak or vote on the matter and should leave the meeting whilst the matter is discussed.

There is an exception that already applies to principal authorities which enables members to make representations to the meeting where they would otherwise have a prejudicial interest where a member of the public has a similar right. However, they should still leave the meeting before the vote is taken. This may not be the case for all town and parish councils and you should check with your clerk to see if the provision has been adopted.

The Standards Committee (Further Provisions) (England) Regulations 2009 provides that even where you have a prejudicial interest you may, in certain circumstances, request a dispensation from the Standards Committee. You can ask for the dispensation either just to speak at the meeting or to speak and to vote.

What are the circumstances in which I ask for a dispensation?

In the case of an elected or co-opted Member of the Borough Council of King's Lynn and West Norfolk you can request a dispensation in the following circumstances:

- where more than 50% of the Members who would be entitled to vote at a meeting would otherwise be prohibited from voting or;
- where the number of Members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

In the case of an elected or co-opted Member of a town or parish council you can request a dispensation only

- where more than 50% of the Members who would be entitled to vote at a meeting would otherwise be prohibited from voting.
- **Criteria for Granting Dispensations**
- The Standards Committee will ignore any dispensations that have already been granted to any members when considering whether the criteria apply.

In determining whether to grant a request for a dispensation regard shall be had to the following:-

- 1 Is the nature of the Member's interest such that to allow them to participate would not damage public confidence in the conduct of the authority's business?** *For instance, it is unlikely that a dispensation would be granted to a Member who has a prejudicial interest arising as a result of an effect on their personal financial position or that of a relative or close associate. It would be more likely to be granted where the prejudicial interest arose from the financial effect the decision might have on a public body of which he or she was a Member.*
- 2 Is the interest common to the Member and a significant proportion of the general public?** *If this is the case, a dispensation is more likely to be granted.*
- 3 Is the participation of the Member in the business that the interest relates to justified by the Member's particular role or expertise?**

- 4 Is the business that the interest relates to about a voluntary organisation or a public body which is to be considered by an Overview and Scrutiny Committee? And is the Member's interest a non financial one? In such circumstances it is likely that a dispensation will be granted.**

Does the Standards Committee have to grant the request for a dispensation?

No. The Standards Committee has discretion as to whether or not to grant the request. It can also grant a partial dispensation to enable you to speak but not vote for a dispensation or to enable you to speak and vote. The Standards Committee has adopted a set of criteria to assist it in deciding the circumstances in which a request for dispensation will be granted.

Are there any circumstances when a dispensation cannot be granted?

Yes. In the case of elected Members of Borough Council of King's Lynn & West Norfolk, a dispensation cannot be given:

- to allow a Member to vote in an Overview and Scrutiny Committee on any decision made by a body of which they were a Member at the time the decision was taken;
- to allow an executive Member with a prejudicial interest in an item of executive business to take an executive decision about it on their own.

How do I make a request for a dispensation?

The Regulations require a request to be made in writing by the Member who is seeking the dispensation. An individual request must be made by each Member who wishes to seek a dispensation. It is not possible for the town or parish clerk to request a general dispensation on behalf of the Members.

A pro forma application form is available on the Council's website.

It is important that you provide the information requested on the form to enable the Standards Committee to consider your application.

Until the Dispensation is granted you cannot participate in any consideration of the matter in which you have a prejudicial interest.

The process to be followed

The application form should be sent to the Council's Monitoring Officer at:

Borough Council of King's Lynn & West Norfolk
King's Court
Chapel Street
King's Lynn
PE30 1EX

A dispensation Sub-Committee of the Standards Committee will be convened to determine your request so that it can be dealt with quickly.

You should leave as much time as possible between requesting the dispensation and the meeting for which the dispensation is sought as it will be necessary to convene a formal meeting in order to determine the request.

It is therefore suggested that you submit your request a minimum of 14 working days prior to the meeting at which you wish to request that you be given a dispensation.

Item 7

REPORT TO STANDARDS COMMITTEE

Date of meeting: 18th June 2010

NOTIFICATION PROCEDURE FOR PARISH COUNCILS

Summary

A report to:

1 Advise members of the responses to the consultation of Parish and Town Councils upon the proposed policy relating to a notification procedure for complaints against councilors.

RECOMMENDATION

(i) The Standards Committee recommend to Parish and Town Councils the incorporation into their standing orders of the procedure detailed in this report for dealing with notifications relating to complaints against their members.

1 Background

1.1 At its meeting in September 2009 Members received a report on the Standards Board for England's recommendation that each Parish/Town Council should adopt a procedure for notifications as part of their Standing Orders.

1.2 The Committee resolved that all Parish and Town Councils in the Borough be consulted upon the proposed procedure. The consultation exercised has been completed. The recommended procedure and results of the consultation are set out below.

2 Procedure

- 1 Code of Conduct Complaint Notifications will be received by the Parish Clerk from the Monitoring Officer.
- 2 If no further action is determined by the Local Assessment Sub Committee then the Notification is retained on file with no disclosure to other Members.
- 3 If there is to be a local investigation and 'rare circumstances' regarding confidentiality do not apply then reference to the complaint shall be reported to Council in Open Session.
- 4 If 'rare circumstances' regarding confidentiality do apply then the complaint shall be reported to Council in Closed Session.
- 5 The Parish Clerk shall provide on request further information to assist investigation unless the complaint is made by the Clerk, when the Deputy Clerk shall provide any further information to assist investigation.

- 6 In the event that both the Clerk and the Deputy Clerk are joint complainants then the Council Chairman or failing him(her) the Vice Chairman, shall provide any further information to assist investigation.
- 7 The nature of further information provided to assist an investigation shall remain confidential and will not be shared with councillors.
- 8 The final determination of an investigation will be reported to Council in Open Session in the same way that the local Standards Committee makes it public.

3 Consultation responses

- 3.1 The Monitoring Officer received a total of 17 responses from the 101 Parish and Town Councils.
- 3.2 They were all content to adopt the procedure save Emneth and Tilney St Lawrence Parish Council's who considered the requirement at no.(7) of the procedure 'that any information provided by the Parish Clerk as a part of an investigation should remain confidential' was undemocratic.

4. Recommendation

- 4.1 Standards Board guidance is clear that information gathered during an investigation is confidential. Indeed, it is an offence to disclose information obtained in an investigation unless certain conditions are fulfilled. As none of those conditions will prevail to permit the disclosure of information by the Clerk to their Parish or Town Council it is recommended that the requirements as to confidentiality should remain in the procedure as drafted..

3. Legal Implications

None

4. Financial Implications

None

5. Statutory Consideration

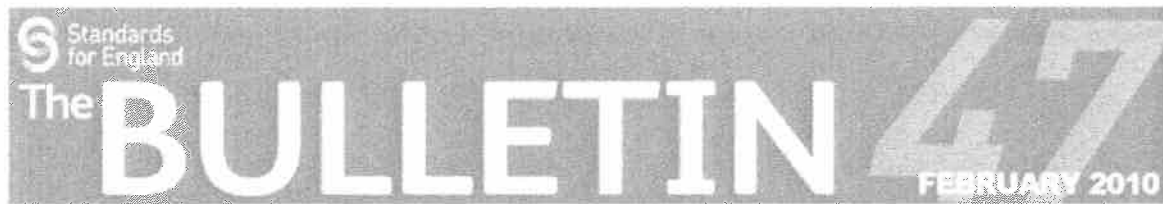
The Standards Committee (Further provisions) England Regulations 2009.

6. Risk Assessment

Failure to observe the provisions of the regulations may result in the Council and/or Committee acting unlawfully

7. Access to Information

None



2010 Annual Assembly of Standards Committees ‘A place for standards’

Following the success of last year’s fully booked Annual Assembly, we are well on the way to finalising the programme for this year’s event, which takes place on 18 and 19 October at the ICC in Birmingham.

We are already working with a panel of standards committee members and monitoring officers to develop a range of sessions focused on sharing notable practice, developing high standards and building confidence in managing the local standards framework.

The cost of attending both days of the Assembly has been held at £430 (plus VAT) for the fourth year running, while a one-day place is £230 (plus VAT).

Online booking is now open on our website. We will also be sending out hard copy booking forms to all authorities from mid-March. Further information about the programme and speakers will be added to the website so keep checking back for the most up-to-date information.

Stakeholder Tracker 2009 – ‘A qualitative assessment of advice and guidance’

Every two years Standards for England (SfE) conducts a ‘stakeholder tracker’ in two parts: a quantitative survey, and a qualitative investigation. This research assesses the levels of satisfaction of members and officers in local government with the performance of SfE and their attitudes to the ethical environment. As some of you may recall, the survey was completed last summer. We are now happy to report that the qualitative section of the research, which provides a more in-depth analysis of some of the issues that emerged from the quantitative research, has been completed and is available on our website. **We would like to thank those of you who participated in the research. It is only through your continued support that we are able to track our progress, and identify areas for improvement.**

BMG research carried out this research by holding a number of focus groups with monitoring officers, standards committee members and parish councillors.

Some of the findings:

- The research found that monitoring officers and standards committee members are very positive about the local standards framework. They feel it has 'bedded in' well, and welcome the chance to take ownership of the process of investigating complaints.
- SfE's monitoring officer helpline received positive feedback, and some stakeholders suggested that the service callers receive has improved over the past 12 months.
- Monitoring officers welcome the development of peer and local/regional networks – however, there is some suggestion that a number of authorities may already have some form of networking in place. They would like SfE to provide content for delivery at networking events.
- The research identified several topics on which stakeholders think SfE could provide further guidance such as more information on other standards committee practices, sanctions and proportionality, mediation, guidance specifically for parish councillors, and more advice on the overlap with Freedom of Information and Data Protection legislation.

A copy of the full report can be [downloaded here](#).

For further information, please contact:

Tom Bandenburg (Research Assistant) on 0161 817 5427 or email tom.bandenburg@standardsforengland.gov.uk

A REMINDER: Please send us your hearing decision notices

As you may already be aware, authorities are required to send Standards for England (SfE) copies of their hearing decision notices. The legal basis for this can be found in the Standards Committee (England) Regulations 2008 under regulation 20(1)(a). However, not all authorities have complied with this requirement.

Hearing decision notices provide a valuable source of information from which SfE can draw conclusions about how the local standards framework is functioning. We have decided to give greater emphasis to our analysis of the notices and we will share our conclusions with you.

What you need to do

Please send us a copy of the full decision notice for any determinations made by your Standards Committee. At the end of each quarter (from 1 April 2010) we will check whether we have received a decision notice for all the hearings completed that quarter and then contact authorities for any that are missing.

We prefer to receive decision notices as an email attachment in Word or PDF format if possible.

You can send them to authorityreturns@standardsforengland.gov.uk.

If you are unable to send them electronically, please post your decision notices to:

The Monitoring Team, Standards for England, 4th floor, Griffin House

40 Lever Street, Manchester M1 1BB

When writing the decision notices, please ensure that you include all the legal requirements set out in paragraph 20 of the Standards Committee (England) Regulations 2008. We also recommend that you refer to our guidance, which you can find in your local standards framework guide or online at

<http://www.standardsforengland.gov.uk/determinations>

Note: Please do not send us decision notices for any other type of decision such as initial assessments, reviews or consideration meetings. This is not a legal requirement and we will not be using them in our analysis.

What we will do

We will use the notices to help widen our knowledge of how the local standards framework is operating and provide some context to the quarterly returns data. The notices may also highlight areas where we can produce new guidance or improve on what we have already published.

Thank you for your co-operation. We will keep you informed of how the decision notices help us to support the local standards framework.

Adjudication Panel for England becomes known as First-tier Tribunal (Local Government Standards in England)

On the 18th January the functions of the Adjudication Panel for England were transferred to the First-tier Tribunal (Local Government Standards in England) and the Adjudication Panel for England was abolished. The First-tier Tribunal sits in the General Regulatory Chamber with Charity, Gambling, Information, Estate Agents, Claims Management, Consumer Credit and Transport Tribunals.

The role of the First-tier Tribunal is to hear cases referred to it by an Ethical Standards Officer or a Standards Committee following an investigation. The Tribunal will also hear appeals by a subject member against the decision of a Standards Committee.

There have been changes to the powers and procedures of the Tribunal.

Powers and Procedures

The First-tier Tribunal now has additional powers and procedures. It has the power to summon witnesses or require witnesses to produce documents relating to its hearings.

All Tribunal hearings can now be conducted either orally or by written representations with the consent of all parties.

Hearings can be conducted by less than 3 Tribunal members.

The President of the Adjudication Panel for England has been appointed as a Principle Judge of the First-tier Tribunal, legal members are now Judges and lay members are members.

Appeals

Previously any appeal from the Adjudication Panel was heard at the High Court. This process has now changed. Appeals will now be heard by the Upper Tribunal. The Upper Tribunal is an appellate tribunal created by the Tribunals, Courts and Enforcement Act 2007. The Administrative Appeals Chamber is the part of the Upper Tribunal which hears and decides appeals from decisions of the General Regulatory Chamber of the First-tier Tribunal.

Who can appeal to the Upper Tribunal?

Any party may appeal to the Administrative Appeals Chamber of the Upper Tribunal if they can show that the First-tier Tribunal made an error of law.

Additionally, the subject member has the right to appeal findings of fact, if their appeal is against

- (a) a decision that they failed to comply with a code of conduct,
- (b) a decision imposing suspension or another sanction

Appeals by other parties

A further change to the appeals process is that if a subject member is successful at the First-tier Tribunal, it is still possible for an Ethical Standards Officer or Standards Committee to appeal on a point of law to the Upper Tribunal. The First-tier Tribunal will notify the subject member if any of these parties wish to appeal.

Costs

The First-tier Tribunal now has the power to make an order for costs if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings. It may make an order for costs following an application or on its own initiative.

This will mean that the Tribunal can award costs against a standards committee, Ethical Standards Officer or subject member if they have acted unreasonably in the conduct of their investigations or hearings. The First-tier Tribunal may also make an award for wasted costs incurred by any legal or other representative where the Tribunal considers that they have acted negligently, improperly or unreasonably in bringing, defending or conducting proceedings.

For more information and detailed guidance please see www.adjudicationpanel.tribunals.gov.uk

Our Risk Based Approach

One of the best practice requirements of a regulator is that they take a risk -based approach to their work: that is they are able to assess risks in their area of regulation and apply their own resources accordingly to keep risks low.

For Standards for England there are three types of risk which concern us.

- Systemic risk – risk which could lead to a widespread failing in the work of the framework or in standards across all authorities
- Sectoral risk – risk which could lead to a failing in standards in a number of similar authorities
- Entity risk – risk of a serious standards failure affecting one of the authorities covered by the local standards framework

Assessing entity, systemic or sectoral risks to standards or the success of the framework allows us to target our effort at those activities, situations or authorities that pose the biggest risk helping ensure we provide value for money.

The Success of the local standards framework relies in part on our ability to see potential pitfalls or risks to standards in advance. For example, the emergence of new technologies such as internet social networking, blogs and Twitter, have presented their own unique challenges to standards. During 2009-10 we were able to produce guidance, place articles in the local government press and give a presentation at a national members' conference on this subject.

Spotting such challenges allows us to provide early advice and guidance to the standards community to help prevent problems arising. We will be developing our approach to systemic and sectoral risk, closely linked to our research programme, to help us identify trends or potential problems, and so offer appropriate advice at the earliest opportunity.

We work closely with authorities where challenging standards issues emerge. Based on our increasing experience supporting these authorities we are developing our plans for managing entity risk.

We intend to prioritise the way we interact with authorities on the basis of our risk assessment of the likelihood and impact of any failure of standards in that authority. Working through our relationship managers we will take a differential approach based on this assessment to satisfy ourselves that authorities are working to minimise risks. We envisage working with 30-40 authorities at our highest level of contact and a further 100-120 at an intermediate level, at any one time.

Typically authorities at the lowest level of risk will be in contact with us only as they go about their routine business in operating the standards framework and sending back the required monitoring data, whereas authorities at the intermediate level might be contacted by relationship managers on a six monthly basis, and those at the highest level contacted or visited more frequently as deemed appropriate.

We will be testing our planned approach and consulting with the regulated community about it over the next six months.

Social networking: an effective medium of communication but not without risk

When it comes to reaching certain groups quickly, cheaply and maintaining control over your message, many councillors find online methods hard to beat.

At the recent Cllr' 10 event, Standards for England and the IDeA ran an interactive session which looked at how councillors can use social networking effectively and ethically to engage with their local communities.

This article highlights some of the key messages from the session for councillors.

- If you use blogs, Facebook or Twitter to help you to carry out your political work, rather than in your private capacity, your obligation to meet certain standards of conduct still applies. You can still be involved in robust political debate and state your opinions strongly – the Code does not exist to gag you or fellow councillors or stop you expressing political views. It does, however, prohibit treating others with disrespect, bullying and bringing one's office or authority into disrepute. It is important if you are blogging or tweeting personally and not in your role as councillor, that you do not act, claim to act, or give the impression that you are acting as a representative of your Authority. It is worth noting that web links to official council websites may give or reinforce the impression that you are representing the council.

- You may use a blog to draw attention to a particular local issue and call the council to account, as you would in a public meeting. However, blog entries ridiculing or attacking particular officers, or making serious accusations about their personal competence or integrity, could amount to disrespect, even bullying, in some circumstances.
- It is worth considering that while the immediacy of social media can be a great benefit, it also has a downside. For example, it is possible for you to Tweet on a matter seconds after leaving the council chamber – long before your opponents have issued press statements. This can result in broadcasting spontaneous remarks that may quickly seem unwise. By the time you have reconsidered and deleted them, they may have been seen by thousands, Facebook-shared, re-Tweeted, linked to, and committed to local headlines. That is fine, if you have got this message across just how you wanted to; less so if your post was an outburst in the heat of the moment. Such remarks are easily withdrawn, apologised for and forgotten when made in person, but posting them on the internet means that they have been published, and in a way that cannot be contained.
- It is important to note that good ethical standards are not limited to the Code of Conduct. While you may not be investigated for using online media, your conduct can still attract adverse publicity, even where the Code does not apply. For example, a regional newspaper recently called a councillor's blog post against a rival party a "toilet-mouthed tirade" saying:

"A [Code] breach it may not have been; childish, crude and demeaning to all who vote or follow politics it certainly was."

It is clear that social networking sites can enhance political debate and add positively to local politics when used correctly. [Click here](#) to see our online guide to blogging.

New Online Guides on Our Website

The Guidance and Information team has produced several new online guides at the end of 2009. They are now available on our website. Here are the titles and links to the guides:

- [Charitable Trustees and declarations of interest under the Code](#)
- [Freemasons and the Code](#)
- [Independent members](#)
- [Notifications to parish and town councils concerning complaints about their members and the Standards](#)
- [Role and appointment of parish and town council reps to the standards committee](#)
- [Bloggng quick guide](#)

We hope you find these new pieces of guidance helpful. Please e-mail any feedback you have on our guidance to enquiries@standardsforengland.gov.uk

Standards Committees can take a lead from 'notable practice'

Research into 'notable practice', was carried out jointly by Hull University and the University of Teesside and was finalised in October 2009. It is called 'notable practice' to highlight the fact that the tips for success are examples of where particular approaches have worked in certain authorities, rather than 'set-in-stone' rules about what should be done.

Bristol City Council standards committee was identified as being particularly effective at facilitating organisational learning, sharing learning with the local government community and acting as hub for other authorities and independent members in the South West. The focus of the case study in South Cambridgeshire was on the standards committee's proactive approach to the recruitment and retention of independent members.

The research identified nine examples of notable practice in different authorities. Below is the list of the notable practice examples and the case study authorities.

Notable practice	Case study authority
Organisational learning	Bristol City Council
Working with town and parish councils	Taunton Deane Borough Council
Member development	Surrey Police Authority
Working with partnerships	Newark and Sherwood District Council
Recruitment and retention	South Cambridgeshire District Council
Training and development	Herefordshire County Council
Joint standards and audit committees	Runnymede Borough Council
High pressure investigations	Greater London Author
Embedding standards	Newcastle City Coun

Standards committees can now access these case studies, examine details of the notable practice, and benefit from key learning points. The research, 'Assessing the Impact of Standards Committees 2009', can be found at

www.standardsforengland.gov.uk/Resources/Research/2009reports/