



FYLDE BOROUGH COUNCIL



## Meeting Agenda

**Meeting of Members of the  
Standards Committee**

**Reception Room, Town Hall  
12 December 2007, 6:30pm**

# **STANDARDS COMMITTEE**

## **MEMBERSHIP**

CHAIRMAN - Mr D Birchall

VICE-CHAIRMAN – Mrs J McCormick

Councillor Brenda Ackers

Mr A Marsh

Councillor Paul Hayhurst

Mr H Butler

Councillor Howard Henshaw

Linda Burn

Councillor Kevin Eastham

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## **CORPORATE OBJECTIVES**

The Council's investment and activities are focused on achieving our five key objectives which aim to :

- Conserve, protect and enhance the quality of the Fylde natural and built environment
- Work with partners to help maintain safe communities in which individuals and businesses can thrive
- Stimulate strong economic prosperity and regeneration within a diverse and vibrant economic environment
- Improve access to good quality local housing and promote the health and wellbeing and equality of opportunity of all people in the Borough
- Ensure we are an efficient and effective council.

## **CORE VALUES**

In striving to achieve these objectives we have adopted a number of key values which underpin everything we do :

- Provide equal access to services whether you live in town, village or countryside,
- Provide effective leadership for the community,
- Value our staff and create a 'can do' culture,
- Work effectively through partnerships,
- Strive to achieve 'more with less'.



## **A G E N D A**

### **PART I - MATTERS DELEGATED TO COMMITTEE**

<b>ITEM</b>	<b>PAGE</b>
<b>1. DECLARATIONS OF INTEREST:</b> <i>in accordance with the council's code of conduct, members are reminded that any personal/prejudicial interests should be declared as required by the council's code of conduct adopted in accordance with the local government act 2000.</i>	<b>4</b>
<b>2. SUBSTITUTE MEMBERS:</b> <i>details of any substitute members notified in accordance with council procedure rule 26.3</i>	<b>4</b>
<b>3. WORKPLAN FOR 2008/9</b>	<b>7-9</b>
<b>4. CASE REVIEWS</b>	<b>10-26</b>
<b>5. COMPLAINTS TO THE STANDARDS BOARD: STATISTICS</b>	<b>27-29</b>
<b>6. THE CODE UNCOVERED</b>	<b>30</b>

**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;

- (i) any employment or business carried on by you;
  - (ii) any person or body who employs or has appointed you;
  - (iii) 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;
  - (iv) 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);
  - (v) 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);
  - (vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (vii) any land in your authority's area in which you have a beneficial interest;
  - (viii) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

**Disclosure of personal interests**

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

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(d).

#### **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.

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	12 DEC 2007	3

## WORKPLAN FOR 2008/9

### Public/Exempt item

This item is for consideration in the public part of the meeting.

### Summary

Having a workplan would help the committee to address its wider remit of promoting ethical behaviour at Fylde and its parish councils. Members are asked to identify issues to be addressed in a workplan to be drawn up by the Monitoring Officer for approval at the next meeting of the committee.

### Recommendation/s

1. Agree issues to be addressed in a work plan for the municipal year 2008/9
2. Instruct the Monitoring Officer to prepare a work plan for approval by the next meeting of the committee.

### Cabinet portfolio

The item falls within the following cabinet portfolio[s]: Corporate performance and development (Councillor Sue Fazackerley).

### Report

### Sub-heading if needed

1. The remit of the Standards Committee includes the following functions:
  - *Promoting and maintaining high standards of conduct by Councillors and Co-opted Members*

Continued....

- *Assisting Councillors and co-opted members to observe the Members' Code of Conduct and the protocol on member-officer relations adopted by the Council*
2. In their report on the recent "Use of Resources" inspection, the Audit Commission set out the following action for the council:
    - *Be proactive in raising standards of ethical behaviour amongst members and staff, including the provision of ethics training.*
  3. The Standards Committee met twice in 2007 (including this meeting). It also held one hearing into a matter referred by the Standards Board for local investigation and determination. Most authorities' Standards Committees meet more frequently than this. It is generally accepted that there ought to be about four meetings in each municipal year. Meeting four times a year would foster a greater feeling of continuity and allow the committee to become more proactive in its work.
  4. It would be good practice for the committee to agree a work plan to guide its non-hearing activities for the forthcoming year. I set out below some matters that the committee may want a work plan to address. Other issues may well be raised by committee members for inclusion.
    - *The new code of conduct: Training for council members*
    - *Full council meetings of Fylde Borough Council: Procedure and etiquette*
    - *Officers' declarations of interests: Embedding the system*
    - *Standards committee: Getting ready for local filtering*
    - *Standards and ethics awareness in parish councils.*
  5. The committee is asked to discuss which of these and any other issues they would like to see addressed in a work plan for 2008/9 and how.

IMPLICATIONS	
Finance	
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	



REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis	(01253) 658506	28 November 2007	

LIST OF BACKGROUND PAPERS		
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION
None		

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	12 DEC 2007	4

## CASE REVIEWS

### Public item

This item is for consideration in the public part of the meeting.

### Summary

This report presents notes of cases that may be of interest that have occurred elsewhere than at Fylde or its parishes.

### Recommendation/s

1. That the cases in the report be noted.

### Executive brief

The item falls within the following cabinet portfolio: Corporate performance and development (Councillor Sue Fazackerley).

### Report

#### Introduction

1. The Standards Board for England deals with thousands of complaints about the conduct of councillors each year. More than three quarters of complaints are not referred for investigation. Another report on this agenda will give a breakdown of the national statistics and compare them with those relating to Fylde and its parishes.
2. It can be instructive to look at cases from elsewhere, both from the standpoint of assessing how ethical governance in the Fylde area compares with that in other

councils, and to build up a foundation of knowledge for dealing with any allegations that may be referred to the committee for local investigation and consideration.

3. The cases set out are all taken from the comprehensive database of cases at the website of the Standards Board for England ([www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)). The first case, *Prior*, was the subject of a Standards Board case alert earlier this year, and is regarded by the Board as being particularly important in illustrating the concepts that it deals with. The remaining cases are ones relating to district councils within Lancashire during the period from the start of 2006. Some of the cases would be likely to have been decided on different considerations under the new code of conduct adopted earlier this year. I have added a note where this is the case.

IMPLICATIONS	
Finance	No implications
Legal	The Standards Committee is not bound by decisions involving other councils, but guidance is useful for securing consistency
Community Safety	No implications
Human Rights and Equalities	.
Sustainability	No implications
Health & Safety and Risk Management	No implications

REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis	(01253) 658506	15 November 2007	

LIST OF BACKGROUND PAPERS		
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION

#### Attached documents

## **Appendix 1**

### **Former Mayor disqualified for improper conduct toward clerk**

**Councillor Anthony Prior, the former Mayor of Chard Town Council and a member of South Somerset District Council, was disqualified for nine months, following a hearing of the Adjudication Panel for England on 21 June 2006.**

The panel's tribunal found that Councillor Prior had breached the Code of Conduct by inappropriately asking the town clerk, for whom he had line management responsibilities, to go on holiday with him and offering her £500 as a present if she declined. The tribunal found that that by this conduct Councillor Prior brought his office into disrepute.

Councillor Prior later issued the clerk with a written warning when he found out she had sent a copy of a grievance letter to the Standards Board for England. Councillor Prior also issued a press release in which he made an unjustified public attack on the clerk and published her home phone number. The tribunal found that this behaviour was disrespectful to the clerk, and brought Councillor Prior's office into disrepute.

Not all of the complaints about Councillor Prior were upheld at the hearing. The tribunal found that on a number of occasions Councillor Prior's conduct was motivated by genuine concerns over the clerk's performance or the efficient running of the council.

The decision in the case helps to clarify the distinction between legitimate criticism of council officers and inappropriate conduct. Members should, of course, be able to exercise their right to challenge officers, and the Code of Conduct was not meant to constrain members from doing this. The decision indicates that members retain that right to challenge or criticise officers even where, as in this case, the relationship between the individuals is for any reason strained or has broken down.

However, members should always deal with performance issues in accordance with the authority's procedures, in an appropriate way and in the proper forum. It is inappropriate to discipline an employee in retaliation for a grievance, and to publicly criticise them in a press release.

### **Holiday invitation**

Councillor Prior asked the clerk about the holiday in March 2005, after a meeting to discuss council business. He said he would like to take her on holiday, and said he would pay and buy her anything she needed. When the clerk did not respond to the proposal, Councillor Prior handed her an envelope with a cheque for £500 if she declined the holiday, which she did not accept.

The Adjudication Panel decided that Councillor Prior brought his office into disrepute by making this proposal. The tribunal considered that it was inappropriate for an elected member to extend such an invitation to a council employee when there was such a power imbalance in their working relationship, and when there was not the slightest encouragement from the employee. This was particularly the case in this instance, where the councillor held two senior posts in the council and was the employee's line manager.

The tribunal noted, however, that this was a highly personal conduct that did not reflect badly on the council as a whole. The only relevance for the council was that the proposal had been made during a meeting between a member and an employee to discuss council business. The tribunal therefore found that the councillor had not brought his authority into disrepute.

The tribunal also considered that this proposal would not, by itself, have justified disqualifying the councillor, especially as Councillor Prior and the clerk agreed to put the incident behind them and not to take any further action at the time.

### **Criticism of the clerk**

There were a number of other allegations about Councillor Prior's behaviour toward the clerk which were not upheld at the hearing. These allegations concerned individual incidents between the holiday proposal and the written warning, as well as Councillor Prior's overall pattern of behaviour during this period.

In relation to these other allegations, the tribunal found that there was insufficient evidence that Councillor Prior had been improperly motivated in his behaviour towards the clerk. The tribunal found that Councillor Prior had genuine concerns about the clerk's performance, and that a number of comments he made about the clerk's work were not disrespectful.

The tribunal also found that Councillor Prior's conduct toward the clerk between the holiday invitation and the written warning was motivated by concern about the efficient running of the council, and so did not bring his office or authority into disrepute. The tribunal did not consider that the individual incidents constituted an improper pattern of behaviour.

### **Warning letter in response to grievance**

The tribunal regarded Councillor Prior's warning letter to the clerk as inappropriate and disrespectful. Councillor Prior gave the clerk the written warning after she confirmed she had sent a copy of a grievance letter to the Standards Board. This followed an earlier meeting arranged by Councillor Prior to discuss concerns about her conduct.

The tribunal found that the decision to issue the written warning was a direct response to the clerk's grievance to the Standards Board, and this was not relevant to how he should have addressed performance issues. As the tribunal noted:

"[The clerk's] action of sending her grievance to the Standards Board had no bearing on the merits of any concerns the Respondent had about [her] performance as Town Clerk and yet it was the reason the Respondent issued the warning letter..."

The tribunal decided that Councillor Prior failed to treat the clerk with respect, and so failed to comply with the Code of Conduct, "as he was influenced in his decision to issue a written warning ... by the fact that she had sent a copy of the grievance to the Standards Board".

### **The press release**

Councillor Prior also acted inappropriately when he issued a press release in December 2005. The press release related to his resignation as the Mayor of the town council, but made a number of comments about the clerk.

The press release inferred that the clerk concealed two letters from him, which had "proved expensive". He inferred that the clerk's actions were improper and led to financial losses for the council. He also implied that the clerk was misleading the council over her sickness. The press release also contained the clerk's ex-directory home phone number.

The tribunal found that these were unjustified attacks on the clerk, and regarded it as serious matter that Councillor Prior had publicly criticised the clerk's professional performance and impugned her integrity. The tribunal accordingly regarded the press release as a failure to treat the clerk with respect.

The tribunal also decided that Councillor Prior failed to comply with the Code of Conduct by disclosing confidential information. The clerk's home phone number was given in the press release without her permission, when she was off work sick and despite the fact that Councillor Prior was involved in a public conflict with her at the time.

### **The tribunal's decision**

The tribunal took account of Councillor Prior's long record of public service, deep commitment to work as elected member, and the expressions of public support he had received, as well as the fact that his actions were not dishonest, his motivation after the holiday invitation was the efficient running of the town council, and he was open in dealing with the Standards Board.

The tribunal considered that issuing the warning letter to the clerk as a deliberate reaction to the grievance being sent to the Standards Board was a serious matter and strongly indicated that disqualification was appropriate. In addition, the tribunal noted that Councillor Prior saw the issuing of the warning letter as a technical failing rather than as a fundamentally flawed action.

The tribunal unanimously decided to disqualify Councillor Prior for nine months to adequately recognise the seriousness of his actions on the three separate occasions when he breached the Code, and to allow him to stand in the May 2007 elections.

## Appendix 2

**Allegation:** A member failed to declare a personal interest and failed to withdraw from a meeting when a matter in which he had a prejudicial interest was discussed.

**Standards Board outcome:** The Ethical Standards Officer found no evidence of any failure to comply with the Code of Conduct.

It was alleged that Councillor T failed to declare an interest in a planning application at a planning committee meeting on 4 July 2005, and failed to withdraw from the meeting.

Councillor T allegedly had a personal and prejudicial interest in the application because he was a friend of two relatives of the planning applicants. It was alleged that these relatives had been involved in business ventures with the applicants and had been seen drinking with Councillor T in a local pub. It was also alleged that the planning applicants were customers of a business run by Councillor T.

Councillor T said he knew the applicants and their two relatives, but did not regard them as friends. He added that the applicants were customers in January 2005 but that many local people use his business.

The Ethical Standards Officer concluded that Councillor T's association with the applicants and their two relatives did not amount to a friendship which would give rise to a personal interest in the application. The Ethical Standards Officer thought it inevitable that longstanding residents in a small rural community would know one another on the basis of acquaintanceship.

The Ethical Standards Officer also concluded that Councillor T did not have a personal interest in the application because the applicants had once used his business.

The Ethical Standards Officer found no evidence that Councillor T had any financial interest in the applicants' business or in the application site. The site was not near Councillor T's home and so the application would not have directly affected his well-being.

The Ethical Standards Officer found that there was no evidence of any failure to comply with the Code of Conduct.

### Relevant paragraphs of the Code of Conduct

The allegation in this case relates to paragraphs 9 and 12 of the previous Code of Conduct. Paragraph 9 stated that "a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent". Paragraph 12 stated that a member with a prejudicial interest in any matter must "withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting" and that he must "not seek improperly to influence a decision about that matter".

**Note:** The revised code of conduct refers to a "person with whom you have a close association" rather than a "friend". This change would probably not have had any influence on the outcome of this case.

## Appendix 3

**Allegation:** A member failed to treat others with respect, compromised the impartiality of council employees, brought her office or authority into disrepute, improperly secured an advantage for herself or others, failed to declare a personal interest, failed to withdraw from a meeting when a matter in which she had a prejudicial interest was discussed, and improperly sought to influence a decision on the matter.

**Standards Board outcome:** The Ethical Standards Officer found that no action needs to be taken.

The complainant alleged that Councillor F improperly sought to influence planning applications relating to a garden centre in which she had a personal and prejudicial interest.

Councillor F allegedly had an interest because her husband was a landscape gardener and she was a friend of someone who lived next to the garden centre and who opposed the application. Councillor F also allegedly had an interest because she sold plants outside her own house.

Councillor F did not live close to the garden centre and was divorced from her ex-husband in 2003. There was no evidence that she was a friend of her ex-husband or the person who lived near the garden centre who opposed the application.

The Ethical Standards Officer concluded that Councillor F did not have a personal or a prejudicial interest in the planning applications.

The complainant also alleged that Councillor F intimidated a junior member of staff at the garden centre.

There were different accounts of the conversation between Councillor F and the member of staff, and the Ethical Standards Officer was unable to determine which account was accurate. As a result, the Ethical Standards Officer had no alternative but to conclude that Councillor F did not breach the Code of Conduct.

The Ethical Standards Officer found that no action needs to be taken in relation to these matters.

The Ethical Standards Officer recommended that Councillor F notify planning officers to follow up complaints by local residents rather than making site visits to the premises herself.

### Relevant paragraphs of the Code of Conduct

The allegation in this case relates to paragraphs 2(b), 2(c), 4, 5(a), 9 and 12 of the Code of Conduct. Paragraph 2(b) states that a member must "treat others with respect". Paragraph 2(c) states that a member must "not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority". Paragraph 4 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute". Paragraph 5(a) states that a member "must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage". Paragraph 9 states that "a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent". Paragraph 12 states that a member with a prejudicial interest in any matter must "withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting" and that he must "not seek improperly to influence a decision about that matter".



**Note:** The revised code of conduct refers to a “person with whom you have a close association” rather than a “friend”. It may be that an ex-spouse would be regarded as a person with whom a councillor has a “close association”, even in circumstances, like this case, where the ex-spouse could not be termed a “friend”. The revised code expressly forbids a councillor to bully any person. It is interesting that the Ethical Standards Officer felt able to investigate the alleged conduct of Councillor F towards the junior garden centre member of staff even though the old code did not contain this provision.

## **Appendix 4**

**Allegation:** A member brought his office or authority into disrepute.

**Standards Board outcome:** The Ethical Standards Officer found that no action needs to be taken.

It was alleged that Councillor B brought his office and authority into disrepute by failing to attend parish council meetings of a parish within his ward and failing to respond to messages from the parish council and from residents in his district ward.

Councillor B did not think he was required to attend parish council meetings. He said he had not received any letters from the council and that it was not true that he had not responded to its emails, but he no longer had an email account. He said he had always been contactable by residents in his district ward.

The Ethical Standards Officer considered that there was no compelling evidence to support the allegations.

The Ethical Standards Officer noted that Councillor B was not legally obliged to attend the parish council's meetings.

The Ethical Standards Officer concluded that Councillor B did not bring his office or authority into disrepute.

The Ethical Standards Officer found that no action needs to be taken in relation to these matters.

### **Relevant paragraphs of the Code of Conduct**

The allegation in this case relates to paragraph 4 of the Code of Conduct. Paragraph 4 states that “a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute”.

## **Appendix 5**

**Allegation:** The member failed to withdraw from a meeting with a prejudicial interest.

**Standards Board outcome:** The Ethical Standards Officer found that no action needs to be taken.

The complainant alleged that Councillor H failed to withdraw from a meeting with a prejudicial interest during a council licensing committee meeting on 2 June 2005. At the meeting the committee considered a report about a proposed increase in Hackney Carriage fares. Councillor H's alleged interest arose because his brother operates a private hire taxi specialising in airport work.

A fixed fee was in place for private hire taxi travel to and from the airport, which was agreed with clients, and the Hackney Carriage fare did not apply to, or affect, the fee.

Councillor H declared a personal interest in the report at the meeting. However, he did not declare the nature of his interest and the Ethical Standards Officer therefore considered that Councillor H failed to comply with the Code of Conduct.

The Ethical Standards Officer considered that Councillor H's brother's private hire taxi business would not be directly affected by a decision relating to Hackney Carriage fares; any possible impact would be indirect as a result of a significant increase or decrease in Hackney Carriage fares. In light of these circumstances, the Ethical Standards Officer considered that Councillor H did not have a prejudicial interest in this matter and did not fail to comply with the Code of Conduct.

The Ethical Standards Officer found that no action needs to be taken.

### **Relevant paragraphs of the Code of Conduct**

The allegation in this case relates to Paragraphs 9 and 12 of the Code of Conduct. Paragraph 9 states that "a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent". Paragraph 12 states that a member with a prejudicial interest in any matter must "withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting" and that he must "not seek improperly to influence a decision about that matter".

## Appendix 6

**Allegation:** A member brought his office or authority into disrepute.

**Standards Board outcome:** The Ethical Standards Officer referred the matter to the Adjudication Panel for England for determination by a tribunal.

**Adjudication Panel outcome:** The tribunal decided that the member had not breached the Code of Conduct.

Councillor A referred himself to the Standards Board for England for investigation, after he was convicted of four offences of selling food after its use-by date and one offence of selling unmarked or unlabelled food at his grocery shop. Councillor A also received cautions for breaches of food hygiene regulations and for obstructing a highway and interrupting its proper and authorised use.

Councillor A pleaded guilty to the offences relating to selling food passed its use-by date and incorrectly labelled food at the magistrates' Court on 24 February 2005. He was convicted, fined £1,000 and ordered to pay £650 costs.

Councillor A admitted the offences relating to the obstruction of the highway and food hygiene, and accepted cautions.

The Ethical Standards Officer referred these matters to the Adjudication Panel for England for determination by a tribunal.

The Adjudication Panel's case tribunal considered that the offences were relatively minor and took place within a short period. The offences did not form a pattern of behaviour and did not call into question Councillor A's judgement, integrity or honesty.

The tribunal also noted that Councillor A has accepted responsibility for the offences and taken steps to ensure he complies with the law in future. The tribunal found no evidence that Councillor A used his public office to avoid any punishment.

The tribunal took all of the evidence into account and unanimously decided that Councillor A had not brought his office or authority into disrepute.

### Relevant paragraphs of the Code of Conduct

The allegation in this case relates to paragraph 4 of the Code of Conduct. Paragraph 4 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute".

**Note:** This case was dealt with before the Livingstone case was heard by the High Court. That case established that the code of conduct could not cover conduct in a councillor's private capacity, as opposed to in his public role. However, a recent amendment to section 49 of the Local Government Act 2000 now brings conduct outside a member's official role back within the scope of the code of conduct, as long as the conduct is criminal, like that of Councillor A.

## Appendix 7

**Allegation:** A member failed to treat others with respect and brought his office or authority into disrepute.

**Standards Board outcome:** The Ethical Standards Officer found that, in the circumstances of this case, no action needs to be taken.

It was alleged that Councillor B behaved unprofessionally by becoming involved in a local action group with aims opposed to those of the council.

It was also alleged that Councillor B made inappropriate postings on the website run by the action group, including a confidential document, and asked questions and gave interviews on their behalf.

The Ethical Standards Officer found that a number of the postings on the website gave cause for concern. However, the Ethical Standards Officer considered that Councillor B could not be held responsible for the postings of others, and noted that Councillor B viewed some of those posting on the website as "crackpots". The Ethical Standards Officer found no evidence that Councillor B had posted confidential documents on the site.

It was further alleged that Councillor B gave a copy of a posting from the site to the chief executive and indicated that he wanted to discuss its contents with him. Councillor B allegedly did this without confirming the accuracy of the posting or checking that the person named in the posting was happy for him to discuss the matter with the chief executive.

The Ethical Standards Officer noted that Councillor B took immediate steps to rectify the damage caused by the posting as soon as he realised that it was factually inaccurate, particularly the enormous distress caused to the person identified in the posting. The Ethical Standards Officer also noted that Councillor B tried to get the posting removed from the website.

The Ethical Standards Officer found that, in the circumstances of this case, no action needed to be taken.

### **Relevant paragraphs of the Code of Conduct**

The allegation in this case relates to paragraphs 2(b) and 4 of the Code of Conduct. Paragraph 2(b) states that a member must "treat others with respect". Paragraph 4 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute".

**Note:** Had this matter been dealt with under the revised code of conduct, the Ethical Standards Officer may have concluded that the actions of Councillor B (other than the alleged posting of confidential information) were carried out in his private capacity and were thus (as no criminal conduct was alleged) not capable of being covered by the code.

## **Appendix 8**

**Allegation:** A member failed to treat others with respect, compromised the impartiality of council employees, prevented someone from accessing information and brought his office or authority into disrepute.

**Standards Board outcome:** The Ethical Standards Officer found that, in the circumstances of this case, no action needs to be taken.

It was alleged that Councillor C insulted a member of the public in an email to a council officer. It was also alleged that Councillor C deliberately interfered with a freedom of information request, in order to stop the release of information to the member of the public.

The Ethical Standards Officer considered that Councillor C failed to treat the member of the public with respect by referring to him as untrustworthy in the email.

However, the Ethical Standards Officer saw no evidence that Councillor C influenced council officers in a way that would have made them biased against the member of the public.

The Ethical Standards Officer was satisfied that the officer who dealt with the request for information had not seen Councillor C's email, and dealt with the request in accordance with the relevant legal requirements. The Ethical Standards Officer therefore considered that Councillor C did not prevent the member of the public from accessing information to which he was entitled.

The Ethical Standards Officer considered that the wording of Councillor C's email was unfortunate and unwise, but not serious enough to bring his office or authority into disrepute.

The Ethical Standards Officer found that, in the circumstances of this case, no action needs to be taken.

### **Relevant paragraphs of the Code of Conduct**

The allegation in this case relates to paragraphs 2(b), 2(c), 3(b) and 4 of the Code of Conduct. Paragraph 2(b) states that a member must "treat others with respect". Paragraph 2(c) states that a member must "not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority". Paragraph 3(b) states that a member must not "prevent another person from gaining access to information to which that person is entitled by law". Paragraph 4 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute".

## Appendix 9

**Allegation:** A member brought his office or authority into disrepute.

**Standards Board outcome:** The Ethical Standards Officer found that no action needs to be taken.

The complainant alleged that Councillor B was dismissed from his job with a company after his employers concluded he had misused the company's internet access and email system and the company telephone. The complainant claimed that this conduct might have brought the council into disrepute.

Councillor B's ex-employer is a not-for-profit company that receives grant aid from national bodies. The grant aid is channelled to the company through the council. The Ethical Standards Officer did not consider that Councillor B's conduct at work was connected with his role as a councillor and considered that all the allegations concerned activities in his private life.

The Ethical Standards Officer considered that this alleged behaviour was not serious enough to have a direct bearing on Councillor B's fitness for public office, or on the reputation of the council. The Ethical Standards Officer therefore concluded that the allegations would not have amounted to a breach of the Code of Conduct, even if they were true.

The Ethical Standards Officer found that no action needs to be taken in relation to this matter.

### Relevant paragraphs of the Code of Conduct

The allegation in this case relates to paragraph 4 of the Code of Conduct. Paragraph 4 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute".

**Note:** Had this matter been dealt with under the revised code of conduct, the Ethical Standards Officer may have concluded that the actions of Councillor B were carried out in his private capacity and were thus (as no criminal conduct was alleged) not capable of being covered by the code.

## **Appendix 10**

**Allegation:** The member brought their office or authority into disrepute.

**Standards Board outcome:** The ethical standards officer found no evidence of a breach of the Code of Conduct.

The complainant alleged that Councillor D filmed the outside and inside of an MP's constituency office and then filmed another councillor, a member of another authority, performing an offensive song outside the MP's office. It was further alleged that Councillor D's conduct as a whole intimidated the MP's staff, who feared for their safety.

Councillor D maintained that he was acting not as a member of the council but in his role as a cameraman for a website while he filmed outside the MP's office.

The ethical standards officer concluded that Councillor D had filmed the frontage of the MP's office but did not enter or try to enter the building. The ethical standards officer also noted that the police attended the MP's office after the incident but did not take any notes or witness statements. No criminal charges were brought against Councillor D or anyone else.

The ethical standards officer considered whether Councillor D's conduct as a whole fell within the provisions of paragraph 4 of the Code of Conduct, which states that a member must not "bring his office or authority into disrepute". In doing so, the ethical standards officer noted that following a High Court decision in October 2006, this paragraph of the Code only applies to members acting in their official capacity, or in some other capacity that involves the use or misuse of their functions as council members.

The ethical standards officer concluded that Councillor D was not acting in his official capacity or performing his functions as a councillor when he filmed outside the MP's office for the website.

Consequently, the ethical standards officer could not examine Councillor D's conduct any further in relation to this incident, and so could only find that there was no evidence of a breach of the Code of Conduct.

### **Relevant paragraphs of the Code of Conduct**

The allegation in this case relates to Paragraph 4 of the Code of Conduct. Paragraph 4 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute".



## **Appendix 11**

**Allegation:** The member failed to disclose a personal interest and failed to withdraw from a meeting in which they had a prejudicial interest.

**Standards Board outcome:** The ethical standards officer found no evidence of any failure to comply with the Code of Conduct.

The complainant alleged that Councillor W failed to declare an interest at a 'Lancashire Local' committee meeting in December 2006. It was reported at the meeting that a local resource centre and a library had failed in a bid for funds from the Lancashire Economic Partnership. Councillor W is a director of the voluntary body that set up the resource centre and proposed that the committee resolve to support future funding bids made by the resource centre and library.

The ethical standards officer did not consider that, under the circumstances, Councillor W had an interest in the resolution, as the matter under consideration could not reasonably be expected to affect the resource centre. The 'Lancashire Local' has no decision-making powers in such matters and has the right only to seek to influence the county and borough councils in the delivery of local services. The grant-making body is independent of those councils. The expression of support was also for a potential, not an actual, bid.

The ethical standards officer found no evidence of any failure to comply with the Code of Conduct.

### **Relevant paragraphs of the Code of Conduct**

The allegations in this case relate to paragraphs 9 and 12 of the Code of Conduct.

Paragraph 9 states that "a member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent".

Paragraph 12 states that a member with a prejudicial interest in any matter must "withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting".

## **Appendix 12**

**Allegation:** A member failed to treat others with respect and brought his office or authority into disrepute.

**Standards Board outcome:** The Ethical Standards Officer found that, in the circumstances of this case, no action needs to be taken.

It was alleged that Councillor N made unacceptable comments while he was visiting the council's Neighbourhood Environmental Action Team on 28 April 2006.

Councillor N denied visiting the office on that date and making the comments attributed to him.

The Ethical Standards Officer was unable to reconcile the conflicting evidence regarding Councillor N's location on the afternoon in question. The Ethical Standards Officer was therefore unable to conclude that Councillor N had breached the Code of Conduct.

The Ethical Standards Officer found that, in the circumstances of this case, no action needed to be taken.

### **Relevant paragraphs of the Code of Conduct**

The allegation in this case relates to paragraphs 2(b) and 4 of the Code of Conduct. Paragraph 2(b) states that a member must "treat others with respect". Paragraph 4 states that "a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute".

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	12 DEC 2007	5

## COMPLAINTS TO THE STANDARDS BOARD: STATISTICS

### Public/Exempt item

This item is for consideration in the public part of the meeting.

### Summary

There have been four complaints to the Standards Board about three borough or parish councillors since the last meeting of the committee. None of these have been referred for investigation.

### Recommendation/s

1. Note the statistical information.

### Cabinet portfolio

The item falls within the following cabinet portfolio[s]: Corporate performance and development (Councillor Sue Fazackerley).

### Report

1. The last meeting of the Standards Committee was in February this year. This report sets out a statistical breakdown of complaints since then. As members know, the committee covers both Fylde Borough Council and the 15 parish councils within the borough.
2. Since the last meeting, the Standards Board for England has received four complaints about three councillors in the Fylde area. Two of the councillors concerned are borough councillors, though one is also a member of a town or parish council. The remaining councillor is a member of a town or parish council.

3. The table below sets out the findings on the complaints:

Not referred for investigation: no evidence of a potential breach of the code of conduct	1
Not referred for investigation: alleged conduct not serious enough to justify investigation	3
Referred to ethical standards officer for investigation: no failure to comply with code of conduct found	0
Referred to ethical standards officer for investigation: Decision not yet received	0
Referred to ethical standards officer for investigation: Failure to comply with code proved	0
Referred to monitoring officer for investigation: Investigation not yet completed	0

4. The table below shows national statistics published by the Standards Board showing the nature of complaints referred for investigation since the beginning of April 2007. No complaints within Fylde have been referred for investigation in this time, as shown below.

	National %	Local (no.)	%
Bringing authority into disrepute	14	0	
Failure to disclose personal interest	10	0	
Failure to register financial interests	3	0	
Failure to treat others with respect	12	0	
Prejudicial interest	24	0	
Using position to confer or secure an advantage or disadvantage	14	0	
Other	23	0	

5. The Standards Board also publishes data about the source of allegations. The table below compares that information (from April 2007) with local information.

	National %	Local (number)	%
Fellow councillor	28	0	
Council employee	5	0	
Member of the public	65	0	
Other	2	0	

IMPLICATIONS	
Finance	None
Legal	None
Community Safety	None
Human Rights and Equalities	None
Sustainability	None
Health & Safety and Risk Management	None

REPORT AUTHOR	TEL	DATE	DOC ID
Ian Curtis	(01253) 658506	28 November 2007	

LIST OF BACKGROUND PAPERS		
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION
Decision notice SBE17556.07	26 February 2007	Town Hall, St Annes
Decision notice SBE17582.07	9 March 2007	Town Hall, St Annes
Decision notice SBE18080.07	3 April 2007	Town Hall, St Annes
Decision notice SBE19629.07	4 September 2007	Town Hall, St Annes
Standards Board monthly statistical digest	November 2007	<a href="http://www.standardsboard.gov.uk/Casesummaries/MonthlyStatisticalDigest/">www.standardsboard.gov.uk/Casesummaries/MonthlyStatisticalDigest/</a>

# REPORT



REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	STANDARDS COMMITTEE	12 DEC 2007	6

## THE CODE UNCOVERED

### Public/Exempt item

This item is for consideration in the public part of the meeting.

### Summary

Showing of a Standards Board for England video, "The Code Uncovered".

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