

DECLARATION OF INTEREST --- CHECKLIST FOR ASSISTANCE OF MEMBERS

Name: Councillor

Cabinet/Council/Committee:

Date:

Item No:

Item Title:

A Member with a personal interest must disclose the existence and nature of that interest.

A Member with a prejudicial interest must withdraw, must not exercise executive functions in relation to the matter and must not seek to improperly influence a decision.

Please tick relevant boxes

Notes

Please tick relevant boxes		Notes
	General (not at overview & scrutiny)	
1.	I have a personal interest in the matter but it is not prejudicial.	You may speak and vote
2.	I have a personal interest in the matter and it is prejudicial.	You cannot speak or vote and must withdraw unless you have also ticked 3(a) (b) (c) (d) (e) (f) (g) or 4 below
3.	I regard myself as not having a prejudicial interest in the matter as it relates to:-	
(a)	another Relevant Authority of which I am a Member;	You may speak and vote
(b)	another Public Authority in which I hold a position of general control or management;	You may speak and vote
(c)	a body to which I have been appointed or nominated by the Council as its representative;	You may speak and vote
(d)	the Housing functions of the Council where I hold a tenancy or lease with the Council, and I do not have arrears of rent of more than 2 months and those functions do not relate particularly to my tenancy or lease.	You may speak and vote
(e)	the functions of the Council in respect of school meals, transport and travelling where I am a guardian or parent of a child in full time education and it does not relate particularly to the school which the child attends.	You may speak and vote
(f)	Statutory sick pay where I am in receipt of such pay from the Council.	You may speak and vote
(g)	Members Allowances	You may speak and vote
4.	A Standards Committee dispensation applies.	See the terms of the dispensation

“Personal Interest” means

The matter relates to your entries in the Register of Interests,
or

A decision upon the matter might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the Council’s area, the well-being or financial position of yourself, a relative or a friend or :-

- (a) any employment or business carried on by such a person;
- (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are Directors;
- (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (d) any body listed under the definition of body below in which such persons hold a position of general control or management.

“relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of any of the preceding persons; and “partner” means a member of a couple who live together.

“Prejudicial Interest” means

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 the member’s judgement of the public interest.

“Relevant Authority” See section 49 (6) of the Local Government Act 2000 e.g. County and Parish Councils.

“Public Authority” advice is awaited from DTLR, it would include a health trust, a health authority, the governing body of a school.

“Body” here means

- (a) a body to which you have been appointed or nominated by the Council as its representative;
- (b) a public authority or body exercising functions of a public nature;
- (c) a company, industrial and provident society, charity, or body directed to charitable purposes;
- (d) a body whose principal purpose includes the influence of public opinion or policy;
- (e) a trade union or professional association.

A Member with a personal interest who has made an executive decision in relation to that matter must ensure any written statement of that decision records the existence and nature of that interest.

STANDARDS COMMITTEE

HELD: 30 JUNE 2005

Start: 4.30pm

Finish: 5.00pm

PRESENT

Independent Members: J Cailles (Chairman)
R Chester
R Merry
B Molyneux

Councillors Mrs Atherley
Grant
Maguire

Parish Councillors D Kitson

Officers: Council Secretary & Solicitor
Assistant Member Services Manager

10. APOLOGIES

Apologies for absence were received from Independent Member, Mr Hanmer (Vice Chairman), Councillor Dereli and Parish Councillor Draper.

11. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no items of urgent business.

12. DECLARATIONS OF INTEREST

Independent Member, Mr Molyneux declared a personal but not prejudicial interest in item 5, 'Standards Board Decisions – Various', appendix 1, 'Case Summaries – Parish Councillor Ball' as a resident of Hesketh Bank.

13. MINUTES

RESOLVED That the minutes of the meeting of the Committee held on 15 June 2005 be received as a correct record and signed by the Chairman.

14. STANDARDS BOARD DECISIONS - VARIOUS

The Committee considered the report of the Council Secretary and Solicitor to give further consideration to the decisions of the Standards Board in relation to various Parish Councillors.

The Council Secretary and Solicitor advised that the following case summaries had not yet been received from the Standards Board:

Appendix 2 – Parish Councillor Standish-Gore
Appendix 4 – Former Parish Councillor MacAuley

She advised further that Appendix 3 – Parish Councillor Brookfield and a letter from Parish Councillor Norma Goodier, Hesketh with Becconsall Parish Council had been circulated under a separate cover from the agenda and drew attention to the letter from the Clerk to Hesketh with Becconsall Parish Council attached at Appendix 5.

She referred to the letter from Parish Councillor Norma Goodier, Hesketh with Becconsall Parish Council, and informed the Committee that in paragraph 3 it stated inaccurately that “ex councillor Raymond Ball actually stood as a candidate for Hesketh with Becconsall Parish Council in May 2005 elections”. She informed members of the committee that former Councillor Raymond Ball had stood as a candidate for Hesketh with Becconsall Parish Council in the June 2004 elections and advised members of the discussion she had had with the Ethical Standards Officer in respect of this matter.

- RESOLVED
- A That the Committee note the views of Hesketh with Becconsall Parish Council with regard to the Standards Board’s lack of action in respect of cases where breaches of the Code are found.
 - B That the Council Secretary and Solicitor, in consultation with the Chairman, be requested to write to the Standards Board for England on behalf of the Committee expressing:
 - (1) Deep concerns in relation to “no action” being taken when Ethical Standards Officers’ findings are that “the Code has been breached”.
 - (2) disappointment that when a former Member states that he/she “has no intention of becoming a member in future”, no form of written undertaking is sought from that Member.
 - C That the Council Secretary and Solicitor be requested to seek clarification from the Standards Board for England, of the wording detailed in the case summary in relation to Appendix 3 - Parish Councillor Brookfield.

CHAIRMAN



AGENDA ITEM: 5

**STANDARDS COMMITTEE:
20 December 2005**

Report of: Council Secretary and Solicitor

Contact for further information: Mrs G L Rowe (Extn. 5004)

SUBJECT: LOCAL INVESTIGATION – SBE 11605.05

District wide interest

1.0 PURPOSE OF THE REPORT

- 1.1 To present to the Committee a copy of Eversheds' final report arising from the local investigation in respect of an allegation by Parish Councillor John Stephenson that Parish Councillor Marilyn Westley may have failed to comply with Halsall Parish Council's Code of Conduct.

2.0 RECOMMENDATIONS

- 2.1 That Members consider Eversheds' final report and make one of the following findings

either

- (i) That it accepts the Investigating Officer's finding that the Councillor has not failed to comply with the Code of Conduct for Members as set out in the allegation,

or

- (ii) That the matter should be considered at a hearing of the Standards Committee, conducted in accordance with the Council's Hearing Procedure for Standards Committee determinations.

- 2.2 That Members agree the reasons for the finding.
- 2.2 That in relation to the Investigating Officer's recommendations to the Parish Council these be endorsed as follows and the Parish Council be asked to consider:
- (a) training for all Members regarding their roles and responsibilities and standards expected of them as Members of Halsall Parish Council, including respect for the Chairman in managing meetings;
 - (b) a review of all of the procedures and rules of the Parish Council and the drafting of an appropriate scheme of delegation of functions to ensure that the Parish can operate effectively on a day to day basis and that they represent good practice;
 - (c) training for all Members in relation to approval of expenses and the correct procedures for expending money with reference to any current or revised Financial Regulations, Procedure Rules and Scheme of Delegation;
 - (d) training for all Members in relation to dealings with employees.
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3.0 BACKGROUND

- 3.1 On 25 July 2005 the Ethical Standards Officer, Jennifer Rogers, at the Standards Board referred an allegation to me for local investigation. I instructed Eversheds to undertake an impartial investigation on my behalf.
- 3.2 Eversheds presented their final report to me on Friday, 25 November 2005 a copy of which is attached as Appendix A. Further details to the Background of the case will be found in paragraphs 2.1 to 2.4 of that Report. The Report then sets out details of the investigation carried out, at paragraph 3, in accordance with the Procedure for Standards Committee Local Investigation attached as Appendix B.
- 3.3 Paragraph 4 of the Report gives details of the Appendices and then the factual position is covered in paragraph 5, with details of the allegations appearing in paragraph 6 and Parish Councillor Westley's response is contained in paragraph 7.
- 3.4 Information from others appears in paragraph 8 of the Report and process issues are covered in paragraph 9. Eversheds then set out their detailed "Findings" in paragraph 10 and the conclusion and findings in paragraph 11. Paragraph 12 covers the Standards Committee's consideration of the report with paragraph 13 setting out the sanction powers available where a Hearing is held. Finally, paragraph 14 sets out other actions recommended by Eversheds.

- 3.5 The Standards Board Guidance “Local Investigations Guidance for Monitoring Officers” says that the final report should include documents that have been relied on by the Investigator, in reaching his or her conclusions, including notes of interviews and letters. The report itself is quite detailed on these points. A file of documents is also available for inspection and if the Committee decide that a Hearing should be held then a copy of the file can be sent to each Member of the Hearings Sub-Committee.

4.0 CURRENT POSITION

- 4.1 The Committee must now consider the Evershed’s Report at Appendix A. The Committee should not seek to interview witnesses or take representations from the parties. The Committee’s role is to decide whether, based on the facts set out in the report, it agrees with the finding or believes there is a case to answer.
- 4.2 A copy of the Agenda and the reports for this meeting have been sent to Parish Councillor Marilyn Westley, Parish Councillor John Stephenson, the Clerk to Halsall Parish Council and Jennifer Rogers, the Ethical Standards Officer.

5.0 ACTION AS A RESULT OF FINDING

- 5.1 Where the Standards Committee finds as set out in Paragraph 2.1(i) above, no failure to comply with the Code of Conduct, the Council Secretary and Solicitor shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, together with a copy of the Investigating Officer’s report to
- (i) The Councillor;
 - (ii) The Ethical Standards Officer;
 - (iii) The Parish Council, if the Councillor was also a member of a Parish Council, and
 - (iv) The person who made the allegation.

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

5.2 Where the Standards Committee finds as set out in Paragraph 2.1(ii) above (that the matter should be considered at a full hearing) the Council Secretary and Solicitor shall arrange for the matter to be considered at such a hearing in accordance with the Hearing Procedure for Standards Committee Determinations, attached as Appendix C, subject to the following variations:

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

6.0 CONFIDENTIALITY

6.1 It is good practice to treat information gathered during an investigation as confidential. This will help to ensure the investigation is seen as fair. Maintaining confidentiality reduces the risk of evidence being viewed as biased and preserves the integrity of the investigation. The fact that an investigation is being conducted does not need to remain confidential.

Those interviewed and anyone else aware of the investigation will be asked to maintain confidentiality and members are reminded of their obligation under the code not to discuss information received in confidence. Information will only be disclosed in the case of an investigation if

- the disclosure will assist Ethical Standards officers to perform their statutory functions
- the disclosure will assist the Monitoring Officer to perform his or her statutory function's
- permission from the person to whom the information relates has been given
- the information has already lawfully been made public;
- the disclosure is made for the purposes of Criminal proceedings in the UK.

Draft reports are marked as confidential to preserve the integrity of any further investigation. Final reports will be made available for public inspection unless they contain confidential or exempt information as defined by part VA of the Local Government Act 1972.

- 6.2 Personal or confidential information concerning third parties has been redacted by Eversheds in their report.

7.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 7.1 These matters relate to the promotion of high ethical standards at a local level.

8.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 8.1 Handling an investigation of this nature requires significant in house and external resources. The external costs of employing an investigator are partly met from existing resources and partly from contingencies as agreed by Council.

9. RISK ASSESSMENT

- 9.1 Statutory procedures are laid down which must be followed in relation to local investigations and hearings.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Appendices

Appendix A – Report from Eversheds, Solicitors as the Investigating Officer

Appendix B – Procedure for Standards Committee Local Investigations

Appendix C – Hearing Procedure

WEST LANCASHIRE DISTRICT COUNCIL

STANDARDS BOARD FOR ENGLAND - 11605.05

**COMPLAINT AGAINST COUNCILLOR MARILYN WESTLEY IN
RELATION TO HALSALL PARISH COUNCILLOR**

**DOCUMENTS RELIED ON IN THE INVESTIGATION
BY EVERSLEDs LLP**

- Appendix 1 Allegations (taken from complaint letter);
- Appendix 2 Letter of complaint from Councillor John Stephenson to the Standards Board for England with attached letters from Mr Ian T Cropper to Councillor Doreen Stephenson dated 19 April 2005 and 4 May 2005 (received on 27 June 2005);
- Appendix 3 Statement of Councillor Marilyn Westley received on 30 August 2005, with enclosures:

Letter to Elaine Woodhead from HLB AV Audit Plc dated 11 June 2004 with enclosure;

Letter to Councillor Marilyn Westley from Councillor Brookfield dated 15 April 2005;

Letter to Councillor Doreen Stephenson from Councillor Marilyn Westley dated 14 May 2005;

Financial Statement of Halsall Parish Council prepared by Elaine Woodhead, dated 9 March 2005;

Letter to Councillor Brookfield from Councillor Marilyn Westley, dated 1 June 2005;

Letter to Councillor Brookfield from Councillors David and Marilyn Westley, dated 4 June 2005;

Letter to Councillor Brookfield from Councillors David and Marilyn Westley, dated 22 May 2005;

Letter to Councillor Brookfield from Councillor Marilyn Westley, dated 29 May 2005;

Letter to Councillors David and Marilyn Westley from David Dalgoutte, current Clerk to the Council, dated 1 July 2005;

Salary and expenses claim of Ian T Cropper, undated;

Letter to Councillor Doreen Stephenson from Ian T Cropper, dated 4 May 2005 with Projected reserves calculation;

Final Salary and expenses claim of Ian T Cropper, including additional extra duties (undated);

Agenda and Minutes of Halsall Parish Council meeting of 11 May 2005;

Profit and Loss statement 2004/2005, dated 9 April 2005;

Minutes of Halsall Parish Council meeting of 9 March 2005;

E-mail to Councillor David Westley from Ian T Cropper dated 16 March and response from Councillor David Westley dated 17 March 2005;

Agenda and Minutes of Parish Council meeting of 13 April 2005.

- Appendix 4 Letter to Eversheds from Councillor Marilyn Westley dated 20 September 2005;
- Appendix 5 Letter from Eversheds to the current Clerk David Dalgoutte dated 16 August and his response dated 26 August 2005 with enclosures;
- Appendix 6 Letter from Eversheds to Councillor Ray Brookfield dated 6 September, and his response dated 10 September 2005;

- Appendix 7 Letter from Eversheds to Councillor David Westley dated 6 September 2005, and his response dated 13 September 2005;
- Appendix 8 Letter from Eversheds to Councillor John Allan dated 6 September 2005, and his response dated 19 September 2005;
- Appendix 9 Letter from Eversheds to Councillor Robert Derbyshire dated 6 September, and his response by e-mail dated 10 September 2005;
- Appendix 10 Letter from Eversheds to Councillor Darren Wilson dated 6 September 2005, and attendance note of telephone conversation with Councillor Darren Wilson dated 7 September 2005;
- Appendix 11 Letter from Eversheds to Mr Charles Herbert dated 14 September 2005, and his response dated 15 September 2005;
- Appendix 12 Letter from Eversheds to Mr Gerald Riley dated 15 September and his response dated 17 September 2005;
- Appendix 13 Letter from Eversheds to Mr Ian Cropper dated 9 September and his response dated 15 September 2005.
- Appendix 14 Agenda of Halsall Parish Council Meeting of 13 April 2005 (copy provided by Councillor Marilyn Westley);
- Appendix 15 Minutes of Halsall Parish Council Meeting of 13 April 2005.
- Appendix 16 Mr Herbert's contemporaneous handwritten notes of 13 April 2005 meeting and first 2 pages of May meeting.
- Appendix 17 Transcript of interview with Councillor John Stephenson on 22 September 2005 at Ormskirk Council offices.
- Appendix 18 Notes of interview with Councillor Marilyn Westley on 19 September 2005 at Ormskirk Council offices.
- Appendix 19 Notes of interview with Mr Charles Herbert on 19 September 2005 at Renacres Lane, Shirdley Hill.

Appendix 20 Correspondence passing between Eversheds and Councillor Marilyn Westley regarding the allegations.

Appendix 21 Letters dated 21st October 2005 from Eversheds LLP to Councillors Westley and Stephenson, the Clerk of Halsall Parish Council and the Council Secretary and Solicitor enclosing draft report and inviting comments and responses received from Councillor Westley dated 31st October 2005 and from Councillor Stephenson of 14th November 2005.

WEST LANCASHIRE DISTRICT COUNCIL

STANDARDS BOARD FOR ENGLAND - 11605.05

**COMPLAINT AGAINST COUNCILLOR MARILYN WESTLEY
IN MATTERS RELATING TO HALSALL PARISH COUNCIL**

FINAL REPORT BY EVERSHEDES LLP

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to consider the details of a complaint submitted in relation to the alleged conduct of Councillor Marilyn Westley at a meeting of Halsall Parish Council, the details of which were reported to the SBE on 27 June 2005.
- 1.2 This report outlines the results of the investigation, and provides advice on the position to enable the Standards Committee to deal with the complaint in accordance with the approved procedures.

2. BACKGROUND

- 2.1 On 27 June 2005 Jennifer Rogers, Ethical Standards Officer for the Standards Board for England ("SBE") received a letter from Councillor John Stephenson, the then Vice-Chairman of Halsall Parish Council setting out details of a complaint against Councillor Marilyn Westley. Councillor John Stephenson enclosed with his complaint letter, two letters from Ian Cropper to Councillor Doreen Stephenson, (the then Chairman of Halsall Parish Council), dated 19 April 2005 and 4 May 2005 respectively. Councillor John Stephenson sought to rely on these letters in support of his complaint.
- 2.2 Councillor John Stephenson's complaint related to Councillor Marilyn Westley's behaviour at a meeting of Halsall Parish Council that took place on 13 April 2005 ("the Meeting"). He alleged Councillor Marilyn Westley's behaviour was unacceptable and caused the resignation of the then Clerk to the Council, Mr Ian Cropper.
- 2.3 On 25 July 2005, in accordance with the procedure for Local Investigations, Jennifer Rogers, determined that the allegation should be referred to Ms Gillian Rowe, Monitoring Officer for Halsall Parish Council for investigation. Under powers contained in section 113 of the Local Government Act 2003, Ms Gillian Rowe subsequently instructed Eversheds LLP on 8 August 2005 to undertake an impartial investigation on her behalf.
- 2.4 The nature of the allegations suggested that the alleged conduct of Councillor Marilyn Westley at the Meeting on 13 April 2005 could amount to a breach of the Authority's Code of Conduct (as adopted by Halsall Parish Council), in particular the following:

Paragraph 2(b) A member must treat others with respect;

Paragraph 4 A member must not in his official capacity, or any other circumstances, conduct himself in a manner which could reasonably be regarded as bringing his office or Authority into disrepute.

3. THE INVESTIGATION

3.1 The investigation was carried out under the Local Government Act 2000 (Part III) and the Local Authorities (Code of Conduct) (Local Determinations) Regulations 2003 as amended by the Local Authorities (Code of Conduct) (Local Determination) (Amendment) regulations 2004.

3.2 Upon receipt of the papers, we wrote to the SBE to request a full copy of Ian Cropper's resignation letter, as there was a page missing. A full copy was received on 6 September 2005.

3.3 We also wrote to the current Clerk to Halsall Parish Council, Mr David Dalgoutte requesting copies of all the papers in relation to the Meeting on 13th April 2005, including agenda and minutes and also requested the details of all those that attended the Meeting. We received a response from Mr Dalgoutte on 26 August.

3.4 We then wrote to those members who attended the Meeting that took place on 13 April 2005 inviting their comments in relation to the conduct and behaviour of those in attendance. In particular we requested their views on whether they considered there had been a breach of paragraphs 2(b) and 4 of the Code of Conduct. We received written responses from Councillor Derbyshire, Councillor Allan, Councillor Riley, Councillor David Westley and Councillor Brookfield. We also received verbal comments from Councillor Darren Wilson over the telephone. We did not receive any response from Councillor Doreen Stephenson.

3.5 We also separately contacted by telephone and letter, a PC Dave Barlow who we understood was a local policeman who regularly attended Halsall Parish Council meetings. Unfortunately PC Barlow was not in attendance at the Meeting held on 13 April.

3.6 We also made contact with the complainant Councillor John Stephenson and asked him whether he wished to forward any further papers in support of his complaint. Councillor John Stephenson stated that he did not but also confirmed he was willing to be interviewed by us. We subsequently interviewed Councillor John Stephenson on 22 September 2005 at the District Council offices at Ormskirk. Councillor John Stephenson agreed to the interview being tape recorded.

3.7 Gillian Rowe, as Monitoring Officer, sent a notification letter to Councillor Marilyn Westley dated 8 August 2005 setting out a summary of the allegations against her and asking her to provide a written response.

Councillor Westley subsequently submitted a written statement (received on 30 August 2005) with various supporting documents.

- 3.8 Councillor Marilyn Westley subsequently queried the precise allegations against her by letter dated 8 September 2005. We clarified the position with the ESO at the Standards Board and responded to Councillor Marilyn Westley by letter dated 14 September 2005. We confirmed that the allegations Councillor Marilyn Westley faced were those set out in the complaint letter from Councillor John Stephenson to SBE. We subsequently interviewed Councillor Marilyn Westley and gave her an opportunity to respond to the allegations. The interview took place on 19 September 2005 at the District Council offices at Ormskirk. Councillor David Westley accompanied Councillor Marilyn Westley and sat with her during parts of the interview. However he was not asked to take part in the interview itself and was only admitted to provide support to his wife. Councillor Marilyn Westley declined to have the interview tape recorded and handwritten notes were taken of the interview.
- 3.9 Following the interview, Councillor Marilyn Westley submitted a further letter dated 20 September 2005 with additional information. The hard copy of this letter has now been received with the enclosures and we have taken into account the enclosures and the points made in the letter.
- 3.10 We also contacted Mr Charles Herbert who we understood was a member of the public who regularly attended Halsall Parish Council meetings. Mr Herbert's details were provided to us by Councillor Brookfield in his letter of 10 September 2005. We wrote to Mr Herbert by letter dated 14 September and he responded by letter dated 17 September and also agreed to be interviewed by us. We interviewed Mr Herbert on 19 September 2005 at his home.
- 3.11 Councillor Marilyn Westley in her statement suggested that another member of the public also ought to be contacted, a Mr Gerald Riley. We therefore wrote to Mr Riley on 15 September and received a written response from him.

4. **APPENDICES**

Copies of the following documents are attached:

Appendix 1 Allegations (taken from complaint letter);

Appendix 2 Response of Marilyn Westley

Appendix 3 Response from John Stephenson

5. **THE FACTS**

- 5.1 The following facts are not in dispute:

5.2 Halsall Parish Council adopted the Parish Council's Code of Conduct on 13 March 2002, based upon the Model Code. The relevant paragraphs include the following:

Paragraph 2(b) A member must treat others with respect.

Paragraph 4 A member must not in his official capacity, or any other circumstances, conduct himself in a manner which could reasonably be regarded as bringing his office or Authority into disrepute.

5.3 Halsall Parish Council offered Mr Ian Cropper the position of Clerk and Responsible Financial Officer by letter dated 7 February 2005. His appointment was ratified by Halsall Parish Council at its meeting on 15 February 2005. The effective commencement date of his employment was 1 March 2005.

5.4 The subject of the complaint centres around the Meeting of the Parish Council that took place on 13 April 2005 at St Aiden's Hall, Shirdley Hill. It is accepted that there were discussions and debates about most items on the agenda but the specific items that caused the most debates were:

5.4.1 The Clerk's Report – specifically

5.4.1.1 'Financial matters' and

5.4.1.2 the 'Clerk's expenses' (debate regarding the purchase of a filing cabinet without the approval of the Council);

5.4.2 Chairman's Allowance; and

5.4.3 Foundation Governor for Ormskirk School.

5.5 The Clerk, Mr Cropper resigned in writing ten days later. We contacted Mr Cropper by telephone to clarify when his resignation letter was prepared as two dates appear on that letter, 19 April on the front page and 23 April 2005 on the top of each subsequent page. Mr Cropper clarified that he informed the Chairman of his decision to resign on 19 April. He also started work on his resignation letter on that day. However he thought he finalised his resignation letter and printed it off and distributed it to all the Councillors on 23 April 2005.

6. THE ALLEGATIONS

6.1 The allegations are set out at Appendix 1. We have also set out below a table which lists each allegation and includes comments from the complainant, Councillor John Stephenson. We have taken his comments from his complaint letter and also his comments during the course of our interview with him. We have also included in this table, Mr Ian Cropper's account in respect of each allegation. We obtained Mr Cropper's comments from his resignation letter (attached to the complaint letter), his letter dated 4

May 2005 addressed to the Chairman and his letter to Eversheds dated 15 September 2005.

6.2 Two further columns are included to set out the views of Mr Charles Herbert, a member of the public who attends many meetings of the Parish Council and for other observations.

7. **COUNCILLOR MARILYN WESTLEY'S RESPONSE TO THE ALLEGATIONS**

7.1 Councillor Marilyn Westley categorically denies the allegations in their entirety. She denies being in breach of the Code of Conduct and in particular paragraph 2(b) and paragraph 4. We have also included in the table format, her detailed response to each allegation.

Allegation (Taken from JS complaint letter)	Councillor John Stephenson's Account	Mr Ian Cropper's Account	Councillor Marilyn Westley's Account	Account of Attendee Mr Charles Herbert	Account of Other Attendees
<p>1. That Councillor Marilyn Westley, as Vice-Chairman, at the appointment meeting of the Clerk Mr Cropper (IC), spent an inordinate amount of time criticising the previous Clerk and constantly interjecting.</p>	<p>At interview, JS confirmed he was not present at this meeting and that all the information he has about this meeting is second-hand information received from his wife, DS and IC. JS also confirmed that he received this information from DS and IC some time later and may be even after the April meeting itself.</p> <p>JS was told by DS and IC that Mrs Westley had criticised the previous clerk and that Mrs Westley had gone off on a tangent about shortfalls of the previous clerk to tell Mr Cropper what he</p>	<p>No mention in resignation letter</p> <p>In his letter dated 15 September, IC states:</p> <p>“Conversation with the Chairman had been difficult as Cllr Westley was apparently more concerned with advising me of her opinions of other Council members, the previous Clerk and “troublesome” members of the public.”</p> <p>“I had at the time felt uncomfortable with this as I felt she should have kept her own counsel on such views, they were inappropriate and certainly did not</p>	<p>MW maintains that this “meeting” was in fact a lunch at the Saracen’s Head Public House on 10 February 2005, at IC’s request. “It was a lunch, where alcohol was consumed, with no agenda and where no minutes were produced”. MW argues the usual protocols did not apply at this “lunch”.</p> <p>In her statement dated 30 August 2005, MW states:</p> <p>“I have always had a good working relationship with .....[the former Parish Clerk]...” MW states that, “at no time during the lunch did I criticise [the former Clerk]..... Neither did I constantly “interject””.</p> <p>In her letter dated 20 September 2005, MW states:</p>	<p>No mention.</p>	<p>No mention.</p>

	<p>should avoid.</p> <p>JS stated Mrs Westley has a habit of interjecting all the time.</p> <p>JS got <u>the</u> impression from IC that IC was bothered about Mrs Westley's attitude, that IC found it unnecessary and was upset because Ms Woodhead wasn't present to defend herself.</p> <p>IC mentioned to JS that he found Mrs Westley's behaviour distasteful.</p>	<p>treat the individuals with any respect."</p>	<p>Mr Cropper "questioned us about Standing Orders and enquired as to whether we had the statutory financial regulations in place. Neither Doreen or I knew the answers and suggested to him that on taking up his appointment in March, during the hand over period, he discuss these matters with [the previous clerk] and take any necessary action to bring the Council's procedures in line with current legislation and modern practice."</p> <p>At interview Mrs Westley stated:</p> <p>"Doreen Stephenson mentioned Elaine (the former clerk) in less than glowing terms."</p> <p>MW felt Mrs Stephenson was annoyed because Ms Woodhead (the former clerk) hadn't brought the [audit] problems to the attention of the Council. MW believed this was Mrs</p>		
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			Stephenson's way of saying it was Ms Woodhead's fault and not hers.		
2. That at a Parish Council meeting held on 13 April 2005, Councillor Marilyn Westley from the outset attacked the Clerk Mr Cropper, on virtually every item on the agenda.	<p>When interviewed JS stated he got the feeling Mrs Westley was agitated when she came to the meeting, and she seemed to take it upon herself "to attack the Clerk in an unprecedented manner".</p> <p>Upon questioning JS revealed that the "attack" comprised of MW being loud and repeating questions, shouting across the Chair and interrupting.</p> <p>JS also stated that MW "was upset about most things".</p> <p>JS stated that IC presented a financial report to the meeting "but that wasn't good</p>	<p>Mr Cropper states that, "Throughout the meeting, I felt constant hostility and a total disrespect from several Councillors. Many of the members obviously suffer from a lack of understanding of basic procedural matters, protocol, and a lack of training; especially those who claim not to need it".</p> <p>In his letter dated 15 September, IC states:</p> <p>"The conduct throughout the meeting by MW was disgraceful. She constantly interrupted other members, was</p>	<p>MW claims that JS's allegation, "is simply not borne out by the Minutes of the Meeting or even Mr Cropper's letter of resignation".</p> <p>MW states that, "the minutes, prepared by Mr Cropper, only mention my making a contribution on one item and Mr Cropper's letter also only refers to my input on three items".</p> <p>At interview, MW stated that she didn't speak until item 5a of the agenda.</p> <p>In her view, she was in no way disrespectful although she did refer to it as "[the former clerk's] budget" rather than the Council's but she was trying to differentiate between the old and new budget.</p> <p>At the meeting, MW saw a</p>	<p>In letter dated 15 September 2005:</p> <p>"Cllr M Westley went for the Clerk on three issues he brought up in his report. They were:</p> <p>a) Purchase of a filing cabinet</p> <p>b) Chairman's Allowance - The Clerk raised this item and once again Cllr M Westley became very vocal on the subject objecting to it in principle"</p> <p>c) Foundation Governor for Ormskirk School - Once again it has not been covered in the minutes</p>	<p>Councillor Ray Brookfield stated in his letter:</p> <p>"As the meeting progressed through the agenda it was most noticeable that nothing was going to be agreeable to Cllr M Westley". He also commented that when the issues of the filing cabinet, Foundation Governor and the Chairman's expenses arose, "Cllr M Westley gave the Clerk and the Chairperson personal aggressive verbal attacks".</p> <p>Councillor Robert Derbyshire commented:</p> <p>"Mrs Westley was very aggressive from the onset of the meeting, and all the way</p>

	<p>enough for the Councillors, he was picked on for that.”</p> <p>It appeared to JS “there was rank hostility towards the man [IC]”.</p> <p>“When IC presented the Clerk’s Report there was outright hostility <u>from various people</u>, including MW”.</p> <p>Hostility developed throughout the meeting. Mrs Westley was one of the chief objectors to just about everything, she was critical of the finance report and of everything.</p> <p>JS stated “there wasn’t a total lack of respect, but hostility was there”.</p>	<p>constantly rude to both the chairman and myself and on several occasions ignored the authority of the chairman. Indeed on one occasion, her husband, who is also a member of the Council, embarrassingly made the comment to her, “I think you have made your point Marilyn.”</p>	<p>loss of £16,000 on the statement produced by IC. MW questioned it addressing her question to the Chair who made no response. MW asked what the balance would be, she pushed for an answer and IC responded and he said it would be £8-9,000.</p> <p>MW stated she did not raise her voice and was not abusive to IC in any way. MW stated she could see the puzzled faces amongst members of the public and she therefore felt she had to push on this issue.</p>	<p>that Cllr M Westley challenged Cllr D Stephenson on the subject.”</p> <p>At Interview Mr Herbert stated:</p> <p>“The argument was between Mrs Westley and Mrs Stephenson, involving the Clerk.” On the issue of Chairman’s Allowance Mrs Westley “implied the Clerk should have kept his mouth shut. “ Further, “The Clerk said there should be a budget and Mrs Westley said no way, she was loud but still sitting down. There was</p>	<p>through.” Further “that Mrs Westley did not treat Mr Cropper with respect”.</p> <p>Councillor Darren Wilson commented: “MW repeated her point seven or eight times, however, she was not aggressive, disrespectful or rude.”</p>
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				hostility towards the Clerk and hostile body language.”	
3. That at this meeting, Councillor Marilyn Westley launched a “tremendous tirade” at Mr Cropper in particular over the purchase of a filing cabinet.	<p>JS states that, “a tremendous tirade was launched at Mr Cropper in particular over the purchase of a filing cabinet that the Clerk had cleared with the Chairman as a requirement”.</p> <p>At interview JS said MW “started off about the cabinet” asking on whose authority it had been purchased, why it was needed and that it should be approved by full Council. The debate went on for about ten minutes, and Mrs Stephenson had to tell MW to shut up, and Mr Westley made a comment like “Marilyn we’ve dealt with it now”.</p>	<p>Mr Cropper states in relation to the purchase of the filing cabinet at the April Meeting that, “Cllr M Westley addressed her concerns to the meeting then continued her vilification of my actions in an almost hysterical manner on six further occasions”.</p> <p>Mr Cropper states that Mrs Westley, “alluded that the purchase would have a significant effect on finances”, and states that Mrs Westley said, ‘<i>considering the state we are in on the budget</i>’. Mr Cropper noted that</p>	<p>In relation to discussions over the filing cabinet <u>Mrs Westley maintains, “I remained perfectly calm, asked my questions in a reasonable manner, never passed any adverse comments and certainly did not abuse either the Chairman or Clerk”.</u> She states that she “<u>was concerned that the public should see that we were acting with probity and that our actions were transparent.</u>”</p> <p><u>MW states concern that the issue of the purchase of a filing cabinet was not brought up</u> in a Parish Meeting. MW states that when the Chair was asked who had authorised the expenditure, “eventually Mr Cropper maintained that he had not received authorisation and</p>	<p>In CH’s contemporaneous notes:</p> <p>“Arguments in Council over Clerk’s purchasing of items. Mrs Westley believed the Chairman had misused her powers. Previous discussions had taken place between the Chairman and Vice chairman on it. Councillor Ray Brookfield requested copies of payments preferred prior to meeting”.</p> <p>In letter dated 20 September 2005: “Cllr M Westley</p>	<p>Councillor Ray Brookfield commented:</p> <p>“Mrs Westley verbally attacked the Clerk “in front of the Council and members of the public”. RB believes “her conduct seemed to be pre-meditated and aimed to discredit the Chairperson and Mr Cropper.”</p> <p>Councillor David Westley in a letter dated 13 September 2005:</p> <p>Councillor M Westley was asking perfectly reasonable questions about the purchase of a filing cabinet.”</p> <p>Mr Gerald Riley commented:</p> <p>“Cllr M Westley was protesting at this</p>

	<p>JS stated <u>MW wasn't shouting but was using a hectoring manner, talking across Mrs Stephenson to Mr Cropper and it was amounting to a personal attack.</u></p> <p>JS states "MW was going at him, picking an argument, the point had been adequately dealt with but she went on. The Chairman didn't get a chance to speak, from the off it was an attack on the Clerk."</p> <p>JS stated "<u>it wasn't a discussion it was a row</u>" and <u>MW was inferring</u> Mr Cropper had acted unilaterally and in JS's view it was totally farcical to make such a big issue about it.</p> <p>JS stated there was</p>	<p>he was not aware of any such state.</p> <p><u>Mr Cropper acknowledges that the Chairman did not give him authority to purchase a filing cabinet.</u> Mr Cropper goes on to state, "as we are both aware that such an authority does not exist". "In the absence of any 'Financial Regulation' and the knowledge that larger purchases had been made in the past by the previous Clerk without prior authority, I took it by usage and practice, such authority was assumed and would be authorised retrospectively".</p>	<p>erroneously claimed that larger purchases had been made in the past by the previous Clerk without prior authority".</p> <p>Following on from these discussions, Mr Cropper was asked by other Councillors to itemise his expenses in future and was instructed to provide a list of Accounts for payment with the agenda in future".</p> <p>In relation to IC's reasons he believed he had 'assumed authority' for the purchase of the filing cabinet, Mrs Westley states she has, "no knowledge whatsoever of any 'larger purchases' being made in the past by the previous Clerk, without prior authority."</p> <p>In her letter dated 20 September, MW states:</p> <p>"In the absence of any invoice to support the purchase, coupled with the</p>	<p>objected to this purchase and implied the Chairman did not have authority to sanction the purchase"</p> <p>At interview stated:</p> <p>" Straightforward items on the Agenda became controversial".</p> <p>CH stated "MW was not rude, they were sat down and it was a normal situation for the Council".</p> <p>"No derogatory remarks were made to Mr Cropper but it was implied he acted without power."</p> <p>CH stated that</p>	<p>purchase being made prior to being approved by the Parish Council members, she also asked for the invoice to be made available for the members to peruse."</p>
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	<p>repetition of questions and IC given scant chance to reply. It went on and on throughout the meeting.</p> <p>“Every time he tried to speak she shouted him down, like she did with the chair. It almost ended up in a row, it was astonishing, a real set to, <u>she was talking over him, interrupting him in a loud voice, using a hectoring tone, telling him and pointing at him.</u>”</p>		<p>omission of the usual breakdown of Clerk’s expenses, I felt that I had the duty, as an elected Councillor, to question Mr Cropper’s verbal request for payment. <u>I never accused Doreen or Mr Cropper of concealing this item, instead preferring to give them the opportunity, on at least three occasions, to admit to the purchase, by asking if the expenses included the cost of a filing cabinet. My questions were addressed solely to the Chairman.</u></p> <p>I would reiterate, that <u>at no point did I make any objection to the purchase or question as to who had authorised this payment. This was raised by another Councillor, possibly Cllr. Brookfield and picked up by other Councillors.</u>”</p> <p>At interview MW went through the order of her questions:</p> <p><u>I asked Mrs Stephenson if</u></p>	<p>“Mrs Westley was leaning forward with her voice raised, she was intimidating but not threatening. She was implying Mr Cropper was dishonest.”</p>	
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the expenses included the filing cabinet, she gave no answer but started to rummage through her papers. I asked again and again a third time firmly if the expenses included the cost of the filing cabinet and Mrs Stephenson nodded and Mr Cropper confirmed they did. MW could not recall for certain but she may have asked how much it cost.

Mrs Stephenson told MW "shut up I am fed up with you"

MW confirmed she didn't speak to IC. "It was very unusual for the Clerk to speak without being asked to". MW stated she directed questions to Mrs Stephenson and asked at least four times. In fact MW knew the answer to her questions but she was giving the Chair the opportunity to come clean. It was not for her to point out that she knew Mrs

			<p>Stephenson had authorised it.</p> <p>MW totally refutes the allegation that she launched a “tremendous tirade” at IC. <u>MW accepts she may have leant forward when asking her questions but she did not stand. She also thinks she asked for the invoice. MW stated that she doesn’t lose her temper at meetings and totally denies the allegations of insulting the Clerk.</u></p>		
<p>4. That at this meeting, Councillor Marilyn Westley publicly humiliated Mr Cropper.</p>	<p>JS states, “attempts by the Clerk to reason with her were to no avail and in fact he was publicly humiliated”.</p> <p>At interview Mr Stephenson stated Mrs Westley was accusing Mr Cropper of acting improperly and belittling him. He felt she was taking Mr Cropper to pieces in public and</p>	<p>In letter dated 15 September IC states:</p> <p>“Her failure to afford me any respect and her comments, amounted to my public humiliation.”</p>	<p>In letter dated 20 September 2005 MW states: “I would suggest that if Mr Cropper subsequently felt humiliated, it had more to do with his inability to produce the invoice than anything I said.”</p> <p>At interview Mrs Westley stated:</p> <p>“It was pointed out to Mr Cropper that the minutes were disputed. I was</p>	<p>In letter dated 15 September 2005:</p> <p>“Cllr M Westley did not give respect to the Clerk, it appeared that she was hostile towards him.”</p>	<p>Councillor David Westley commented:</p> <p>“In my opinion no-one had treated any other person with disrespect at the meeting”.</p> <p>Mr Gerald Riley commented:</p> <p>“Councillors were directing remarks to the Clerk and one question I recall was that his expenses were far</p>

	<p>that it should have been dealt with in private.</p> <p>JS states MW's questions were put "in a personally critical way, in a manner of dressing down and castigating someone".</p>		<p>tempted to point it out and ask for amendments. But I believed pointing it out would have humiliated Mr Cropper and Mrs Stephenson."</p> <p>With regards to the school governor issue, MW stated that "no decision was made as the only way to force it through would have been to humiliate Mr Cropper and Mrs Stephenson."</p> <p>With regards to the filing cabinet MW stated "she had to ask in a way so as to not humiliate Mr Cropper".</p>		<p>larger than his monthly salary."</p>
<p>5. That at this meeting, Councillor Marilyn Westley was disrespectful to the Chairman of the meeting, Mrs Doreen Stephenson.</p>	<p>In complaint letter: "The Chairman shown no respect"</p> <p>At interview Mr Stephenson commented: "The Chairman would introduce items 'when she could get a word in edgeways'. JS stated MW "was</p>	<p>IC states "throughout the item she failed to treat the Chairman with any respect and constantly interrupted".</p> <p>In letter dated 15 September states: "She was constantly rude to both the chairman and</p>	<p>In statement dated 30 August 2005: "During these discussions, I remained perfectly calm, asked my questions in a reasonable manner, never passed any adverse comments and certainly did not abuse either the Chairman or Clerk".</p> <p>"My concern was that Mr Cropper had manipulated</p>	<p>At interview CH stated, "on the issue of the filing cabinet...a heated argument between Mrs Westley and Mrs Stephenson. This type of approach is not without precedent between these two individuals".</p>	<p>Councillor Ray Brookfield commented: "There was a feeling of acrimony from the Vice Chair Councillor M Westley when she took her place in the Council meeting". Also that verbal and aggressive language was used over the Foundation Governor issue and Mrs Westley accused Mrs</p>

	<p>speaking without approval of the Chair, interrupting the Chair and Mr Cropper, whilst the Chairman was trying to keep order”.</p> <p>“MW undermined the Chairman throughout the meeting, there was total disrespect. She spoke when not asked to, about non-agenda items and would slant criticism towards the Chair and Mr Cropper with no good reason”.</p>	<p>myself and on several occasions ignored the authority of the chairman”.</p>	<p>the Chairman into agreeing to a purchase that she knew she did not have the authority to do. I made no mention of this at the meeting, having no desire to humiliate our Chairman in public.”</p> <p>At interview MW totally refuted the allegation that she disrespected the Chair.</p>	<p>On the issue of Foundation Governor - “Again heated argument erupted between the two of them”</p> <p>“Mrs Westley attacked Mrs Stephenson to get at Mr Cropper. There was an exchange of words between the two and hostility between them”. Further “that Mrs Westley was accusing Mrs Stephenson and Mr Cropper of lying and Mrs Stephenson was accusing Mrs Westley of lying”.</p> <p>On the issue of Foundation Governor - “Mrs Westley erupted again against Mrs Stephenson’s power and gave</p>	<p>Stephenson of overstepping her powers.</p> <p>RB stated MW “did not treat Mrs Stephenson with respect at the meeting”.</p> <p>Councillor Darren Wilson commented:</p> <p>“I did not think Marilyn Westley’s behaviour was in any way disrespectful”.</p> <p>Mr Gerald Riley commented:</p> <p>“That Mrs Westley’s request for the invoice for the filing cabinet was refused by the Chairman who said “shut up, you’re (sic) always asking questions”.</p> <p>Mr Riley states “this question was made in an offhanded way and in quite a loud voice”.</p>
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				<p>her no chance to explain”.</p> <p>CH confirmed “it was principally an argument between Mrs Westley and Mrs Stephenson.”</p>	<p>He further notes “the remarks made to Cllr M Westley are grounds by which if she is minded could make a complaint to the Standards Board”.</p>
<p>6. That the Chairman Mrs Stephenson had to tell Councillor Marilyn Westley to be quiet, as she could not conduct the meeting.</p>	<p>In complaint letter: “the Chair was obliged to tell her to be quiet, as she could not conduct the meeting”.</p> <p>At interview stated: Mrs Stephenson had to tell Mrs Westley to shut up so they could move onto the next item.</p>	<p>In letter dated 15 September states: “She constantly interrupted other members.. was constantly rude to both the chairman and myself and on several occasions ignored the authority of the chairman.”</p>	<p>At interview stated: “I was told “shut up I am fed up with you” by Mrs Stephenson”. This did not surprise MW.</p>	<p>No comment.</p>	<p>See above.</p> <p>Councillor David Westley commented: “Councillor D Stephenson told the Vice Chairman Councillor M Westley, ‘will you shut up I am fed up with you’ “.</p> <p>Councillor John Allan commented: “The chairman displayed unacceptable behaviour in telling Mrs Westley to ‘shut up’ and he is of the opinion the Chairman showed Mrs Westley disrespect when she said this”.</p>

<p>7. That as a result of Councillor Marilyn Westley's behaviour, Mr Cropper resigned from his position as the Parish Council Clerk.</p>	<p>In complaint letter: Mr Stephenson notes that Mr Cropper, "resigned a few days later", following the April meeting. At interview stated: Definitely because of what happened at the April meeting is why Mr Cropper resigned. Mr Cropper told Mrs Stephenson that he wouldn't be able to work with Mrs Westley, and he couldn't attend meetings with those people present. Especially with Mrs Westley they had burnt bridges. Mrs Westley acted as a catalyst the way she set off on him, and Mr Cropper took the view he didn't want to get involved.</p>	<p>In letter of resignation dated 19 April 2005: "Following last Wednesday's Parish Council meeting at St Aiden's Hall, and more specifically the conduct of certain Councillors, I believe my position has become untenable. It is with extreme regret that I am now forced to tender my resignation with immediate effect".</p>	<p>In statement dated 30 August 2005: Mrs Westley states, "The published Agenda was prepared by Mr Cropper on 14 April, the day following the Council Meeting. He asks for propositions to be received by him, by 7 May. It appears that at this stage Mr Cropper did not consider his position to be untenable and no intention of resigning". On Monday 18 April I passed Cllr Brookfield's letter to MW dated 15/4/05 to Cllr D Stephenson asking her to arrange a meeting with Mr Cropper as requested by Cllr Brookfield. I believe it was this letter and the request for a meeting that prompted Mr Cropper's resignation letter of 19th April. That letter described the meeting of 13th April as "horrendous", it criticised the Clerk expressing concern about the accounts and too many</p>	<p>In letter dated 15 September 2005: Mr Herbert stated Mrs Westley "unjustifiably brought the Clerk into the arguments, which resulted in him resigning a few days after as he believed he did not have the trust of the Council and therefore could not continue".</p>	<p>Councillor Ray Brookfield commented in a letter dated 10 September 2005: "It was obvious he was upset over the aggressive verbal attack he was subject to, and subsequently resigned." Councillor Robert Derbyshire stated in an email dated 10 September 2005: That from the start this was the result Mrs Westley wanted, that Mr Cropper resigned after his first meeting.</p>
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	<p>But Mr Cropper hasn't brought a complaint because doesn't want to appear antagonistic towards the Parish Council..</p> <p>Mr Cropper was very upset when he left the April meeting, and Mr Stephenson believes he may have discussed it with Mrs Stephenson who tried to get him to reconsider, but he was quite adamant he would resign, he was quite upset about the whole thing.</p>		<p>changes at the meeting. It suggested a "damage limitation " meeting before the next Parish meeting.</p> <p>At interview MW stated:</p> <p>She was surprised about Mr Cropper's resignation. She was not prepared to turn a blind eye to what had happened. She received a copy of Mr Cropper's resignation letter on around 19 April 2005.</p>		
<p>8. That Councillor Marilyn Westley insulted the Clerk in a way that brought Halsall Parish Council to a</p>	<p>In complaint letter JS states: "The Council has lost an excellent Clerk who conducted himself in a gentlemanly and professional manner and insulting him in this way has brought Halsall Parish</p>	<p>No Comment.</p>	<p>In statement dated 30 August 2005:</p> <p>"I do agree that Halsall Parish Council has a poor reputation, as will be seen from an inspection of the minutes for previous years".</p> <p>At interview stated:</p> <p>"There is no proof I brought</p>	<p>In letter dated 15 September 2005:</p> <p>"The Council has very little credibility in the community".</p>	<p>Councillor Ray Brookfield commented in a letter dated 10 September 2005:</p> <p>The debate that took place "did nothing to enhance the Council's reputation".</p>

<p>new low, exacerbating its already poor reputation.</p>	<p>Council to a new low, exacerbating its already poor reputation". At Interview stated: "Halsall Parish Council has had a poor reputation for a long time".</p>		<p>the Council into disrepute"</p>		
<p>9. That Councillor Marilyn Westley refused to sign a cheque in respect of Mr Cropper's expenses and also inferred that the expenses appeared to be inflated and could only be agreed by the full council.</p>	<p>In complaint letter: "A request was made to Mrs Westley, the second signatory, to sign his cheque, but she refused to sign and also inferred that the expenses appeared to be inflated and could only be agreed by the full Council". At interview JS confirmed that he had no direct knowledge about this allegation. This was again a matter reported to him by his wife Doreen Stephenson, after</p>	<p>In letter dated 4 May 2005: " I regret to note that some Members of the Council have decided that they could not pay me the outstanding salary and expenses, as detailed in my final claim, without the matter going before the full Council. Being a contractual payment, it is of course in order for such payments to be made between meetings."</p>	<p>In statement dated 30 August 2005: Mrs Westley details the reason why Mr Cropper's expenses claim was high for April because it was "admitted by the Chairman that these expenses did include the cost of the filing cabinet". MW states concern that no invoice has been produced for the cost of the filing cabinet. MW also refers to the original invoice submitted by Mr Cropper, which MW claims was brought to her house for payment on 4 May, one week before the next Parish</p>	<p>No Comment.</p>	<p>No Comment.</p>

	<p>events.</p> <p>JS stated what his recollection was at that time:</p> <p>“Mr Cropper was owed money and Mrs Westley wouldn’t sign the cheque. Mr Cropper is a man of high integrity and that shouldn’t be questioned. There were no surprises and the inference he had inflated expenses was disgraceful”.</p> <p>JS was told by his wife that MW had said to Doreen Stephenson that she thought the expenses were inflated and she had asked Mr Westley.</p> <p>Mr Stephenson further stated that as it was an urgent situation the Chair had power to approve expenses</p>		<p>Council meeting.</p> <p>In discussions with Councillor D Stephenson in relation to Mr Cropper’s expenses, MW stated that she assumed that any new invoice would be brought to the Council meeting the following week, as opposed to being dealt with there and then. She goes on to state that, “at no point did I make any comment regarding the other expenses or inferred in any way that the expenses appeared to be inflated”.</p> <p>MW stated that she explained to Councillor D Stephenson that she believed it would be prudent to have these amounts passed by the full Council, and “informed her (Councillor D Stephenson) that she knew of no precedent where salary and expenses had been passed for payment between Council meetings”. MW states this is why she was</p>		
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between meetings, and Mrs Westley said it had to go before full Council.

Mr Stephenson didn't think Mr Cropper was paid at the April meeting, and believes he was still waiting for expenses from the April meeting in May. His final claim was without the filing cabinet cost, but included extra work done following his resignation.

not prepared to countersign the cheque for the expenses claim.

At interview Mrs Westley stated that she:

“totally disagreed with the allegation that she commented the expenses appeared inflated, although she may have commented to Mrs Stephenson that they had “inflated overnight”. At the May meeting other Councillors challenged that the Clerk's figures were inflated.”

MW confirmed that she signed a cheque for the Clerk's expenses on 13 April 2005 but only because it had been agreed that in future all expenses would be presented on the agenda.

An invoice for £68 was brought to MW by Mrs Stephenson three weeks after the April meeting. Mr Cropper had paid the full amount for the filing cabinet but he was only deducting

			<p>the net cost from his expenses claim. MW pointed out queries over VAT so Mrs Stephenson took the invoice back to Mr Cropper and returned with the amended invoice which MW still refused to sign.</p> <p>MW commented that Clerk's expenses always come back to the next meeting monthly - this is the normal procedure.</p>		
<p>10. That as a result of Councillor Marilyn Westley's attitude, the Clerk withdrew his offer to help the Council any further.</p>	<p>At Interview JS stated:</p> <p>"Mr Cropper offered to do unpaid work, to prepare and circulate the agenda at the request of the Chairman. Mr Cropper even came up with his own job description, and Mrs Stephenson deeply appreciated it, Mr Cropper had shrugged off animosity to continue".</p>	<p>In letter dated 4 May 2005:</p> <p>" I regret to note that some Members of the Council have decided that they could not pay me the outstanding salary and expenses, as detailed in my final claim." "It is with sadness therefore that I feel forced to withdraw my offer to assist the Council during the Clerking</p>	<p>In statement dated 30 August 2005:</p> <p>Mrs Westley states Mr Westley received a phone call from Mr and Mrs Stephenson who informed him that Mr Cropper had stated "unless I countersigned a cheque for his salary and expenses immediately, he would no longer continue to assist the Council. That evening Mr Cropper wrote to the Chairman withdrawing his offer of assistance".</p>	<p>No comment.</p>	<p>No comment.</p>

	<p>JS relied on Mr Cropper's letter of 4 May 2005 in support of this allegation, in which Mr Cropper stated he was withdrawing his offer of help because he hadn't received his salary and expenses.</p>	<p>interregnum. The offer was made in good faith in order to avoid compounding the Council's present difficulties; regrettably, the Council have been unwilling to show a similar good faith in return."</p>			
<p>11. That these matters have caused considerable concern in the Parish and that Councillor Marilyn Westley's behaviour has brought the Council into disrepute and made it a target for severe criticism.</p>	<p>In his complaint letter: Mr Stephenson commented that Mr Cropper is quite entitled to bring a claim against the Council and "members of the public have commented on the possible effect on Parish funds if such an action has to be defended." At interview Mr Stephenson commented that: He often gets</p>	<p>In resignation letter Mr Cropper states he was instructed by the Chairman and Vice Chairman, following his appointment, to bring the Council's procedures in line with current legislation and modern practice. Mr Cropper goes on to state, "Quite frankly I was amazed that some Members could behave in such unbusiness like</p>	<p>MW states "At no time have I ever insulted or abused other Councillors, Clerks or public, or acted in a manner that is not consistent with the Code of Conduct for all Councillors". MW agrees that Halsall Parish Council has a poor reputation, see 8 above. MW states that all minutes relating to her term in office as a Parish Councillor from March 2003 are available. "You will see from these minutes that at no time have I acted improperly or in any manner that would bring the Parish Council into</p>	<p>In letter dated 15 September 2005: "The Council has very little credibility in the community and by their conduct they are always into disrepute." Mr Herbert states the Council lost the services of a good Clerk and "in this respect the conduct of Cllr M Westley did bring the Council into disrepute."</p>	<p>Councillor David Westley commented: "None of the Councillors behaved in a way that brought themselves or the Parish Council into disrepute... Councillor M Westley has always acted in an exemplary manner at meetings of the Parish Council and the allegations against her are completely unfounded." Councillor Ray Brookfield commented: "In my opinion Cllr M Westley brought the Council into disrepute".</p>

	<p>stopped in the street by members of the public and asked if anyone is going to complain about the Council. People have said terrible things about Mr Cropper and there are rumours all around the village.</p> <p>At interview JS stated MW's behaviour "brought the Council into disrepute."</p>	<p>manner".</p> <p>Mr Cropper also goes on to state, "Halsall Council has had a poor reputation for some time and the antics of last Wednesday demonstrated why".</p>	<p>disrepute".</p> <p>MW also states: "I would point out I have attended training sessions run by the District Council".</p> <p>At interview stated Mrs Westley stated:</p> <p>"There is no proof I brought the Council into disrepute." MW states she received calls herself from members of the public to say the meeting had been horrendous and they hoped matters would improve when she took over as Chair.</p>		<p>Also that over many months Mrs Westley and Mr Westley have been interrupting meetings and that this "had been noticed by the public who felt it was an orchestrated attempt to undermine the Chairpersons confidence".</p> <p>Councillor Robert Derbyshire commented:</p> <p>"Mrs Westley's behaviour towards Mr Cropper had brought the Council into disrepute".</p> <p>Councillor John Allan commented:</p> <p>"Despite the Chairman's lack of respect to Mrs Westley, I do not feel that any Councillor acted in a manner as to bring the Council into disrepute."</p>
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8. INFORMATION FROM OTHERS

- 8.1 The information received from the other attendees at the Meeting is not equivocal. In fact there is a direct split in the views.
- 8.2 In their responses, Councillor Brookfield, Councillor Derbyshire and Mr Charles Herbert suggested Councillor Marilyn Westley's behaviour was not acceptable. Councillor Derbyshire described her as being "very aggressive from the onset of the meeting and all the way through". Councillor Brookfield commented that "as the meeting progressed through the agenda it was most noticeable that nothing was going to be agreeable to Councillor M Westley.
- 8.3 Mr Herbert claimed that Councillor Marilyn Westley "did not give respect to the Clerk it appeared that she was hostile towards him." He stated in his letter of response that "Councillor M Westley went for the Clerk on three issues he brought up in his report they were...Purchase of a filing cabinet....Chairman's Allowance and Foundation Governor for Ormskirk School." (Note however that the last two items were not in the Clerk's report but were separate agenda items). Mr Herbert goes on to describe "the heated exchanges" between Councillor Marilyn Westley and Councillor Doreen Stephenson (the Chair) in relation to the filing cabinet issue. Mr Herbert goes on to state "Councillor M Westley has demonstrated on a number of occasions in the past that she has a short fuse and is intolerant of other people's views. At this particular meeting she appears to have attended with the purpose of making trouble for the Clerk and Councillor D Stephenson because they had gone from being close friends doing Council business together to sworn enemies who were not speaking to each other. Unfortunately she unjustifiably brought the Clerk into the arguments, which resulted in him resigning a few days after." Mr Herbert concludes by stating, "This outcome was wholly unnecessary we lost the services of a good Clerk who could have been an asset to the Council and benefit to the community for no other purpose than the settling of scores. In this respect the conduct of Councillor M Westley did bring the Council into disrepute."
- 8.4 At interview, Mr Herbert clarified that he felt Councillor Marilyn Westley's body language was hostile but he stated that no derogatory words were used by her and that she "was leaning forward with her voice raised, she was intimidating but not threatening."
- 8.5 By contrast, in their responses, Councillor David Westley, Councillor Allan, Councillor Wilson and Mr Riley are supportive of Councillor Marilyn Westley. In relation to the contentious issues on the agenda and in particular the Clerk's expenses, Councillor Allan writes, "the Chairman displayed unacceptable behaviour in telling Mrs Westley to 'shut up' during the discussion referred to above. This was after Mrs Westley had requested to see the relevant invoice." Councillor Allan also conveys his view that "despite the chairman's lack of respect to Mrs Westley, I do not feel that any Councillor acted in a manner as to bring the Council into disrepute. All Councillors were circumspect in their questioning. Under the circumstances, much more could have been said, as the Council must have appeared to be totally inept due to the actions of Mr Cropper." In his letter, Councillor Allan

goes on to write, "I have known Councillor M Westley since I was elected to the Council in June 2004. She has been diligent in seeking to address the long standing financial problems of the Council and I have nothing but admiration for the way she has conducted herself as a Parish Councillor. She has tried to bring the finances of the Council up to date and has always done her best to represent the interests of the residents of Halsall. This has to some extent annoyed some of the longer serving Councillors. Her approach has been pragmatic and she has taken her role seriously."

- 8.6 Councillor Wilson, who provided information by telephone confirmed that there was a lengthy debate over the purchase of the filing cabinet by the Clerk without the full Council's approval. He stated "Marilyn Westley kept repeating this point and reiterating the point and did go on and on about this." He recalled that at one point her husband, Councillor David Westley turned around to her and said something like, "I think you have made your point." Councillor Wilson felt however that he did not think that Marilyn Westley's behaviour was in any way disrespectful. He noted that she repeated her point seven or eight times, however "she was not aggressive, disrespectful or rude."
- 8.7 Councillor David Westley is fully supportive of his wife's position and has stated, "that the only conduct by a Councillor that was inappropriate was when the Chairman Councillor D Stephenson told the Vice-Chair, Councillor M Westley, 'will you shut up, I am fed up with you'." He states, "Councillor M Westley has always acted in an exemplary manner at meetings of the Parish Council and the allegations against her are completely unfounded."
- 8.8 Mr Gerald Riley, who was a former Councillor and Chairman for Halsall Parish Council now attends meetings as a member of the public. He states, "this meeting was conducted exactly the same as other meetings. The then Chairman appeared to have no control". Mr Riley states his view that there was a breach of the Code of Conduct, "It would appear that the new Clerk had purchased a filing cabinet without the matter being brought to Council first and the amount of the cabinet was in excess of £100. Councillor M Westley was protesting at this purchase being made...she also asked for the invoice to be made available for the members to peruse. This request was refused by the Chairman who then remarked to Councillor M Westley, 'shut up, you are always asking questions'...this statement was made in a offhand way and in quite a loud voice.....I submit that the remarks made to Councillor M Westley are grounds by which if she is minded could make a complaint in the Standards Board against the Chairman." Of the Meeting, Mr Riley states, "the meeting was beginning to be out of control, councillors were directing all sorts of remarks to the Clerk." Mr Riley concludes in relation to Councillor Marilyn Westley by saying, "I have found her very professional in her duties as a councillor, polite, humorous and the ability to listen which is very important in public life. I can't imagine why anybody would want to make a complaint against her."
- 8.9 Councillor Wilson made a comment that he thought Councillor Marilyn Westley had been drinking prior to the April Meeting. He stated, "MW had had a couple of drinks during the course of the meal and although she was

not drunk...she may have been influenced by the drinks that she had had.” Councillor Derbyshire also commented, “At that meeting I felt that the lady had had a drink.” At interview, Mr Herbert also commented that he believed Mrs Westley had been drinking. He stated, “She went purposely to cause mayhem, it was not off the cuff, she knew what she was going to do.”

- 8.10 At interview, we put this issue to Councillor Marilyn Westley who confirmed that it had been her birthday on the day of the Meeting (13 April). She had had a meal with her family and had consumed two glasses of wine. She and her husband then attended the Meeting. However Councillor Marilyn Westley denied that the drinks she had consumed had affected her behaviour at the Meeting in any way.

9. THE PROCESS

- 9.1 As mentioned above, the alleged conduct of Councillor Westley could amount to a breach of the Halsall Parish Council, Members Code of Conduct.
- 9.2 A copy of the draft Report was sent to Councillor Marilyn Westley, to enable her to consider the outcome of the investigation and to provide her with an opportunity to respond. Councillor Westley’s formal response, is contained in Appendix 2.
- 9.3 Under the Council’s Procedure, where the Investigating Officer has found, after investigation, that the Councillor has not acted in breach of the Member’s Code of Conduct, the Committee must meet to decide whether to accept that finding or to proceed to a formal hearing. Where the Investigating Officer has found that there has been a failure to comply with the Member’s Code of Conduct, or where the Standards Committee decides that the Sub-Committee should hold a full hearing, there will be a formal hearing to determine whether a breach of the Member’s Code of Conduct has occurred and whether any action should be taken in consequence.
- 9.4 In the process, the function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the Standards Committee, to enable the Standards Committee to come to an informed decision as to whether the Councillor has failed to comply with the authority’s Code of Conduct for Members and upon any consequential action. The Standards Committee acts in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Councillor on the balance of the information available to it, and may commission further investigation or information if it needs to do so in order to come to a decision.
- 9.5 Following the hearing, the Standards Sub-Committee can make one of the following findings:
- 9.5.1 the member has not failed to follow the authority’s Code of Conduct;
 - 9.5.2 the member has failed to follow the authority’s Code of Conduct, but no action needs to be taken; or

9.5.3 the member has failed to follow the authority's Code of Conduct and that a sanction should be imposed.

10. THE INVESTIGATING OFFICER'S FINDINGS

- 10.1 The Meeting of Halsall Parish Council on 13 April 2005 appears to have been an eventful one with a great deal of debate. This was the first meeting for the new Clerk Mr Ian Cropper. He attended the previous March meeting but only as an observer (although he produced the minutes of the March meeting). It would appear that the new Clerk was trying to make his mark at the Meeting and this caused some concern amongst those in attendance at the Meeting. At the outset, there was some dissatisfaction amongst the councillors in relation to the format of the agenda prepared by Mr Cropper. The main complaint being that the agenda was "overloaded" with many new items and some matters were missing for example "public participation." It is uncertain whether Mr Cropper's demeanour at the Meeting helped or hindered matters further. It is fair to say his approach was liked by some councillors and disliked by others.
- 10.2 Once the Meeting commenced, there was heated discussion and debate in relation to three main items but the item that caused most controversy was the issue of the filing cabinet, dealt with in the agenda under "Financial matters". It appeared that the Clerk had purchased a filing cabinet for Parish Council use without the prior authority of the full Council. Without any Financial Regulations in place to deal with this specific issue, we sought the views of the current Clerk who has confirmed that Orders authorising payment need to be made by resolution of the Council and signed by two members. However approval of expenses is usually a retrospective matter but in the context of an agreement of what are acceptable expenses. Under the new Financial Regulations, (approved by the Council), the Clerk can now expend up to £200 on matters of extreme urgency without prior approval.
- 10.3 It was on this specific issue that Councillor Marilyn Westley asked numerous questions, repeated questions and as she admits, pushed the point. She felt that the purchase should have been approved by the Council first and was unhappy with the way it had been dealt with by the Clerk and the Chair. All the accounts given demonstrate that Councillor Marilyn Westley did "make her point". She was loud and arguably aggressive or intimidating in her questioning. However she does not appear to have used any derogatory or offensive words or gestures. She remained seated throughout the discussions. Some accounts describe her body language and approach as being "hostile", so this was clearly a perception by some people present.
- 10.4 The reputation of Halsall Parish Council appears to be poor. All the comments received including comments from the complainant as well, suggest that the Council has a long history for heated discussions and debates and these and the behaviour of its councillors' has given the Council a poor reputation.
- 10.5 It is also important to note that further complaints may be made to the SBE in relation to subsequent meetings of Halsall Parish Council following the April

Meeting. It appears that there are different factions in the Council with Councillor Doreen and John Stephenson on one side and Councillors Marilyn and David Westley on the other.

10.6 Having considered all of the information set out above, our conclusions on each of the allegations are set out below.

Allegation	Conclusion
<p>1. That Councillor Marilyn Westley, as Vice-Chairman, at the appointment meeting of the Clerk Mr Cropper, spent an inordinate amount of time criticising the previous Clerk and constantly interjecting.</p>	<p>From the limited reports of this private meeting, in an informal rather than a business setting, it is difficult to conclude this to be the case, particularly as Marilyn Westley appears to have a significant degree of respect for the former Clerk. What does seem to be the case is that there were views about the former Clerk presented by a number of people present. Marilyn Westley can also be assertive which may account for repeated interjections, but we cannot conclude that this allegation was, on balance, true.</p>
<p>2. That at a Parish Council meeting held on 13 April 2005, Councillor Marilyn Westley from the outset attacked the Clerk Mr Cropper, on virtually every item on the agenda.</p>	<p>The consensus from those present is that Marilyn Westley voiced her views strongly on three items:</p> <ul style="list-style-type: none"> a) Purchase of a filing cabinet b) Chairman's Allowance c) Foundation Governor for Ormskirk School <p>but not every item on the agenda of 12 public items (18 items in total).</p> <p>There was a perception of "hostility" to the Chair and the Clerk, from some of those present, but this does not necessarily amount to a lack of respect, as recognised by Cllr John Stephenson. Marilyn Westley stated that she certainly did not intend any disrespect, nor did she intend to "attack the Clerk". At least two other Councillors were of the view that "she was not aggressive, disrespectful or rude." We cannot therefore conclude that this amounted to a breach of the Code.</p>
<p>3. That at this meeting, Councillor Marilyn Westley launched a "tremendous tirade" at Mr</p>	<p>We are of the view that Marilyn Westley was trying to get to the bottom of the issue around the lack of authority to purchase the filing cabinet, and lack of a formal invoice, but she</p>

<p>Cropper in particular over the purchase of a filing cabinet.</p>	<p>did not want to accuse the Clerk directly and so persisted with her questioning to try to ascertain the facts.</p> <p>In conducting the investigation we became aware that a number of Parish Councillors were unclear about the rules of the Council for authorising expenditure and taking action. This stems from a lack of clarity about whether there was any proper Scheme of Delegation to Members and Officers in order to deal with even minor purchases, such as the purchase of a filing cabinet. Whilst we understand that some of these procedures have now been changed, this was a recipe for problems in administering the affairs of the Parish Council.</p> <p>The exchanges were perceived by some of those present as “arguments”, “a verbal attack” and “almost hysterical” by the former Clerk; and by others as “perfectly reasonable questions”. An independent observer noted that “she was not rude.....she was intimidating but not threatening”. Marilyn Westley maintains she did not abuse the Chairman or the Clerk. She acknowledges that she did lean forward but did not make other gestures. Marilyn Westley states that she was only concerned to ensure that the proper rules of the Parish Council were followed even in respect of minor purchases such as a filing cabinet. In trying to be assertive some people have perceived Marilyn Westley as aggressive, though that does not appear to have been the intention. We cannot therefore conclude that Marilyn Westley subjected the Clerk to a “tremendous tirade” nor can we conclude that these exchanges amounted to a breach of the Code.</p>
<p>4. That at this meeting, Councillor Marilyn Westley publicly humiliated Mr Cropper.</p>	<p>See above. It may have been better for Councillor Marilyn Westley to have raised the issues independently, in advance of the meeting, however, she was not to know in advance of the meeting that there was no invoice submitted for the filing cabinet with the expenses of the Clerk at the meeting. Again, Marilyn Westley’s concerns appeared to centre around the need to ensure that</p>

	<p>proper procedures were followed for authorisation of the expenditure, rather than humiliation of Mr Cropper.</p> <p>As the events of the meeting continued, the result may have been that the Clerk felt humiliated, but there could have been other reasons for this, including the changes to the Agenda and the different style of operation of Mr Cropper which seems to have been a marked contrast to the previous Clerk for the Parish Council.</p> <p>Some of those present may have perceived this as a public humiliation for Mr Cropper, but again this does not appear to have been the intention of Marilyn Westley. As some members present were of the view that Councillor Marilyn Westley's manner and tone were reasonable and her comments were largely directed to the Chairman over matters of procedure, it is difficult in our view to sustain this allegation.</p>
<p>5. That at this meeting, Councillor Marilyn Westley was disrespectful to the Chairman of the meeting, Mrs Doreen Stephenson.</p>	<p>In summary, it is clear that the perception of behaviour was completely split between those who thought Marilyn Westley was not in any way disrespectful and those who thought she was.</p> <p>In general terms (see later at the end of this table), members are expected to take criticism from other members as part of the "rough and tumble" of politics, even at Parish Council meetings. There is a higher threshold for member conduct in relation to other member criticism, before it will amount to a breach of the Code.</p> <p>Apart from being persistent in her questioning, which may have been irritating for the Chairman, it does not appear that Marilyn Westley was disrespectful to the Chairman, Doreen Stephenson. On the contrary, several accounts suggest that Councillor Stephenson's own conduct should be brought into question on this allegation as she asked Marilyn Westley to "shut up".</p>
<p>6. That the Chairman Mrs Stephenson had to tell</p>	<p>There is no doubt that the Chairman told Marilyn Westley to be quiet (see above -</p>

<p>Councillor Marilyn Westley to be quiet, as she could not conduct the meeting.</p>	<p>some commentators viewed the way that the Chairman handled Marilyn Westley as disrespectful). However, the events leading up to being told to “shut up” would not necessarily amount to a breach of the Code.</p>
<p>7. That as a result of Councillor Marilyn Westley’s behaviour, Mr Cropper resigned from his position as the Parish Council Clerk.</p>	<p>Mr Cropper’s resignation clearly refers to the conduct of certain councillors, plural, indicating that it was not only Marilyn Westley’s behaviour. He did not single her out as the only reason for his resignation. There is the suggestion that Mr Cropper may have resigned following events after the Parish Council Meeting. It was clear to him that there was a need for change in a number of respects in the way the Parish Council operated and that it would be difficult for him to drive this forward. We cannot agree with this allegation, due to the behaviour of other members of the Parish Council and the situation with regard to its procedures and finances.</p>
<p>8. That Councillor Marilyn Westley insulted the Clerk in a way that brought Halsall Parish Council to a new low, exacerbating its already poor reputation.</p>	<p>Councillor Marilyn Westley states that she took care not to insult the Clerk and tried to direct her remarks through the Chairman. She seems to have been motivated by the way in which the Council was authorising expenditure and dealing with matters correctly in procedural terms and we cannot therefore conclude that she insulted the Clerk, exacerbating the Parish Council’s already poor reputation. Numerous people have commented upon the poor reputation of the Parish Council both previously and subsequently.</p>
<p>9. That Councillor Marilyn Westley refused to sign a cheque in respect of Mr Cropper’s expenses and also inferred that the expenses appeared to be inflated and could only be agreed by the full Council.</p>	<p>In law, Councillor Marilyn Westley was correct not to sign the cheque in respect of Mr Cropper’s expenses, without an invoice for the filing cabinet, which was not produced. Unless the item was properly authorised then it would be unlawful expenditure. Marilyn Westley refused to sign the cheque until such time as the expenditure had been properly authorised. The same applied to the other expenses if they were higher than usual, requiring an explanation (and possibly needing to be agreed by full Council). We understand that new procedures have now</p>

	been put in place.
10. That as a result of Councillor Marilyn Westley's attitude, the Clerk withdrew his offer to help the Council any further.	As a matter of fact, this may be the case, however, Marilyn Westley was not willing to sign a cheque for something which was not properly authorised and so as a result the Clerk withdrew his offer to help the Council further. This does not amount to a breach of the Code.
11. That these matters have caused considerable concern in the Parish and that Councillor Marilyn Westley's behaviour has brought the Council into disrepute and made it a target for severe criticism.	The events at the Parish Council Meeting on 13 April 2005 have clearly not enhanced the reputation of Halsall Parish Council. The behaviour of members generally at meetings has made it a target for criticism and whilst members have displayed hostility and made remarks to each other which have not helped the situation, we cannot go so far as to establish that there has been a breach of the Code by Councillor Marilyn Westley.

- 10.7 In terms of the standards expected of members (see later) a higher threshold for bad behaviour towards another member is required before the Standards Board will usually investigate, than for similar conduct directed at officers or members of the public. As a general rule, "ill considered or rude language between members and dubious or arguable claims in political leaflets are unlikely to be referred for investigation unless the alleged conduct is particularly offensive or forms a pattern of behaviour". So, a Parish Councillor who approached a fellow Councillor in an aggressive manner, shouted at him to address his comments to the Chairman and banged his clenched fist down on the table damaging the mobile phone of the complainant and making disrespectful and rude comments to other members was worthy of investigation.
- 10.8 The SBE also takes into account whether a complaint is malicious, politically motivated or tit-for-tat when deciding whether it ought to be referred for investigation, but will consider every complaint on its own merit. There is clearly some evidence of tit-for-tat allegations in this particular case.
- 10.9 Perhaps one of the issues which flows from this investigation is that no matter what their intention, Members of the Parish Council should have more regard to how their actions and what they say will be perceived by others, rather than just their intentions.
- 10.10 In all the circumstances, we conclude the following:
- a. That paragraph 2(b) has not been breached;
 - b. That paragraph 4 has not been breached;

and we therefore find that there has not been a failure to comply with the Code of Conduct of Halsall Parish Council.

11. CONCLUSION AND FINDINGS

- 11.1 Following our investigation, we sent a copy of the draft report in confidence to: the Councillor against whom the allegations have been made, the person making the allegation and the clerk to Halsall Parish Council, and requested that they send any comments within 14 days, with a copy to the Monitoring Officer. We have taken account of responses received, which are contained in Appendices 2 and 3 of this report.
- 11.2 Following our investigation and for the reasons outlined in this report, our finding is that we consider that there has not been a failure by Councillor Marilyn Westley to comply with the Code of Conduct of Halsall Parish Council.
- 11.3 This is our final report and represents our final finding. This final report will be presented to the Standards Committee of West Lancashire District Council.

12. THE STANDARDS COMMITTEE

- 12.1 The Standards Committee must consider this report; it should not seek to interview witnesses or take representations from the parties. The Standards Committee's role at this stage is simply to decide whether, based on the facts set out in the report, it agrees with our finding or believes there is a case to answer.
- 12.2 When the Standards Committee has considered the report then by law it must make one of the following findings:
- a) That it accepts our finding that Councillor Marilyn Westley has not failed to comply with the Code of Conduct of Halsall Parish Council; or
 - b) That the matter should be considered at a hearing of the Standards Committee (or Sub-Committee) in accordance with the Council's Hearing Procedure for Standards Committee determinations.
- 12.3 If the Standards Committee finds as set out in paragraph 12.2 (a) (no failure to comply with the Code of Conduct), then the Council Secretary & Solicitor shall as soon as practicable send written notice of that finding and the reasons on which it was based to: Councillor Marilyn Westley, the Ethical Standards Officer, the Standards Committee (if the finding was made by a Sub-Committee of the Standards Committee), the Standards Committee of any other authority of which the Councillor is a member, Halsall Parish Council and the person who made the allegation. The Council Secretary & Solicitor shall also ask the Councillor whether she objects to the publication of the finding and if she does not object, to arrange for publication in at least one local newspaper.
- 12.4 If the Standards Committee finds as set out in paragraph 12.2 (b) (that the matter should be considered at a hearing), the Council Secretary & Solicitor shall arrange for the matter to be considered at a hearing of the Standards

Committee (or a Sub Committee of the Standards Committee), in accordance with the Hearing Procedure for Standards Committee Determinations, subject to the following variations:

- a) The hearing shall be conducted between 14 days and three months from the date on which the Council Secretary & Solicitor received this final report from the Investigating Officer;
- b) This Report shall be treated as if it constituted the report of the Ethical Standards Officer;
- c) The Council Secretary & Solicitor will not conduct Pre-Hearing enquiries of the Councillor; and
- d) The Investigating Officer shall be responsible for presenting the report to the Standards Sub-Committee and introducing any witnesses he considers that the Standards Sub-Committee should hear in order to be able to give the matter proper consideration.

13. SANCTION POWERS AVAILABLE WHERE A HEARING IS HELD

13.1 On review of this report and the holding of a hearing, if the Standards Sub-Committee decides that the member has failed to follow the Code of Conduct, it can impose sanctions, including censure and suspension or partial suspension for up to three months, order the member to undertake specified training or conciliation, or any combination of relevant sanctions, including withdrawing facilities.

13.2 Suspension or partial suspension will normally start immediately after the Sub-Committee has made its decision. However, if the Sub-Committee chooses, the sanction may start at any time up to six months following its decision or continue until such time an apology is given or training received. Suspension may be appropriate for more serious cases, such as those involving:

13.2.1 bullying officers;

13.2.2 trying to gain an advantage or disadvantage for themselves or others; or

13.2.3 dishonesty or breaches of trust.

13.3 When deciding upon a sanction, the Sub-Committee should make sure that it is reasonable and in proportion to the member's behaviour. Before deciding what sanction to set, the Sub-Committee should consider various questions, along with any other relevant circumstances, such as: What was the member's intention?; Did the member know that he or she was failing to follow the Code of Conduct?; How serious was the incident?; Did the member apologise to the relevant people?

13.4 When deciding on an appropriate sanction, the Sub-Committee may also want to consider decisions made by other Standards Committees and Case Tribunals drawn from The Adjudication Panel for England that deal with similar types of cases; it should also take account of the Guidance issued by the Standards Board for England.

13.5 When the Standards Sub-Committee has deliberated, which it may do in private, and comes to a decision about its findings then the Chairman shall announce the Sub-Committee's decision in public and follow this up with written confirmation of the decision as soon as practicable thereafter. If there is any point of uncertainty then the Sub-Committee may recall all of the parties to clear any point of uncertainty.

14. **OTHER ACTIONS RECOMMENDED**

14.1 As an Independent Investigator we would also recommend that irrespective of the outcome of this case, that the Parish Council considers:

14.1.2 training for all Members regarding their roles and responsibilities and standards of conduct expected of them as Members of Halsall Parish Council, including respect for the Chairman in managing meetings;

14.1.3 a review of all of the procedures and rules of the Parish Council and the drafting of an appropriate scheme of delegation of functions to ensure that the Parish can operate effectively on a day to day basis and that they represent good practice

14.1.4 training for all Members in relation to approval of expenses and the correct procedures for expending money with reference to any current or revised Financial Regulations procedure rules and scheme of delegation;

14.1.5 training for all Members in relation to dealings with employees.

Judith Barnes, Partner
Robin Mosley, Consultant Solicitor
Sulbia Quddus, Solicitor
For Eversheds LLP
25 November 2005

**WEST LANCASHIRE DISTRICT COUNCIL
RE: HALSALL PARISH COUNCIL**

REFERENCE: SBE 11605.05

ALLEGATIONS

1. That Councillor Marilyn Westley, as Vice-Chairman, at the appointment meeting of the Clerk Mr Cropper, spent an inordinate amount of time criticising the previous Clerk and constantly interjecting.
2. That at a Parish Council meeting held on 13 April 2005, Councillor Marilyn Westley from the outset attacked the Clerk Mr Cropper, on virtually every item on the agenda.
3. That at this meeting, Councillor Marilyn Westley launched a "tremendous tirade" at Mr Cropper in particular over the purchase of a filing cabinet.
4. That at this meeting, Councillor Marilyn Westley publicly humiliated Mr Cropper.
5. That at this meeting, Councillor Marilyn Westley was disrespectful to the Chairman of the meeting, Mrs Doreen Stephenson.
6. That the Chairman Mrs Stephenson had to tell Councillor Marilyn Westley to be quiet, as she could not conduct the meeting.
7. That as a result of Councillor Marilyn Westley's behaviour, Mr Cropper resigned from his position as the Parish Council Clerk.
8. That Councillor Marilyn Westley insulted the Clerk in a way that brought Halsall Parish Council to a new low, exacerbating its already poor reputation.
9. That Councillor Marilyn Westley refused to sign a cheque in respect of Mr Cropper's expenses and also inferred that the expenses appeared to be inflated and could only be agreed by the full Council.
10. That as a result of Councillor Marilyn Westley's attitude, the Clerk withdrew his offer to help the Council any further.
11. That these matters have caused considerable concern in the Parish . That Councillor Marilyn Wesley's behaviour has brought the Council into disrepute and made it a target for severe criticism.

COUNCILLOR WESTLEY'S RESPONSE

Obviously, I am pleased with the provisional Conclusions that clearly find the allegations against me to be unproven and whilst always confident of this outcome given my innocence, it is still a great relief. Indeed, the matter has been extremely stressful and has caused considerable upset as well as disruption to my private life.

However, I would like to place on record my appreciation for the professional and thorough way the investigation has been handled by Eversheds.

It is clearly apparent from the analysis of the evidence provided, that the allegations against me were made for malicious and spiteful reasons and that those who made them have distorted the truth and manipulated the facts to support their claims. It is also apparent that some of the additional allegations were the result of collusion but this has been exposed by the conflicting evidence and discrepancies in the witness statements.

Of particular significance is the fact that the then Chairman, Councillor Doreen Stephenson, chose not to support her husband or the former Clerk in their allegations. It should be noted that two of the allegations by Councillor John Stephenson related to meetings and conversations at which he was not present and can only be based on hearsay or anecdote and should have been dismissed in their entirety.

Whilst acknowledging that there were problems at the April Meeting of Halsall Parish Council, it is my considered opinion that these were due to a combination of the Clerk, Mr I T cropper, overreaching his position, failing to provide accurate financial information and withholding information as evidenced by the letter from Councillor Brookfield; his manipulation of the then Chairman, Councillor Doreen Stephenson, and her failure to give the Clerk the guidance and advice appropriate for someone new to the position. Any humiliation he felt was entirely down to these failings rather than perfectly reasonable questioning by myself in what was an entirely proper respectful manner through the Chairman.

The Investigating Officer is quite right in concluding that there has been a history of conflict on Halsall Parish Council. However, this has invariably involved Councillors Brookfield, Derbyshire or J Stephenson as evidenced by at least four previous complaints to the Standards Board as shown on the website.

I have only been on the Parish Council for the past two years and during that time I have endeavoured to work effectively with my fellow Councillors in addressing the many outstanding issues, not least the problems with financial administration that resulted in the last three years Annual Audits only being signed off in June 2005.

Councillor Marilyn Westley

COUNCILLOR JOHN STEPHENSON'S RESPONSE

Thank you for the opportunity to respond to the preliminary findings of your investigations.

I note the fact that Cllr. Marilyn Westley had been observed to have been drinking prior to attending the April meeting of H.P.C. Although I also noted her condition this was not mentioned in the complaint, as in the event of a denial it would have been impossible to prove guilt. In the event others have confirmed her drinking and although this may explain her behaviour it only confirms the validity of the complaint.

Recognising the potential cost to WLDC I have no wish to prolong this investigation and in conclusion submit the following observation.

Cllr. M. Westley actions at the April meeting brought personal disgrace upon herself. She failed to meet the HPC code of conduct requirement, "To treat others with respect" by addressing a council employee at a public meeting in such a manner as to oblige the person to resign.

M.W. further failed to observe the chairman's authority to conduct the meeting and interfered in the business to such an extent as to prevent the council from completing its agenda.

By attending a public meeting in an unfit condition she brought her position as P.C. and the Council into dispute.

Yours sincerely
John Stephenson
Vice Chairman
Halsall Parish Council
Turbury Farm
Heathey Lane
Shirdley Hill
Halsall
West Lancs
L39 8SH



WEST LANCASHIRE DISTRICT COUNCIL

Procedure for Standards Committee Local Investigation

1. Introduction and Summary

- 1.1 This note sets out the procedure which will be followed in the local investigation of allegations of misconduct by Councillors¹. No departure will be made from this procedure unless and until the Council Secretary and Solicitor has first notified the Councillor against whom the allegation has been made of the proposed variation to the procedure and the reasons for that variation.
- 1.2 This procedure applies to breaches of the authority's Code of Conduct for Members. The authority may also resolve that the same procedure shall apply to the investigation of allegations of breaches of the authority's local protocols², in so far as they apply to Councillors.
- 1.3 Where the Standards Board for England receives an allegation that a Councillor has breached the authority's Code of Conduct for Members, the Board refers the allegation to an Ethical Standards Officer for investigation³. At any point in that investigation the Ethical Standards Officer may determine that the allegation should be referred to the authority's Monitoring Officer or in the case of a Parish Council, to the Monitoring Officer of the local District Authority. If the matter is referred before the Ethical Standards Officer has completed his/her

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

² Allegations of breach of a local protocol may also constitute breaches of the Code of Conduct, and so fall within the jurisdiction of the Standards Board. Where a particular allegation of breach of protocol does not form a breach of the Code of Conduct, it may fall to be investigated and determined by the Council, should it so resolve. Accordingly this procedure may apply equally to allegations of breach of a local protocol, but by virtue of a delegation from Council rather than by virtue of the Local Authorities (Code of Conduct)(Local Determination)(Amendment) Regulations 2004 – SI 2004 No. 2617.

³ Section 58(2), Local Government Act 2000.

investigation, the Monitoring Officer is then required to arrange for an Investigating Officer to investigate the allegation and to report the matter to the authority's Standards Committee⁴ (or to a Sub-Committee of the Standards Committee convened for the purpose⁵). Similarly, when the Council Secretary and Solicitor receives an allegation of a failure by a Councillor to comply with a local protocol, and she is of the opinion that the allegation merits investigation, she shall arrange for an Investigating Officer to investigate the allegation and to report the matter to the authority's Standards Committee, if the Council so resolve. Where the Investigating Officer has found, after investigation, that the Councillor has not acted in breach of the authority's Code of Conduct for Members or a local protocol, the Standards Committee must meet to decide whether to accept that finding or to proceed to a formal hearing. Where the Investigating Officer has found that there has been a failure to comply with the Code of Conduct for Members or a local protocol, or where the Standards Committee decides to hold a full hearing, there will then be a formal hearing to determine whether a breach of the authority's Code of Conduct has occurred and whether any action should be taken in consequence.

- 1.4 In this process, the function of the Investigating Officer is to ensure, as far as possible, that all the information which is relevant to the allegation is identified and presented to the Standards Committee, to enable the Standards Committee to come to an informed decision as to whether the Councillor has failed to comply with the authority's Code of Conduct for Members or a local protocol, and upon any consequential action. The Standards Committee acts in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the Councillor on the balance of the information available to it, and may commission further investigation or information if it needs to do so in order to come to a decision.

1.5 **Interpretation**

- (a) 'Councillor' means the member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Councillor's representative.
- (b) 'Investigating Officer' means the Ethical Standards Officer (ESO) who referred the report to the authority (and his or her nominated representative) or, in the case of matters that have been referred for local investigation, references to the Investigating Officer mean the person appointed by the Council Secretary and Solicitor to undertake that investigation (which may include the Council Secretary and Solicitor, and her representative).⁶
- (c) "The Matter" is the subject matter of the Investigating Officer's report.

⁴ Section 59(4)(c), Local Government Act 2000.

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

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

- (d) 'The Standards Committee' refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing, unless the context indicates that it refers only to the Standards Committee itself.

2. Notification of Reference of Allegation to the Monitoring Officer

2.1 Appointment of Investigating Officer

Upon receipt of the allegation from an Ethical Standards Officer, the Council Secretary and Solicitor will appoint an Investigating Officer in respect of the allegation and instruct him/her to conduct an investigation of the allegation and to report thereon to the authority's Standards Committee. The Investigating Officer may be an officer of the authority⁷, an officer of another local authority, or an external Investigating Officer. The Council Secretary and Solicitor will appoint an Investigating Officer in the form attached as an Appendix and inform the Ethical Standards Officer of that appointment.

The Investigating Officer may appoint persons to assist him/her in the conduct of his/her functions and may obtain such professional advice as may be necessary for the conduct of the investigation.

2.2 Notification to the Councillor

The Council Secretary and Solicitor will then notify⁸ in writing the Councillor against whom the allegation is made:

- (i) that the allegation has been referred to her for local investigation and determination;
- (ii) the identity of the person making the allegation (unless identification of the complainant might prejudice the investigation or put the complainant at risk);
- (iii) of the conduct which is the subject of the allegation (see general summary in Notification letter and copy of the allegation)
- (iv) of the procedure which will be followed in respect of the allegation, and
- (v) of the identity of the Investigating Officer.

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

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

The Council Secretary and Solicitor shall provide the Councillor with a copy of any report received from the Ethical Standards Officer.

2.3 Notification to the Standards Committee

At the same time as notifying the Councillor, the Council Secretary and Solicitor will notify each member of the Standards Committee in writing in a confidential memo of the fact that she is carrying out a local investigation. The memo should be brief and not name the complainant or the member against whom the allegation has been made (see p3 Standards Board Guidance Nov 2004)

2.4 Notification to the Parish Council Clerk

Where the allegation relates to the conduct of a member of a Parish Council in his/her capacity as such, at the same time as notifying the Councillor, the Council Secretary and Solicitor will notify the Clerk of the Parish Council concerned in writing of the matters set out in paragraph 2.2 above.

2.5 Notification to the Person who made the Allegation

At the same time as notifying the Councillor, the Council Secretary and Solicitor will notify the person who made the allegation in writing of the matters set out in paragraph 2.2 above.

2.6 Initial response of the Councillor

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

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

and advise that the Investigating Officer will be in contact with him/her.

2.7 Supporting information from the person who made the allegation

In notifying the person who made the allegation as above, the Council Secretary and Solicitor will request the person to respond to the Investigating Officer within 14 days as follows:

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

and advise that the Investigating Officer will be in contact with him/her.

3. Conduct of Investigation

3.1 Purpose of the Investigation

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

3.2 Termination of the Investigation

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

3.3 Additional Matters

Where, in the course of his/her investigation, the Investigating Officer becomes aware of any other matter which appears to him/her to indicate a

breach of the Code of Conduct or local protocol by the Councillor other than the breach which he/she is currently investigating, the Investigating Officer shall either:

- (i) *(where the additional matter relates to an apparent breach of the authority's Code of Conduct by a member of the principal authority)* report the matter to the Council Secretary and Solicitor who will provide the Councillor with details of the matter and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the Code of Conduct. The Council Secretary and Solicitor will then determine whether to ask the person from whom the information was obtained to make an allegation to the Standards Board or report the additional matter to the Standards Board herself;
- (ii) *(where the additional matter constitutes an apparent breach of the authority's local protocols but not a breach of the Code of Conduct by a member of the principal authority)* report the matter to the Council Secretary and Solicitor who will provide the Councillor with details of the matter and invite the Councillor to provide a statement as to why the additional matter does not constitute a breach of the authority's local protocols. The Council Secretary and Solicitor will then take a decision whether to refer the matter to an Investigating Officer for local investigation and report to the Standards Committee as appropriate, subject to Council resolution re local protocols where the original matter relates to an allegation of breach of a local protocol, and the additional matter relates to a further breach of a local protocol of the same authority, the Council Secretary and Solicitor may, with the consent of the Councillor, request the original Investigating Officer to extend his investigation to include the additional matter;
- (iii) *(Where the additional matter relates to an apparent breach of the Code of Conduct or a local protocol by a Parish Councillor)* notify the Clerk to the Parish Council of the additional matter, and take no further action in respect thereof⁹.

3.4 Following notification to the Councillor, the Investigating Officer will identify an initial list of persons to be interviewed, organisations from whom information is to be sought and documents to be inspected as part of the investigation. Where the Councillor has provided the Investigating Officer with the information requested earlier, the Investigating Officer shall include in this list each document, person and organisation referred to in that response, unless he/she is of the opinion that the inclusion of that document, person or organisation would unreasonably delay the completion of the investigation rather than to contribute to the accuracy of the Investigating Officer's final report. The Investigating Officer may supplement or amend this list at any stage of the investigation.

⁹

As set out above, District Council Standards Committees have no jurisdiction in respect of breaches of local protocols by Parish Councillors, which would have to be dealt with by the Parish Council itself unless the Parish Council has delegated the resolution of such matters to the District Council.

3.5 Production of documents, information and explanations

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

3.6 Interviews

- (i) Requesting attendance

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

- (ii) Representation

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

- (iii) Notes of interviews

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

3.7 Costs

The Investigating Officer may, where he/she considers that it is appropriate in order to facilitate the conduct of the investigation, pay to any person who provides any document, information, advice or explanation in response to his/her request, such fees or allowances as he/she considers to be appropriate subject to the agreement of the Council Secretary and Solicitor.

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

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

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

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

Where the Ethical Standards Officer does resume his investigation, the Council Secretary and Solicitor shall ensure that the Councillor concerned, the person who made the complaint, the members of the Standards Committee and any relevant Parish Council are informed of such resumption. Where the Ethical Standards Officer declines to resume his investigation, the Council Secretary and Solicitor shall instruct the Investigating Officer to resume his/her investigation.

4. The Draft Report

- 4.1 When the Investigating Officer is satisfied that he/she has sufficient information to meet the requirement set out in Paragraph 3.1, or has obtained as much information as is likely to be reasonably capable of being obtained, he/she shall prepare a draft, and dated report, marked confidential, setting out:
 - (i) the details of the allegation;
 - (ii) the relevant provisions of statute, of the Code of Conduct and any relevant local Protocols
 - (iii) the Councillor's initial response to notification of the allegation (if any):
 - (iv) the relevant evidence, information, advice and explanations which he/she has obtained in the course of the investigation;
 - (v) a list of any documents relevant to the matter together with copies of such documents where available;
 - (vi) a list of those persons whom he/she has interviewed and those organisations from whom he/she has sought information;
 - (vii) a note of any person or organisation who has failed to co-operate with the investigation and the manner in which they have failed to co-operate;
 - (viii) a statement of his/her draft findings of fact;

- (ix) his/her reasoning and draft finding as to whether the Councillor has or has not failed to comply with the Code of Conduct for Members of any authority or a local protocol, and
 - (x) any recommendations which the Investigating Officer is minded to make to any authority concerned for reviewing or reconsidering any decision which was the subject of the breach of the Code of Conduct or local protocol, for rectifying any deficiency in the authority's decision-making procedures or for preventing or deterring any breach of the Code of Conduct or local protocol or to remedy the position of any person who may have suffered detriment or injustice as a result of the breach. Where the allegation relates to a Parish Councillor, such recommendations would be recommendations which the Investigating Officer would recommend that the Standards Committee make to the Parish Council.
- 4.2 The draft reports should also state that the report does not necessarily represent the Investigating Officer's final finding, and that the investigating Officer will present a final report to the Standards Committee once he/she has considered any comments received on the draft report.
- 4.3 The Investigating Officer shall then send a copy of his/her draft report in confidence to the Councillor and the person making the allegation, and request that they send any comments thereon to him/her within 14 days, with a copy to Council Secretary and Solicitor.
- 4.4 The Investigating Officer may send a copy of, or relevant extracts from his/her draft report in confidence to any person on whose evidence he/she has relied in compiling the draft report, and request that they send any comments thereon to him/her within 14 days. The draft report does not need to be sent to the relevant Parish Clerk.

5. The Final Report

- 5.1 After the expiry of that period (or such extended period as the Investigating Officer may allow), the Investigating Officer shall reconsider and amend his/her draft report in the light of any comments received, and produce and send to the Council Secretary and Solicitor his final report. The final report should state that the report represents the Investigating Officer's final findings and will be presented to the standards committee, and should have appended to it copies of any documents which the Investigating Officer has relied on in reaching his/her conclusions, such as background documents of telephone conversations, letters, and notes of interviews with witnesses and a chronology of events.
- 5.2 The Council Secretary and Solicitor shall then send a copy of the final report to the Councillor, advising that:
- (i) where the final report concludes that there has not been a failure to comply with the Code of Conduct for Members or a local protocol, he/she will refer the report to the Standards Committee for their

consideration, and

- (ii) where the final report concludes that there has been a failure by the Councillor to comply with the Code of Conduct for Members or with a local protocol, he/she will refer the report to the Standards Committee for a formal hearing.

5.3 The Council Secretary and Solicitor shall ensure that, when the agenda for the Standards Committee is sent out to members of the Standards Committee, including the final report, the agenda and the report are also sent to:

- (i) The Councillor;
- (ii) The person who made the complaint;
- (iii) The Clerk to the Parish Council (if appropriate); and
- (iv) The Ethical Standards Officer who referred the matter

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

5.4 Where the Standards Committee considers the report in accordance with Paragraph 5.2(i) above, it shall make one of the following findings:

- (i) That it accepts the Investigating Officer's finding that the Councillor has not failed to comply with the Code of Conduct for Members as set out in the allegation;
- (ii) That it accepts the Investigating Officer's finding that, on the facts as set out in the report, the Councillor has not failed to comply with a local protocol, or
- (iii) That the matter should be considered at a hearing of the Standards Committee, conducted in accordance with the Council's Hearing Procedure for Standards Committee determinations.¹⁰

N.B. At this meeting the Standards Committee should simply consider the report. It should not seek to interview witnesses or take representations from the parties. The Committee's role is to decide whether, based on the facts set out in the report, it agrees with the finding or believes there is a case to answer.

5.5 Where the Standards Committee finds as set out in Paragraph 5.4(i) or (ii) above (no failure to comply with the Code of Conduct or with a local

¹⁰ Note that this is not a finding that there has been a failure to comply with the Code of Conduct for Members or with a local protocol, but simply that, on the basis of the Investigating Officer's report, the Standards Committee is not at this stage prepared to come to a final conclusion that there has been no such failure to comply, and that the matter merits consideration at a full hearing.

protocol), the Council Secretary and Solicitor shall, as soon as practicable thereafter, send a written notice of that finding and the reasons on which it was based, together with a copy of the Investigating Officer's report to

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

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

5.6 Where the Standards Committee finds as set out in Paragraph 5.4(iii) above (that the matter should be considered at a full hearing) or the Investigating Officer's report contains a finding that the Councillor did fail to comply with the Code of Conduct or a local protocol, the Council Secretary and Solicitor shall arrange for the matter to be considered at such a hearing in accordance with the Hearing Procedure for Standards Committee Determinations, subject to the following variations:

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

6. Confidentiality

It is good practice to treat information gathered during an investigation as confidential. This will help to ensure the investigation is seen as fair. Maintaining confidentiality reduces the risk of evidence being viewed as

biased and preserves the integrity of the investigation. The fact that an investigation is being conducted does not need to remain confidential.

Those interviewed and anyone else aware of the investigation will be asked to maintain confidentiality and members are reminded of their obligation under the code not to discuss information received in confidence. Information will only be disclosed in the case of an investigation if

- the disclosure will assist Ethical Standards officers to perform their statutory functions
- the disclosure will assist the Monitoring officer to perform his or her statutory function's
- permission from the person to whom the information relates has been given
- the information has already lawfully been made public;
- the disclosure is made for the purposes of Criminal proceedings in the UK.

Draft reports are marked as confidential to preserve the integrity of any further investigation. Final reports will be made available for public inspection unless they contain confidential or exempt information as defined by part VA of the Local Government Act 1972.



**LOCAL DETERMINATION/INVESTIGATION
HEARINGS SUB-COMMITTEE**

PRE-HEARING AND HEARING PROCESS

2005/2006



WEST LANCASHIRE DISTRICT COUNCIL

THE PRE-HEARING PROCESS FOR STANDARDS COMMITTEE DETERMINATIONS

1. Pre-amble

The pre-hearing process will be used to:

- identify whether the member who the allegation has been made about disagrees with any findings of fact in the Ethical Standards Officer/investigator's report;
- decide whether those disagreements are significant to the hearing;
- decide whether to hear evidence about those disagreements during the hearing;
- decide whether or not there are any parts of the hearings that should be held in private; and
- decide whether or not any parts of the Ethical Standards Officer/Investigator's report or other documents should be withheld from the public.

The pre-hearing process should be carried out in writing, although occasionally a meeting may be necessary.

2. Procedure

2.1 The Monitoring Officer will give a copy of the Ethical Standards Officer/Investigator's referred report to the member who the allegation has been made about as soon as practicable.

(See Document 1)

2.2 The officer providing administrative support to the Local Determination/Investigation Hearings Sub-Committee, in consultation with the Chairman of the Sub-Committee, will:

- provide a copy of the Sub-Committee's pre-hearing and hearing procedures to the member who the allegation has been made about;
- outline the member's rights and responsibilities;

- propose a date for the hearing;
- ask for a written response from the Member by a set time to find out whether he or she:
 - disagrees with any of the findings of fact in the Ethical Standards Officer/Investigator's report, including the reasons for any disagreements;
 - wants to be represented at the hearing by a solicitor, barrister or any other person, noting that the Sub-Committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined;
 - wants to give evidence to the Sub-Committee, either verbally or in writing;
 - wants to call relevant witnesses to give evidence to the Sub-Committee;
 - can come to the hearing on the proposed date;
 - wants any part of the hearing to be held in private; and
 - wants any part of the Ethical Standards Officer's/Investigator's report or other relevant documents to be withheld from the public;

(See Document 2)

- send a copy of the Member's response to the ESO/Investigator and invite the Ethical Standards Officer/Investigator to say by a set time whether he or she:
 - will be in attendance at the hearing or will be represented at the hearing;
 - wants to call relevant witnesses to give evidence to the Sub-Committee;
 - wants any part of the hearing to be held in private;
 - wants any part of the Ethical Standards Officer's/Investigator's report or other relevant documents to be withheld from the public; and
 - wants to invite any other witnesses the Sub-Committee feels are appropriate.

(See Document 3)

2.4 The officer providing administrative support to the Sub-Committee in consultation with the Chairman and the legal advisor, should then:

- confirm a date, time and place for the hearing;
- confirm the main facts of the case that are agreed;
- confirm the main facts which are not agreed;

- confirm which witnesses will give evidence;
- outline the proposed procedure for the hearing; and
- provide this information to everyone involved in the hearing at least two weeks before the proposed date of the hearing.

(See Document 4)

(NOTES:

- (i) The hearing cannot be held until at least 14 days after the date the Monitoring Officer sent the report to the member who is the subject of the hearing (unless that member agrees to an earlier hearing).
- (ii) During the course of a hearing, the Sub-Committee may decide that it needs additional information in order to reach a decision. Under regulation 6(9), it can ask the Council Secretary and Solicitor, as Monitoring Officer, to obtain further information or undertake further investigation. It can make this request only once per case.
- (iii) The Hearing must be held within three months from the date on which the Monitoring Officer first received the report. *(If the Sub-Committee does not hear the matter within three months, the Sub-Committee will be failing in its legal duty and may face judicial review proceedings. See case title Dawkins v Bolsover District Council 10 December 2004.)*
- (iv) On occasion, the Sub-Committee may decide that the sanctions available to it are not adequate for the seriousness of the situation, or that the evidence indicates that the alleged breach is more serious than initially thought, and the case should not be dealt with at the local level. In this situation, it may, under regulation 6(10), write to the ethical standards officer for investigation. The Sub-Committee must set out reasons why the case should be referred back. It can make this request only once and must be made before completion of the hearing.

The Ethical Standards Officer must respond to the request within 21 days. Regulation 6(11) enables them to direct the Sub-Committee to continue with the hearing or stop the hearing and recall the matter for further investigation. Where the Ethical Standards Officer directs the Sub-Committee to continue with the hearing, the hearing must be held within three months of the direction.



Gillian L. Rowe LL.B. (Hons) Solicitor
Council Secretary and Solicitor
PO Box 16
52 Derby Street
Ormskirk
West Lancashire
L39 2DF

Telephone: 01695 577177 Ext 5004
Fax: 01695 585082

2005

(DOCUMENT 1)

PRIVATE AND CONFIDENTIAL

((Parish) Councillor
Address

Dear (Parish) Councillor

REFERENCE SBE.....

Standards Board for England – Allegation of a Breach of the Code of Conduct for Members

Please find enclosed a copy of a report I have received today/onfrom
..... in respect of an allegation that

Under the Local Determination Regulations, the allegation will be considered at a hearing of the Local Determination/Investigation Hearings Sub-Committee.

The Sub-Committee must hold a hearing in relation to an allegation within three months of the Monitoring Officer receiving the Ethical Standards Officer/Investigator's report. Normally, hearings should take place at least 14 days after the member who the allegation has been made about receives a copy of the report.

The officer providing administrative support to the Sub-Committee, from Member Services, will be in touch in due course to arrange a convenient hearing date with you.

Should you require any further information, please do not hesitate to contact me.

Yours faithfully

Gillian L Rowe LL.B
Council Secretary and Solicitor
E-mail: Gill.Rowe@westlancsdc.gov.uk

cc. Member Services



Gillian L. Rowe LL.B. (Hons) Solicitor
Council Secretary and Solicitor
PO Box 16
52 Derby Street
Ormskirk
West Lancashire
L39 2DF

Telephone 01695 585384
Fax 01695 585082

2005

(DOCUMENT 2)

(Parish) Councillor.....
Address

Dear Councillor

Local Determination/Investigation Hearings Sub-Committee

Hearing Date:

REFERENCE SBE.....

Further to our telephone conversion regarding the allegation of misconduct that has been referred to the above Sub-Committee for consideration, I am writing to confirm that the hearing will be held on ...*date*..... In*room*....., 52 Derby Street, Ormskirk L39 2DF.

You have the right to:

- Go to the hearing and present your case
- Call a reasonable number of witnesses to give relevant evidence at the hearing.
- Be represented at the hearing by a solicitor, barrister or any other person, the Sub-Committee will normally give permission for you to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined.

Any disagreements with the findings of fact in the Ethical Standards Officer/Investigator's report must be raised during the pre-hearing process. (A copy of the process is attached for information) The Sub-Committee will not consider any new disagreements about the report's findings of fact at the hearing itself, unless there are good reasons why these have not been raised beforehand.

You do not have to attend the hearing or be represented. If you choose not to go to the hearing, the Sub-Committee may make a determination in your absence.

The hearing will be held in public and the relevant papers will be available for public inspection unless the Sub-Committee is persuaded that there is good reason to exclude

the public, in line with the relevant access to information and human rights legislation. (A copy of which is attached as an appendix for information.)

In order to assist you and the Sub-Committee, I have enclosed a number of forms for you to complete I would be grateful if you could please return these to me, no later than, (2 weeks from the date on the letter)

- Form A – Your response to the evidence set out in the Ethical Standards Officer/Investigator’s report.
- Form B – Other relevant evidence. Please state if this will be given verbally or in writing.
- Form C – Any representations the Sub-Committee should take into account if you are found to have breached the Code.
- Form D – Details of the Member’s proposed arrangements for the Sub-Committee hearing.
- Form E – Details of any proposed witnesses to be called.

I have also enclosed a copy of the hearing procedure for your information.

Yours faithfully

Jacky Denning (Officer providing administrative support to the Sub-Committee)
Assistant Member Services Manager
E-mail: Jacky.Denning@westlancsdc.gov.uk

cc. Mrs Gillian Rowe, Monitoring Officer



FORM A **COUNCILLOR**

Please enter the number of any paragraph where you disagree with the findings of fact in the ESO/Investigator's report, and give your reasons and your suggested alternative.

Member's response to the evidence set out in the ESO/Investigator's report

Paragraph number from the ESO/Investigator's report	Reasons for disagreeing with the findings of fact provided in that paragraph	<u>Suggestion as to how the paragraph should read</u>

Please attach separate sheets if necessary.

To be returned to:
 Jacky Denning, Member Services, 52 Derby Street, Ormskirk L39 2DF



FORM B **COUNCILLOR**

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

Other evidence relevant to the allegation

Paragraph number	Details of the evidence
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

To be returned to:
Jacky Denning, Member Services, 52 Derby Street, Ormskirk L39 2DF



FORM C COUNCILLOR

Representations to be taken into account if a member is found to have failed to follow the Code of Conduct

Please set out below, using the numbered paragraphs, any factors that the Local Determination/Investigation Hearings Sub-Committee should take into account if it finds that a member has failed to follow the Code of Conduct. Please note that no such finding has been made yet.

Paragraph number	Factors for the Sub-Committee to take into account when deciding whether or not to order any censure, restriction of resources or allowances, suspension or partial suspension
1	
2	
3	
4	
5	

Please attach separate sheets if necessary.

To be returned to:
Jacky Denning, Member Services, 52 Derby Street, Ormskirk L39 2DF



FORM D (PARISH) COUNCILLOR

Arrangements for the Local Determination/Investigation Hearings Sub-Committee

Please tick the relevant boxes.

1	The proposed date for the Sub-Committee hearing is given in the accompanying letter. Are you planning to go to the hearing? If 'No', please explain why.	YES <input type="checkbox"/> NO <input type="checkbox"/>	Reason:	6	Are you going to call any witnesses? If 'Yes', please fill in Form E	YES <input type="checkbox"/> NO <input type="checkbox"/>	
2	Are you going to present your own case?	YES <input type="checkbox"/> NO <input type="checkbox"/>		7	Do you, your representative or your witnesses have any access difficulties (eg. is wheelchair access needed)? If 'Yes' please give details.	YES <input type="checkbox"/> NO <input type="checkbox"/>	Details:
3	If you are not presenting your own case, will a representative present it for you? If 'Yes' please state the name of your representative	YES <input type="checkbox"/> NO <input type="checkbox"/>	Name:	8	Do you, your representative or witness have any special needs (eg. is an interpreter needed)? If 'Yes' please give details.	YES <input type="checkbox"/> NO <input type="checkbox"/>	Details:
4	Is your representative a practising solicitor or barrister? If 'Yes' please give his or her legal qualifications. Then go to question 6 If 'No' please go to question 5	YES <input type="checkbox"/> NO <input type="checkbox"/>	Qualifications:	9	Do you want any part of the hearing to be held in private? If 'Yes' please give reasons.	YES <input type="checkbox"/> NO <input type="checkbox"/>	Reasons:
5	Does your representative have any connection with the case? If 'Yes' please give details.	YES <input type="checkbox"/> NO <input type="checkbox"/>	Details:	10	Do you want any part of the relevant documents to be withheld from public inspection? If 'Yes' please give reasons.	YES <input type="checkbox"/> NO <input type="checkbox"/>	Reasons:

Please attach separate sheets if necessary.

To be returned to: Jacky Denning, Member Services, 52 Derby Street, Ormskirk L39 2DF



FORM E

Details of proposed witnesses to be called

Name of witness or witnesses	1	..... .....	WITNESS 2 A Will the witness give evidence about the allegation? If 'Yes' please provide an outline of the evidence the witness will give. B Will the witness give evidence about what action the Sub-Committee should take if it finds that the Code of Conduct has not been followed? If 'Yes, please provide an outline of the evidence the witness will give.	YES <input type="checkbox"/> NO <input type="checkbox"/>	Outline of evidence:
	2	..... .....		YES <input type="checkbox"/> NO <input type="checkbox"/>	Outline of evidence:
	3	..... .....		YES <input type="checkbox"/> NO <input type="checkbox"/>	Outline of evidence:
WITNESS 1 A Will the witness give evidence about the allegation? If 'Yes' please provide an outline of the evidence the witness will give. B Will the witness give evidence about what action the Sub-Committee should take if it finds that the Code of Conduct has not been followed? If 'Yes' please provide an outline of the evidence the witness will give	YES <input type="checkbox"/> NO <input type="checkbox"/>	Outline of evidence:	WITNESS 3 A Will the witness give evidence about the allegation? If 'Yes' please provide an outline of the evidence the witness will give. B Will the witness give evidence about what action the Sub-Committee should take if it finds that the Code of Conduct has not been followed? If 'Yes' please provide an outline of the evidence the witness will give.	YES <input type="checkbox"/> NO <input type="checkbox"/>	Outline of evidence:
	YES <input type="checkbox"/> NO <input type="checkbox"/>	Outline of evidence:		YES <input type="checkbox"/> NO <input type="checkbox"/>	Outline of evidence:

Please attach separate sheets if necessary.

To be returned to:
 Jacky Denning, Member Services, 52 Derby Street, Ormskirk L39 2DF

CONFIDENTIAL INFORMATION AND EXCLUSION OF THE PUBLIC

Categories of exempt information under Schedule 12A of the *Local Government Act 1972* (as modified in relation to local determinations by standards committees)

- 1 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority.
- 2 Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder appointed by:
 - (a) a magistrates' court committee;
 - (b) a probation committee within the meaning of the *Probation Service Act 1993*; or
 - (c) a local probation board within the meaning of the *Criminal Justice and Court Services Act 2000*.
- 2A Information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the *Criminal Justice and Court Services Act 2000*.
- 3 Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.
- 4 Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.
- 5 Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.
- 6 Information relating to the adoption, care, fostering or education of any particular child.
- 7 Information relating to the financial or business affairs of any particular person (other than the authority).
- 8 The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.
- 9 Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.
- 10 The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services.

- 11 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority.
- 12 Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:
 - a any legal proceedings by or against the authority; or
 - b the determination of any matter, affecting the authority.(whether in either case, proceedings have been commenced or are in contemplation).
- 13 Information which, if disclosed to the public, would reveal that the authority proposes:
 - a to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - b to make an order or direction under any enactment.
- 14 Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
- 15 The identity of a protected informant.
- 16 Information relating to the personal circumstances of any person.
- 17 Information which is subject to any obligation of confidentiality.
- 18 Information which relates in any way to matters concerning national security.
- 19 The deliberations of a Standards Committee or a sub-committee of a Standards Committee established under the provisions of Part III of the *Local Government Act 2000* in reaching any finding on a matter referred under the provisions of section 64(2) or 71(2) of the *Local Government Act 2000*.

Excluding the public from hearings

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- 1 At the hearing, the committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the *Local Government Act 1972* (as modified in relation to local determinations by Standards Committees). If the committee considers that 'confidential information' is likely to be revealed during the hearing, the committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.

- 2 The committee also has the power to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of 'exempt information' are listed above. The committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The committee also has a duty to act fairly and in line with the rules of natural justice.
- 3 Article 6 says that the public may be excluded from all or part of the hearing if it is in the interests of:
 - a morals;
 - b public order;
 - c justice;
 - d national security in a democratic society; or
 - e protecting young people under 18 and the private lives of anyone involved.
- 4 There should be a public hearing unless the committee decides that there is good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
- 5 The committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to 'receive and impart information and ideas without interference by public authority'. Any restrictions on this right must be 'prescribed by law and...necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary'.
- 6 Conflicting rights often have to be balanced against each other. The committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the committee) may interfere with this right unless it is:
 - a in line with the law; and
 - b necessary in a democratic society in the interests of:
 - i national security;
 - ii public safety;
 - iii the economic wellbeing of the country;
 - iv preventing crime or disorder;
 - v protecting people's health and morals (which would include protecting standards of behaviour in public life); or
 - vi protecting people's rights and freedoms.

There is a clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

- 7 In relation to people's rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be 'necessary in a democratic society'. A measure will only be 'necessary' if it meets 'a pressing social need', and any restriction on people's rights must be 'proportionate'.
- 8 The Standards Board for England recommends that a Standards Committee should move to a private room when considering its decisions. We do not consider that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.



Gillian L. Rowe LL.B. (Hons) Solicitor
Council Secretary and Solicitor
PO Box 16
52 Derby Street
Ormskirk
Lancashire
L39 2DF

Telephone 01695 585384
Fax 01695 585082

2005

(DOCUMENT 3)

Ethical Standards Officer/Investigator's name
Address

Dear

**Local Determination/Investigation Hearings Sub-Committee –
Hearing Date:
Case No.
(Parish) Councillor**

I have enclosed for your consideration copies of: the following forms completed by (Parish) Councillor in response to your report regarding allegations of misconduct:

- Form A – response to the evidence set out in the Ethical Standards Officer/Investigator's report.
- Form B – Other relevant evidence.
- Form C – Which sets out any representations the Sub-Committee should take into account if the member is found to have broken the Code of Conduct
- Form D – Details of the Members proposed arrangements for the Sub-Committee hearing.
- Form E – Details of any proposed witnesses the Member wishes to call.

I would be most grateful if you could please supply me with the following information by (2 weeks from the date of the letter):

- Any comments you may have on the member's response.
- If you will be in attendance at the hearing or a representative.

- Details of any relevant witnesses you will be calling to give evidence to the Sub-Committee.
- If you would like any part of the hearing to be held in private.
- If you would like any part of your report or other relevant documents to be withheld from the public.
- If you would like to invite any other witnesses that the Sub-Committee feels are appropriate.

Should you require any further information please do not hesitate to contact me.

Yours faithfully

Jacky Denning (Officer providing administrative support to the Sub-Committee)
Assistant Member Services Manager
E-mail: Jacky.Denning@westlancsdc.gov.uk

cc. Mrs Gillian Rowe, Monitoring Officer



William J Taylor BA (Hons), M Soc Sc, FIPD
Chief Executive

52 Derby Street
Ormskirk
West Lancashire
L39 2DF
Telephone 01695 585000
Fax 01695 585021

2005

(DOCUMENT 4)

TO: A maximum of 5 Members selected from the Standards Committee membership, by the Council Secretary and Solicitor, in consultation with the Chairman of the Standards Committee. Must have at least one independent member and at least one Parish Councillor when a Parish Council matter is being considered.

(Political balance does not apply.)

The Member: (Parish) Councillor
The ESO
The Investigator
The Monitoring Officer

COPY TO: All other Members of the Standards Committee
(For information) The person who made the allegation
All Parish Councils in West Lancashire
The Press

Dear Councillor,

A meeting of the **LOCAL DETERMINATION/INVESTIGATION HEARINGS SUB-COMMITTEE** will be held in theon atat which your attendance is requested.

Yours faithfully,

William J Taylor
Chief Executive

A G E N D A
(Open to the Public)

1. APPOINTMENT OF CHAIRMAN

To appoint a Chairman for the meeting

2. APOLOGIES

3. DECLARATIONS OF INTEREST

If a member requires advice on Declarations of interest he/she is advised to contact the Council Secretary and Solicitor in advance of the meeting.

(For the assistance of members a checklist for use in considering their position in relation to any particular item is included at the end of this agenda sheet.)

4. MINUTES

To receive as a correct record the minutes of the meeting held on

5. (PARISH) COUNCILLOR.....

To hear and determine whether or not the Member has failed to follow the authorities Code of Conduct and if so, to decide whether or not a penalty should be applied and what form any penalty should take.

FIRE EVACUATION PROCEDURE: Please see attached sheet.

NO SMOKING: The Council has a no smoking policy which applies to all meetings.

MOBILE PHONES: These should be switched off at all meetings.

*For further information, please contact:-
Jacky Denning on 01695 585384
or email
Jacky.Denning@westlancsdc.gov.uk*



AGENDA ITEM: 5
LOCAL DETERMINATION/INVESTIGATION
HEARINGS SUB COMMITTEE:
.....2005

PRE-HEARING PROCESS SUMMARY

(Parish) Councillor:

Authority:

.....(Parish) Council

Name of the person who made the original allegation:

Case Reference Numbers:

SBE

Monitoring Officer:

Mrs Gillian Rowe, Council Secretary and Solicitor

Ethical Standards Officer who referred the matter:.....

Investigator:

(If the case is a local investigation)

Officer providing administrative support for the hearing:

Mrs Jacky Denning, Assistant Member Services Manager

Date the pre-hearing process summary was produced:

Hearing Date and Time:

Venue:

Allegation summary:

Relevant Section or Sections of the Code of Conduct:

The findings of fact in the Ethical Standards Officer/Investigator's report that are agreed:

The findings of fact in the Ethical Standards Officer/Investigator's report that are not agreed:

In attendance:

(Parish) Councillor..... and/or representative.

Mr/Ms(Ethical Standards Officer or representative/Investigator)

Witnesses:

HEARING PROCEDURE

- The Hearing Procedure, which we will follow, is attached as Appendix 1 (Green Papers)
- The Ethical Standards Officer/Investigator's report is attached as Appendix 2 (Blue Papers)
- The Evidence Bundle is attached as Appendix 3 (Yellow Papers)
- Response of (Parish) Councillor is attached as Appendix 4 (Grey Papers)
- Response on behalf of the Ethical Standards Officer/Investigator is attached as Appendix 5 (Lilac Papers)
- The Pre-Hearing Process is attached as Appendix 6 (Pink Papers)
- Categories of exempt information for excluding the public from meetings is attached as Appendix 7 (Cream Papers).



WEST LANCASHIRE DISTRICT COUNCIL

HEARING PROCEDURE FOR THE LOCAL DETERMINATION/INVESTIGATION HEARINGS SUB-COMMITTEE:

CHAIRMAN'S INTRODUCTION

The purpose of the Sub-Committee's hearing is to decide whether or not (Parish) Councillor has failed to follow the Code of Conduct forCouncil and, if so, to decide whether or not any penalty should be applied and what form any penalty should take.

All of those present will introduce themselves.

The Chairman will advise that the hearing will be conducted using the Hearing Procedure enclosed with the agenda.

The Sub-Committee will run the hearing as set out in this document.

(If the Member who the allegation has been made about is not in attendance, the Sub-Committee can consider the Ethical Standards Officer/Investigator's report in the Members absence. If the Sub-Committee is satisfied with the Member's reason for not being able to attend, another date should be arranged for the hearing.)

The Chairman shall ask the Councillor, the Investigating Officer and the Legal Adviser to the Sub-Committee whether they wish to exclude the Press or public from all or any part of the hearing.

(If any of them so request, the Chairman shall ask them to put forward reasons for s doing and ask for responses from the others and the Sub-Committee shall then determine whether to exclude press and public from all or any part of the hearing.

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

Preliminary Procedural Issues

Any issues or disagreements about how the hearing should continue should be resolved at this stage.

Stage 1 – Findings of fact

1. The Chairman will refer to the pre-hearing process summary to see if there are any significant disagreements with the facts contained in the Investigator's report?

If no, move to Stage 2.

If yes,

the investigator, if present, should be invited to make any necessary representation to support the relevant findings of fact in the report. (If the member disagrees with most of the facts, it may make sense for the investigator to start by making representation on all the relevant facts, instead of discussing each fact individually.)

2. With the Sub-Committee's permission, the investigator may call any necessary supporting witnesses to give evidence.
3. The Sub-Committee may give the member an opportunity to challenge any evidence put forward by any witness called by the investigator.
4. The Member will then make representations to support his or her version of the facts and, with the Sub-Committee's permission, call any necessary witnesses to give evidence.
5. The Sub-Committee may allow the investigator to challenge any evidence put forward by witnesses called by the member

(After each representation, the Sub-Committee may question any of the people involved or any of the witnesses)

6. If the member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing.
7. All parties except the Sub-Committee and the officer providing administrative support to the Sub-Committee should leave the room whilst the Sub-Committee consider
 - (i) the member's explanation for not raising the issue at an earlier stage and decide to either:
 - (a) continue with the hearing, relying on the information in the Investigator's report;
 - (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.
 - (ii) all the representations and evidence.
8. On their return, the Chairman will announce the Sub-Committee's findings of fact.

(Note: During the course of a hearing, the Sub-Committee may decide that it needs additional information in order to reach a decision. Under regulation 6(9), it can ask the Monitoring Officer to obtain further information or undertake further investigation. It can make this request only once per case.)

Stage 2

Did the member fail to follow the Code?

The Sub-Committee then needs to consider whether or not, based on the facts it has found, the member has failed to follow the Code of Conduct.

1. The member should be invited to give relevant reasons why the Sub-Committee should not decide that he or she has failed to follow the Code.
2. The Sub-Committee should then consider any verbal or written representations from the investigator.

The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.

3. The member should be invited to make any final relevant points.
4. All parties except the Sub-Committee and the officer providing administrative support to the Sub-Committee should leave the room whilst the Sub-Committee considers the representations.
5. On their return, the Chairman will announce the Sub-Committee's decision as to whether or not the member has failed to follow the Code of Conduct.

Stage 3

1. If the member has not failed to follow the Code of Conduct

If the member has not failed to follow the Code of Conduct: the Sub-Committee can move on to consider whether it should make any recommendations to the authority.

As the Sub-Committee has found that the Code has not been broken, the member may at this stage can ask the Sub-Committee not to publish a summary of findings and reason for it's findings in local newspaper/s. If the member does not do so then this information will be published.

2. **If the member has failed to follow the Code of Conduct**, the Sub-Committee will consider any verbal or written representations first from the investigator and then from the member as to:
 - (a) whether or not the Sub-Committee should set a penalty; and
 - (b) what form any penalty should take.
- 2.2 The Sub-Committee may question the investigator and the member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

2.3 All parties except the Sub-Committee and the officer providing administrative support to the Sub-Committee should leave the room whilst the Sub-Committee consider whether or not to impose a penalty on the member and, if so, what the penalty should be.

2.4 **If the Sub-Committee decides that the member has failed to follow the Code of Conduct and that the member should be penalised, it can impose one, or any combination, of the following:**

- censure the member;
- restrict the Member's access to the premises and resources of the relevant authority for up to three months, ensuring that any restrictions are proportionate to the nature of the breach and do not unduly restrict the Member's ability to perform his or her duties as a Member;
- order the Member to submit a written apology in a form satisfactory to the Sub-Committee;
- order the Member to undertake training specified by the Sub-Committee;
- order the Member to participate in a conciliation process specified by the Sub-Committee;
- suspend, or partially suspend, the Member for up to three months;
- suspend, or partially suspend, the Member for up to three months, or until such time as the Member submits a written apology that is accepted by the Sub-Committee;
- suspend, or partially suspend, the Member for up to three months, or until such time as the Member undertakes any training or conciliation ordered by the Sub-Committee

(Note:

- (i) *Any conciliation process should have an agreed timeframe for resolution. The process may be of an informal or formal nature, involving elements of training and mediation that will lead to an effective and fair conclusion of the matter. Any decisions reached during the process regarding future behaviour of the Member concerned, and measures to prevent a repetition of the circumstances that gave rise to the initial allegation, should be agreed by all parties.*
- (ii) *The regulations do not provide any powers for the Sub-Committee to award costs.*
- (iii) **Reference back to the Ethical Standards Officer** - *If, at any time before the Sub-Committee has determined upon any sanction, the Sub-Committee considers that the nature of the failure to comply with the Code of Conduct for Members is such that the appropriate sanction would exceed the powers of the Sub-Committee, the Sub-Committee may instruct the Monitoring Officer to request the Ethical Standards Officer, who referred the investigation/determination, to resume responsibility for the conduct of the matter, and may adjourn the hearing until the Monitoring Officer advises the Sub-Committee of the Ethical Standards Officer's response to such request.)*

Stage 4 - The Decision

1. On their return, the Chairman will announce the Sub-Committee's decision.
2. The Sub-Committee will consider any verbal or written representations from the investigator, as to whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.
3. The Chairman will advise the attendees
 - (a) that a short written decision would be available at the end of the day from the officer providing administrative support to the Sub-Committee;
 - (b) that the officer providing administrative support to the Sub-Committee will give the member concerned its full written decision within two weeks of the end of the hearing.

(The Standards Board advises that it is good practice to prepare the full written decision in draft on the day of the hearing before memories fade.)

- (c) that a summary of the Sub-Committee's findings, reasons for its findings and any penalty set, will be published in one or more newspapers that are independent of the authorities concerned and circulated in the area.
- (d) that the Member who is the subject of a Sub-Committee finding has the right to apply in writing to the President of The Adjudication Panel for England for permission to appeal against that finding.

(NOTE: Interpretation)

1. *'Member' means the member of the authority who is the subject of the allegation being considered by the Sub-Committee, unless stated otherwise. It also includes the Member's nominated representative.*
2. *'Investigator' means the Ethical Standards Officer who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been referred for local investigation, references to the investigator mean the Monitoring Officer or other investigating officer, or his or her nominated representative.*
3. *'Sub-Committee' if the Local Determination/Investigation Hearings Sub-Committee given delegated authority to conduct hearings rather than the main Standards Committee.*
4. *'Legal advisor' means the officer responsible for providing legal advice to the Standards Committee/Sub-Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.*
5. *(The Sub-Committee may take legal advice from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Sub-Committee should be shared with the Member and the Investigating Officer if they are present.)*



AGENDA ITEM: 6

**STANDARDS COMMITTEE:
20 DECEMBER 2005**

Report of: Council Secretary and Solicitor

Contact for further information: Mrs G L Rowe (Extn. 5004)

SUBJECT: STANDARDS BOARD DECISIONS - VARIOUS

1.0 PURPOSE OF THE REPORT

- 1.1 To advise of the decisions of the Standards Board in relation to SBE 4339.03 – Parish Councillor Lesley Standish-Gore (ref 70), SBE 6815.04 – former Parish Councillor Alistair MacAulay (ref 54) and SBE 8566.04 – Parish Councillor Paul Sergeant (ref 66).

2.0 RECOMMENDATIONS TO STANDARDS COMMITTEE

- 2.1 That Members note the contents of this Report and comment on any lessons to be learned.

3.0 BACKGROUND

- 3.1 In accordance with the Code of Conduct adopted under the Local Government Act 2000 the Standards Board for England investigates written complaints of misconduct.

- 3.2 When a complaint has been investigated by the Ethical Standards Officer (the investigator), he/she sends, in confidence, a draft report to me as Monitoring Officer and later the final report. He/she then prepares a case summary and sends a copy of the case summary, which is not confidential and may be disclosed, to me as Monitoring Officer, for information.
- 3.3 The Standards Board have been focusing on investigations and producing final reports and therefore there has been some delay in producing the case summaries.

4.0 CURRENT POSITION

4.1 Parish Councillor Lesley Standish-Gore

- (a) Complaints were made in 2003 in relation to the conduct of Parish Councillor Standish-Gore and I accordingly received copies of the draft and final reports in December 2004 and January 2005 respectively.
- (b) A copy of the case summary involving Parish Councillor Standish-Gore is attached as Appendix 1 for the Committee's attention. Members will note that the Ethical Standards Officer found that no action needs to be taken.

4.2 Former Parish Councillor Alastair MacAuley

- (a) Complaints were made in May 2004 in relation to the conduct of former Parish Councillor MacAuley and I accordingly received copies of the draft and final reports in February 2005 and March 2005 respectively.
- (b) A copy of the case summary involving former Parish Councillor MacAuley is attached as Appendix 2 for the Committee's attention. Members will note that the Ethical Standards Officer found that no action needs to be taken and states that it was not in the public interest to pursue this matter any further.

4.3 Parish Councillor Paul Sergeant

- (a) A complaint was made in October 2004 in relation to the conduct of Parish Councillor Sergeant and I accordingly received copies of the draft and final reports in July 2005.
- (b) A copy of the case summary involving Parish Councillor Sergeant is attached as Appendix 3 for the Committee's attention. Members will note that the Council found that no action needs to be taken, no breach of the Code was found.

5.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 5.1 These matters relate to the promotion of high ethical standards at a local level.

6.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 6.1 Handling correspondence and queries from the Standards Board is incurring a significant resource, which is currently being met from existing provision. As a reduced number of complaints are being referred for investigation by the Board this could have a positive effect in terms of resourcing for this work. However, more matters are being referred for local investigation and an increase in this local role will have resource implications.
-
-

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Appendices

- Appendix 1 – Case Summary – Parish Councillor Standish-Gore
- Appendix 2 – Case Summary – former Parish Councillor MacAuley
- Appendix 3 – Case Summary – Parish Councillor Sergeant

STDSCCTTEEDDECISION

Case summary

SBE case number	SBE4339.03
member	Councillor Lesley Standish-Gore
authority	Hesketh-with-Becconsall Parish Council
allegation	A member misused council resources and brought her office or authority into disrepute.
date received	1 August 2003
date completed	12 January 2005
SBE outcome	The Ethical Standards Officer found that no action needs to be taken.

summary

The complainant alleged that Councillor Lesley Standish-Gore, a member of Hesketh-with-Becconsall Parish Council, improperly authorised a payment for the removal of Leylandii trees from a sports ground in Preston. Councillor Standish-Gore co-signed a cheque to a contractor for the work.

The Ethical Standards Officer considered that Councillor Standish-Gore co-signed the cheque without the approval of the parish council. The Ethical Standards Officer therefore concluded that Councillor Standish-Gore failed to act in accordance with the council's requirements for the use of its resources, and breached the Code of Conduct. However, it was unclear whether Councillor Standish-Gore was aware that the council had decided to seek advice before making the payment to the contractor.

The complainant also alleged that Councillor Standish-Gore improperly authorised a payment for the attendance of the Chairman of the council and his partner at a civic dinner hosted by West Lancashire District Council. Councillor Standish-Gore co-signed a cheque on behalf of the council.

The Ethical Standards Officer noted that the parish council had not agreed to pay the cost of the Chairman's attendance at the dinner with his partner. The Ethical Standards

Officer concluded that Councillor Standish-Gore failed to act in accordance with the council's requirements for the use of its resources, and failed to comply with the Code of Conduct.

The Ethical Standards Officer noted that Councillor Standish-Gore did not stand to benefit from the payment of these cheques. The Ethical Standards Officer also took into account Councillor Standish-Gore's personal circumstances at the time. The Ethical Standards Officer concluded that Councillor Standish-Gore did not bring her 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 Paragraphs 4 and 5(b) 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". Paragraph 5(b) states that a member "must, when using or authorising the use by others of the resources of the authority – (i) act in accordance with the authority's requirements".

Ends.

Appendix 2



**the
Standards Board
for England**

1st Floor
Cottons Centre
Cottons Lane
London SE1 2QG

Enquiries: 0845 078 8181
Fax: 020 7378 5155

enquiries@standardsboard.co.uk
www.standardsboard.co.uk

9 August 2005

PRIVATE & CONFIDENTIAL

Ms Gillian Rowe, Monitoring Officer
West Lancashire District Council
52 Derby Street
Ormskirk
Lancashire, L39 2DF

Dear Ms Rowe,

REFERENCE: SBE6815.04

I refer to Natalie Birtle's letter of 14 March 2005.

I enclose a copy of the case summary which the Standards Board for England will shortly publish on its website, at the address given above. This summary is not confidential and may be disclosed.

We seek to publish case summaries promptly and recognise that we failed to do so here. This is due to our having focused our resources on completing a backlog of cases, which we have done successfully. Although this reallocation of resources enabled us to double the number of cases being completed each month, it meant we were unable to produce case summaries as quickly as we wished. I apologise for any inconvenience caused.

Yours sincerely


Kylie Faulkner
Investigator

Enc.

Confidence in local democracy

Case summary

SBE case number	SBE6815.03
member	Councillor Alastair MacAulay
authority	Burscough Parish Council
allegation	A member failed to treat others with respect and brought his office or authority into disrepute.
date received	30 March 2004
date completed	14 March 2005
SBE outcome	The Ethical Standards Officer found that no action needs to be taken.

Summary

It was alleged that Councillor Alastair MacAulay made improper and insulting comments about a local resident, the Chairman of the Boundary Commission and the governors of a local school at a Burscough Parish Council meeting on 3 February 2004. Councillor MacAulay allegedly said that someone at the meeting "looks as though she has been dead for a fortnight". It was also alleged that Councillor MacAulay smelled of alcohol at the meeting.

The Ethical Standards Officer considered whether Councillor MacAulay failed to treat others with respect and brought his office or authority into disrepute.

The Ethical Standards Officer took the circumstances of the case into account and the fact that Councillor MacAulay is no longer a member of the council. The Ethical Standards Officer also noted that there was no evidence that Councillor MacAulay intends to stand for re-election. The Ethical Standards Officer concluded that it was not in the public interest to pursue this matter any further.

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 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".
Ends.

Case summary

Case No.	Case Name	Case Type	Case Status
1
2
3
4
5

The Council has considered the report and the recommendations of the Committee and has agreed to the following resolution:

The Council agrees to the following resolution:

The Council agrees to the following resolution:

The Council agrees to the following resolution:

The Council has considered the report and the recommendations of the Committee and has agreed to the following resolution:

The Council agrees to the following resolution:

The Council agrees to the following resolution:

Confidence in local democracy



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Standards Board
for England

1st Floor
Cottons Centre
Cottons Lane
London SE1 2QG

Enquiries: 0845 078 8181
Fax: 020 7378 5155

enquiries@standardsboard.co.uk
www.standardsboard.co.uk

12 September 2005

PRIVATE & CONFIDENTIAL

Ms Gillian Rowe
Monitoring Officer
Hesketh with Beconsall Parish Council
52 Derby Street
Ormskirk
Lancashire
L39 2DF

Dear Ms Rowe

REFERENCE: SBE8566.04

I refer to Steven Kingston's letter of 25 July 2005.

I enclose a copy of the case summary which the Standards Board for England will shortly publish on its website, at the address given above. This summary is not confidential and may be disclosed.

We seek to publish case summaries promptly and recognise that we failed to do so here. This is due to our having focused our resources on completing a backlog of cases, which we have done successfully. Although this reallocation of resources enabled us to double the number of cases being completed each month, it meant we were unable to produce case summaries as quickly as we wished. I apologise for any inconvenience caused.

Yours sincerely

Kate Finn
Investigator

Enc.

Confidence in local democracy

Case summary

SBE case number	SBE8566.04
member	Councillor Paul Sergeant
authority	Hesketh with Becconsall Parish Council
allegation	A member failed to declare a personal interest and withdraw from a meeting in which he had a prejudicial interest.
date received	23 September 2003
date completed	25 July 2005
SBE outcome	The Ethical Standards officer found that no action needs to be taken.

summary

It was alleged that Councillor Paul Sergeant failed to declare a personal and prejudicial interest when issues relating to a local sports ground were reported at a council meeting on 6 September 2004. Councillor Sergeant allegedly had an interest because he was chairman of a local football club, which was linked to the sports ground.

The Code of Conduct states that a member must declare an interest in a matter if, among other things, it relates to something listed in their register of interests. The Ethical Standards Officer considered that Councillor Sergeant's role as chairman of the local football club was not something that was, or needed to be, recorded on his register of interests. The Ethical Standards Officer considered that Councillor Sergeant was not affected to any greater extent than others in the area by the content of the report and therefore found that Councillor Sergeant did not have a personal or prejudicial interest in the matter.

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 8 and 10 of the Code of Conduct. Paragraph 8 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 10 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".

Ends.



AGENDA ITEM: 7

**STANDARDS COMMITTEE:
20 December 2005**

Report of: Council Secretary and Solicitor

Contact for further information: Mrs. G.L. Rowe (Extn.5004)

SUBJECT: CODE OF CONDUCT – MEMBERS’ TRAINING - MONITORING

District wide interest

1.0 PURPOSE OF THE REPORT

- 1.1 To consider further how Members should be trained in the requirements of the Code of Conduct and evaluate the effectiveness of the training undertaken to date.

2.0 RECOMMENDATION TO STANDARDS COMMITTEE

- 2.1 That the training undertaken and the evaluation of it be noted
- 2.2 That given the success and content of the training to date the next Seminar on the Code of Conduct be held on a date to be agreed by the Council Secretary and Solicitor in consultation with the Chairman of this Committee.

3.0 BACKGROUND

- 3.1 One of the key roles of the Standards Committee is to ensure that Members are properly trained in the requirements of the Code of Conduct. Section 54 of the Local Government Act 2000 says the Committee is responsible for:

- (a) promoting and maintaining high standards of conduct by the Members and co-opted Members of the Authority;
- (b) assisting Members and co-opted Members of the Authority to observe the Authority's Code of Conduct;
- (c) monitoring the operation of the Authority's Code of Conduct;
- (d) advising, training or arranging to train Members and co-opted Members of the Authority on matters relating to the Authority's Code of Conduct.

3.2 A report presented to the Committee on 5th February 2002 suggested a training programme for the introduction of the Code. It was noted that it was essential that **all** Members receive training (including co-opted Members). A further report was presented on 25th June 2003 considering future training requirements and evaluating the training conducted to that date.

4.0 TRAINING REQUIREMENT

4.1 There seemed to be five main aspects to the new Code where Members required training:-

- background
- general obligations
- declarations of interest (probably the most complex area)
- the need to notify the Monitoring Officer of financial and other entries in the Register of Interests
- the Register of gifts and hospitality

and this was assessed as covering the matters set out in 4.2 to 4.7 below.

4.2 Background

4.2.1 This would cover the national structure for dealing with complaints and include the roles of:-

- Monitoring Officer
- our Standards Committee
- Standards Board (its Ethical Standards Officers and Adjudication Panels)

4.3 General Obligations

4.3.1 This would cover:-

- general principles governing conduct (ten principles)
- when the code applies (outside bodies, private life etc)
- the duty of confidentiality
- bringing the authority into disrepute
- taking personal advantage
- duty to report others' transgressions

4.4 Declarations of Interest

4.4.1 Historically, the most difficult area for Members has been to understand when interests need to be declared, and, in particular, to recognise what type of interest is involved. One of the stated aims of the new Code was to simplify matters.

4.4.2 This will include:-

- when does the duty to disclose arise? How much detail must be given?
- what is a personal interest?
- when does a personal interest become prejudicial?
- when do you have to leave a meeting?
- the different rules for Executive and Scrutiny
- how/when to apply for a dispensation

4.5 The Register of Members' Interests

4.5.1 This will cover:-

- what has to be declared to the Monitoring Officer
- when it has to be done
- rights of public inspection

4.6 The Register of Gifts and Hospitality

4.6.1 This will cover:-

- what has to be declared
- when it has to be declared

4.7 Promoting Equality of Opportunity

4.7.1 This is the first duty mentioned in the Code and separate training is organised via Human Resources.

5.0 DELIVERY OF TRAINING

5.1 The first training on the Code covering 4.1 to 4.6 was delivered using North West Employers and comprised 2 seminars with Workshop Sessions held in

February and April 2002, with a refresher workshop on the 8th July 2002. The training was well received, particularly the April session at the Skelmersdale Arts Centre at which there was a good attendance from Parish Councils.

5.2 A seminar/workshop session was held at Ormskirk School on Thursday the 20 November 2003. The seminar was delivered using North West Employers and the workshop session was organised "in house" using cases from the Standards Board website. Feedback was extremely positive with requests being made for longer workshop sessions.

5.3 New Councillors have been introduced to the Code at the Induction Sessions held on Thursday 8th May 2003 and Thursday, 17th June 2004 and were invited to attend Courses entitled "Ethics and Standards" run by North West Employers in Manchester to complement this training.

5.4 The training briefly referred to the new Planning Protocol (on which there was specific training on 7 October 2003 and 15 July 2004 and on which there will continue to be separate training) and the Protocol on Member/Officer Relations, as local guidance supporting but not forming part of the Code. The Protocol in relation to Members Interests and LSVT was the subject of detailed briefings by Trowers and Hamlins Solicitors in December 2004/January 2005.

5.5 In relation to Equality of Opportunity training, I understand from the Human Resources Manager that training is planned in Diversity, Race, Impact Assessments, Background to the Race Relations Amendment Act and Equality issues.

A. The Standards Committee, at its meeting on 28th April 2004, gave consideration to training for both Standards Committee Members and for training for all Members, Co-opted Members and Parish Councillors and Clerks on the Code. Training sessions specifically for Standards Committee Members were held in July and August 2004 on the Code and local determination. Members agreed that a full session for all District and Parish Councillors should be arranged for the Autumn following the format successfully adopted in previous years. A further Seminar/Workshop session was held at Hale Hall, Edge Hill College on Wednesday, 24 November 2004 at 7.30 pm and over 80 people attended.

5.7 We have prepared a West Lancashire District Council "Guide to the Code of Conduct" and this was initially given to new Members and all Members and co-opted Members have now received a copy. The Council Secretary and Solicitor issues guidance to Members and Parishes on the Code at regular intervals, either through '7 Days' or by specific letters.

5.8 Standards Committee Members John Cailles, Councillor Una Atherley and Ms. Joan Draper attended the Standards Board Conference in Birmingham on Monday 9th and Tuesday 10th June 2003 and Jacky Denning, Assistant Member Services Manager and myself attended conference on Monday the 13th and Tuesday the 14th September 2004. This year Terry Broderick, Legal

Services Manager attended. An update on the Conference appears as a separate item on this Agenda.

5.9 The Board's website and the "Case Reviews" provide insight into the interpretation given to the Code by ESO's and the Adjudication Panel.

5.10 Members indicated earlier in the year that they wished to continue to organise the Seminar/Workshop Session as an annual event. I was fortunate to secure the services of Peter Keith-Lucas of Bevan Brittan, Solicitors, an acknowledged expert on the Code to Conduct to present this years Seminar on a cold windy night at Edge Hill. Members who attended the session at Wyre were very complimentary about the course he presented on that occasion and his presentation on Thursday, 24 November 2005 entitled 'The Code of Practice' was excellent. This has enabled us to move the training session we offer each year, on from that presented for a number of years by North West Employers. I feel that this has been a very successful approach and this is supported by the feedback forms, the only critical comment being that perhaps the presentation was $\frac{1}{4}$ / $\frac{1}{2}$ hour too long.

6.0 MONITORING

6.1 Details are kept of attendance at training sessions, so the Standards Committee will be able to monitor the take up of the training. Details of District and Parish Councillors and Clerks who attended the session on 24 November 2005 are attached as an Appendix.

6.2 The success of the training is assessed each year by a customer satisfaction questionnaire after each training event and can be followed up by asking Members if they need further training on certain aspects, or a general "refresher".

6.3 It is to be noted that if there is to be an update to the code Members will need training and information on its amended provisions.

7.0 CURRENT POSITION

7.1 Members may feel that given the success and content of the training provided it may not be necessary to hold another major event for 18 months or so.

8.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

8.1 The training provided will promote high ethical Standards which will in turn contribute to achievement of the Community Strategy.

9.0 FINANCIAL AND RESOURCE IMPLICATIONS

9.1 The costs of providing training on standards is met from existing budget provision. Costs were higher this year due to the standing of the speaker secured.

10.0 RISK ASSESSMENT

10.1 Training needs to be provided to comply with statutory obligations and to ensure Members are fully aware of the requirements placed upon them. This will enable them to avoid being in breach of the Code of Conduct with all the adverse consequences which would necessarily flow.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Appendices

Appendix – Attendance at Code of Conduct Seminar

Attendance at Code of Conduct Seminar
24th November 2005

Co-opted Members

Mr Roger Merry
Prof. Roy Chester
Mr John Cailes
Mr Paul Hanmer
Mr Brian Molyneux

District Councillors

Councillor Ainscough
Councillor Ashcroft
Councillor Mrs Colling
Councillor Mrs Edwards
Councillor Gartside
Councillor Hanlon
Councillor Kay
Councillor O'Toole
Councillor G.M.Roberts
Councillor Skilling

Aughton Parish Council

Parish Councillor D. Brown
Parish Councillor J. Huyton
Parish Councillor V. Naylor
Parish Councillor D. Walne
Mrs Irene Roberts (Clerk)

Burscough Parish Council

Parish Councillor K. Anderson
Parish Councillor J. Graham
Parish Councillor C. Pearson

Downholland Parish Council

David Dalgoutte (Clerk)
Parish Councillor E. Duffy

Halsall Parish Council

Parish Councillor J. Allan

Hesketh With Beconsall Parish Council

Ian Cropper (Clerk)
Parish Councillor N. Goodier
Parish Councillor S. Kirby
Parish Councillor R. Plant
Parish Councillor J. Witter

Lathom Parish Council

I. O'Donnell (Clerk)

Parbold Parish Council

Parish Councillor M.Hammond
Elizabeth Broad (Clerk)

Scarisbrick Parish Council

Parish Councillor M. Donley
Parish Councillor S. Egan
Parish Councillor J. A.Price

Up Holland Parish Council

Parish Councillor B.Hale
David Hughes (Clerk)

Wrightington Parish Council

Parish Councillor J. Burton
Parish Councillor J. Clinch

Operational Management Board

Gill Rowe
Kim Webber
Graham Concannon
Steve Byron

Attendance at Code of Conduct Seminar
24th November 2005

Legal

Terry Broderick
John Birchall
Reg Warner
Michelle Docherty
Mike Hynes
Tina Sparrow

Member Services

Jacky Denning
Sue Griffiths
Cathryn Jackson
Jill Jones
Julia Roberts

Officers

Pat Burgess
Phil Samosa

External Attendees

Stuart Benson-LCC
Jane Carrigan-LCC
Parish Councillor J.Curtis –Whittingham
Parish Council
Neil Young – Preston City Council



AGENDA ITEM: 8

**STANDARDS COMMITTEE
20 December 2005**

Report of : Council Secretary and Solicitor

Contact for further information : Mr T P Broderick (Extn. 5001)

**SUBJECT : FEEDBACK FROM FOURTH ANNUAL ASSEMBLY OF STANDARDS
COMMITTEES**

1.0 PURPOSE OF THE REPORT

1.1 To provide a summary of the above-noted event.

2.0 RECOMMENDATIONS

2.1 That the contents of the report be noted.

3.0 BACKGROUND

3.1 The Legal Services Manager (Deputy Monitoring Officer) attended the Fourth Annual Assembly of the Standards Committees on the 5th and 6th September 2005 in Birmingham.

3.2 At the event, keynote speeches were given by Sir Anthony Holland - Chair, the Standards Board for England; Phil Woolas MP - Minister for Local Government; David Prince - Chief Executive, the Standards Board for England and Sir Alistair Graham - Chair, Committee of Standards in Public Life.

3.3 A note of the speech given by the Chief Executive for the Standards Board for England is attached to this report at Appendix 1. This confirmed that at that time, 34% of cases had been referred by the Standards Board for local investigation, with another 9% of cases being referred to Local Standards Committees for local determination. He predicted that half of all cases would be investigated or determined locally by 2007. He also highlighted statistics which moves the

Standards Board forward on its target of meeting 90% of cases cleared within a six-month time span.

3.3 The Minister set out his aspiration that the local role was not just one of policing but to try and engender a culture of good conduct, with enforcement being the exception. He also referred to the review of the code and said that following the conference Government would be looking at the matter further considering the following key themes:

- i. A consistently high level of conduct.
- ii. Allegations to be dealt with quickly and fairly.
- iii. Where misconduct is proved it is dealt with forcefully and speedily.
- iv. Where vexatious or political and there is no real concern over individual conduct, these must be weeded out. He also wished to avoid any trial by media and to this end emphasised the need for the speed and expertise of the Monitoring Officer and the Standards Committee locally.
- v. Advocacy for local causes and conflicts of interest were a concern and the review of the code would be looking at this to ensure that where Members are not allowed to take part because of their interests some avenue for local representation must be maintained.

3.4 Sir Alistair Graham, Chair of the Committee of Standards in Public Life sought a national strategic role for the Standards Board for England with local application of the framework put in place nationally.

3.5 In addition to the keynote speeches several plenary sessions were held on investigations, hearings and "public confidence in your hands", which dealt with how Authorities can build the public's confidence and trust in both themselves and local democracy.

4.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

4.1 These matters relate to the promotion of high ethical standards at a local level.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

5.1 There are significant resource implications arising from this report.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Appendices

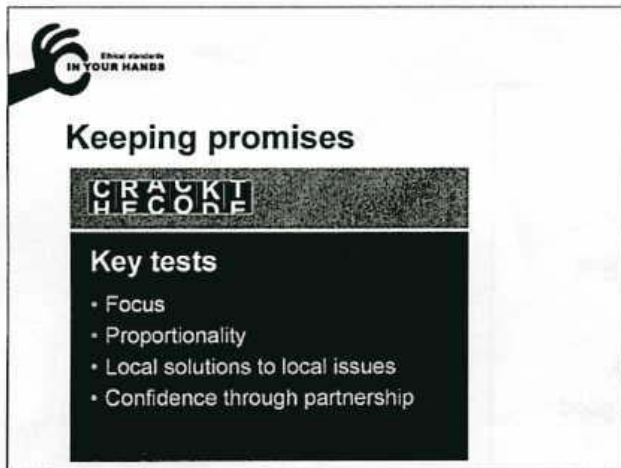
Appendix 1. Notes of speech by David Prince, Chief Executive, Standards Board for England

**Fourth Annual Assembly of Standards Committees
5-6 September 2005, ICC, Birmingham**

**Making it happen
David Prince, Chief Executive
The Standards Board for England**

At last year's conference I made a number of promises. I'm going to say what we've done to keep those promises. I'm also going to tell you about the outcome of our consultation on the review of the Code of Conduct. Then it will be time for a few more promises.

Those of you who were here last year will recognise the inset slide.



IN YOUR HANDS

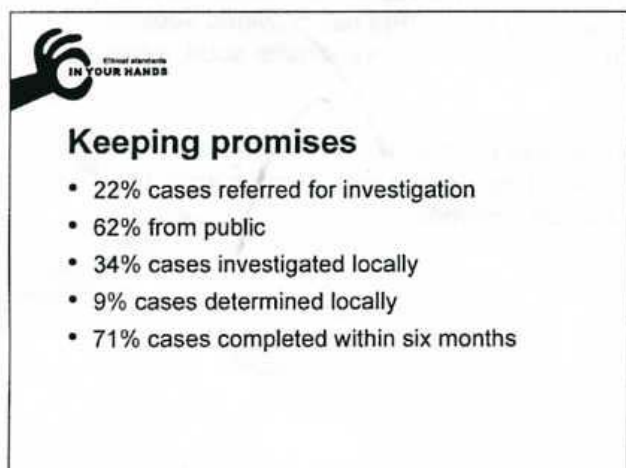
Keeping promises

CRACK! HE CODE

Key tests

- Focus
- Proportionality
- Local solutions to local issues
- Confidence through partnership

We promised regional events where you could hold us to account against these tests. Over the year, we held eleven roadshows up and down the country. We spoke to around 1,000 standards committee members and monitoring officers, as well as to leaders and chief executives in ten linked events.



IN YOUR HANDS

Keeping promises


- 22% cases referred for investigation
- 62% from public
- 34% cases investigated locally
- 9% cases determined locally
- 71% cases completed within six months

And I am pleased to report that we have focused on the most serious cases and we have determinedly weeded out the frivolous, vexatious and politically-motivated cases.

And we've done this quickly. On average, we now process new complaints within ten working days.

We said we would go for local case handling wherever possible. Since January, 34% of cases have been referred for local investigation. Another 9% of cases have been referred to local standards committees for local determination. We predicted that half of all cases would be investigated or determined locally by 2007, and with your support we are well on track.

We have speeded up our case handling. Since April, we cleared 46% of cases within four months and hit 65% in July, both ahead of our target of 40%. We aim for 90% of cases cleared in six months, and achieved 71% last quarter, 79% in July. We are edging closer to our 90% target every month.



Ethical governance toolkit

- How well is the council meeting the ethical agenda?
- Where can improvements be made?
- How well is it meeting CPA measures?
- How can the council ensure sustained good ethical governance?

Prevention is much better than cure. The successful local ethical agenda is the one owned and driven locally, the one that is part of the day job and the way things are done daily. That is why we have worked with the IDEa and the Audit Commission to jointly badge the Local Government Diagnostic, and why the ODPM has provided support through the local capacity building fund. It consists of a comprehensive audit, a member survey and interactive workshops.

Culture starts from the top. Which is why we have been working with leaders and chief executives. Their relationship and behaviour set the pattern for the entire authority. If ethical behaviour is on their agenda it will be on everybody's.



CPA – key lines of enquiry

Officers and members:

- treat each other with respect
- are clear about their ethical responsibilities
- exhibit the behaviours expected of them

That is why we have worked with the Audit Commission to add an ethical component to the capacity section of the new Comprehensive Performance Assessment. These are the essential tests.

We too have been scrutinised, as all regulators should be.



Graham Committee and ODPM Select Committee

Key questions:

- strategic regulator?
- local filtering?
- independent chairs of standards committees?
- more support and training?

We welcome Sir Alistair Graham's report and he will speak for himself. We also welcome the ODPM select committee's report. We will do all we can to implement the decisions the Minister has promised on both reports.

We are already rapidly turning ourselves into a strategic regulator, focusing on the most serious cases, reducing the size of our investigations team and refocusing our resources to support you in your core purpose of improving confidence in local democracy.

Central to this is the revision of the Code of Conduct. Thank you for your 1,200 thoughtful and thought-provoking responses. These were your headline messages.



Reviewing the Code

- 'A simpler, enabling Code'
- 'Councillors able to be community advocates'
- 'Confidentiality to be defined by the *Freedom of Information Act*'
- 'Public interest to be a defence'
- 'Personal and prejudicial interests to be simplified'
- 'Private life only an issue if a serious breach is concerned'

We have analysed your responses and agreed the scale and scope of change. We have shared this direction of travel with the Minister. Copies will be available outside and on our website. *[The report follows this transcript.]*

The devil is in the detail, but our overriding aim is to simplify and to liberalise. To underpin effective local democracy as it is experienced by local people and local communities. The way the Code of Conduct is applied is as important as what is written in it. That is as much a challenge for monitoring officers as for us. The clearer and simpler the Code, the easier it will be to get right in both the spirit and the letter.



Now it's your Code

And here is my promise this year.

As we remain committed to improving our own performance, as cases are increasingly handled by you locally, as the Code of Conduct increasingly becomes your Code that you have modified, as the need for effective ethical behaviour becomes universally accepted throughout local government, we will increasingly focus on ensuring that you are fit for purpose through support and through challenge.

The responsibility for the ethical agenda lies with us and with you: standards committee members, monitoring officers, chief executives and leaders. It is in your hands.