



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

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6 July 2009

TO:

INDEPENDENT MEMBERS: **MR CAILES (CHAIRMAN),  
MR HANMER (VICE-CHAIRMAN),  
PROF. CHESTER, DR HAYMAN AND  
MR PATTERSON**

COUNCILLORS: **MRS U ATHERLEY, S JONES, T RICE AND  
G M ROBERTS**

PARISH COUNCILLORS: **A CHEETHAM, R COADY AND M HAMMOND**

Dear member,

A meeting of the **STANDARDS COMMITTEE** will be held in the **COMMITTEE ROOM 1, 52 DERBY STREET, ORMSKIRK** on **TUESDAY 14 JULY 2009** at **4.00PM** at which your attendance is requested.

Yours faithfully,

William J Taylor  
Chief Executive

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

**1. APOLOGIES**

**2. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN**

Note: No other business is permitted unless, by reason of special circumstances, which shall be specified at the meeting, the Chairman is of the opinion that the item(s) should be considered as a matter of urgency.

- 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.  
**Page(s) 1 to 2**
- 4. MINUTES**  
To receive as a correct record the Minutes of the meeting of the Standards Committee held on Tuesday 19 May 2009.  
**Page(s) 3 to 6**
- 5. COMPLAINTS, REVIEWS AND INVESTIGATIONS - STATISTICS**  
To consider and note the update from the Council Secretary and Solicitor.  
**Page(s) 7 to 20**
- 6. STANDARDS BOARD FOR ENGLAND - STATISTICS**  
To consider and note the update from the Council Secretary and Solicitor.  
**Page(s) 21 to 26**
- 7. DECISION OF COUNCIL - 20 MAY 2009**  
To receive feedback from the Council Secretary and Solicitor and note the minute of Council.  
**Page(s) 27 to 28**
- 8. RECRUITMENT OF NEW INDEPENDENT MEMBERS**  
To consider the report of the Council Secretary and Solicitor. **Page(s) 29 to 30**
- 9. STANDARDS BOARD INTERVENTION, JOINT STANDARDS COMMITTEES AND DISPENSATIONS**  
To consider the report of the Council Secretary and Solicitor. **Page(s) 31 to 36**
- 10. STANDARDS BOARD GUIDANCE ON 'OTHER ACTION'**  
To consider and note the attached Guidance. **Page(s) 37 to 52**
- 11. CODE OF CONDUCT - MEMBERS' TRAINING - MONITORING**  
To consider the report of the Council Secretary and Solicitor. (TO FOLLOW)
- 12. WORK PROGRAMME 2009/10**  
To consider and note the updated Work Programme. **Page(s) 53 to 54**

**We can provide this document, upon request, on audiotape, in large print, in Braille and in other languages.**

**FIRE EVACUATION PROCEDURE: Please see attached sheet.**  
**MOBILE PHONES: These should be switched off at all meetings.**

*For further information, please contact:-  
Jacky Denning on 01695 577177 ext 5384  
or email*

Jacky.Denning@westlancs.gov.uk **FIRE PRECAUTIONS ACT 1971**

**FIRE EVACUATION PROCEDURE FOR MEETINGS WHERE OFFICERS ARE  
PRESENT  
(52 DERBY STREET, ORMSKIRK)**

**PERSON IN CHARGE:** Most Senior Officer present  
**FIRE MARSHAL:** Member Services Officer / Lawyer  
**DOOR WARDEN(S)** Usher / Caretaker

**IF YOU DISCOVER A FIRE**

1. Operate the nearest **FIRE CALL POINT** by breaking the glass.
2. Attack the fire with the extinguishers provided only if you have been trained and it is safe to do so. **Do not** take risks.

**ON HEARING THE FIRE ALARM**

1. Leave the building via the **NEAREST SAFE EXIT**. **Do not stop** to collect personal belongings.
2. Proceed to the **ASSEMBLY POINT** on the car park and report your presence to the **PERSON IN CHARGE**.
3. **DO NOT** return to the premises until authorised to do so by the **PERSON IN CHARGE**.

**NOTES:**

Officers are required to direct all visitors regarding these procedures i.e. exit routes and place of assembly.

The only persons not required to report to the Assembly Point are the Door Wardens.

**CHECKLIST FOR PERSON IN CHARGE**

1. Advise other interested parties present that you are the person in charge in the event of an evacuation.
2. Make yourself familiar with the location of the fire escape routes and inform any interested parties of the escape routes.
3. Make yourself familiar with the location of the assembly point and inform any interested parties of that location.
4. Make yourself familiar with the location of the fire alarm and detection control panel.
5. Ensure that the fire marshals and door wardens are aware of their roles and responsibilities.
6. Arrange for a register of attendance to be completed (if considered appropriate / practicable).

**IN THE EVENT OF A FIRE, OR THE FIRE ALARM BEING SOUNDED**

1. Ensure that the room in which the meeting is being held is cleared of all persons.
2. Evacuate via the nearest safe Fire Exit and proceed to the **ASSEMBLY POINT** in the car park.
3. Delegate a person at the **ASSEMBLY POINT** who will proceed to the **WARDENCALL SECTION** in Westec House in order to ensure that a back-up call is made to the **FIRE BRIGADE**.
4. Delegate another person to ensure that **DOOR WARDENS** have been posted outside the relevant Fire Exit Doors.

5. Ensure that the **FIRE MARSHAL** has reported to you on the results of his checks, i.e. that the rooms in use have been cleared of all persons.
6. If an Attendance Register has been taken, take a **ROLL CALL**.
7. Report the results of these checks to the Fire Brigade on arrival and inform them of the location of the **FIRE ALARM CONTROL PANEL**.
8. Authorise return to the building only when it is cleared to do so by the **FIRE BRIGADE OFFICER IN CHARGE**. Inform the **DOOR WARDENS** to allow re-entry to the building.

**NOTE:**

The Fire Alarm system will automatically call the Fire Brigade. The purpose of the 999 back-up call is to meet a requirement of the Fire Precautions Act to supplement the automatic call.

### **CHECKLIST FOR FIRE MARSHAL**

1. Carry out a physical check of the rooms being used for the meeting, including adjacent toilets, kitchen.
2. Ensure that **ALL PERSONS**, both officers and members of the public are made aware of the **FIRE ALERT**.
3. Ensure that **ALL PERSONS** evacuate **IMMEDIATELY**, in accordance with the **FIRE EVACUATION PROCEDURE**.
4. Proceed to the **ASSEMBLY POINT** and report to the **PERSON IN CHARGE** that the rooms within your control have been cleared.
5. Assist the **PERSON IN CHARGE** to discharge their duties.

It is desirable that the **FIRE MARSHAL** should be an **OFFICER** who is normally based in this building and is familiar with the layout of the rooms to be checked.

### **INSTRUCTIONS FOR DOOR WARDENS**

1. Stand outside the **FIRE EXIT DOOR(S)**
2. Keep the **FIRE EXIT DOOR SHUT**.
3. Ensure that **NO PERSON**, whether staff or public enters the building until **YOU** are told by the **PERSON IN CHARGE** that it is safe to do so.
4. If anyone attempts to enter the premises, report this to the **PERSON IN CHARGE**.
5. Do not leave the door **UNATTENDED**.

DECLARATION OF INTEREST - CHECKLIST FOR ASSISTANCE OF MEMBERS – 2007

Name: Councillor

Cabinet/Council/Committee:

Date:

Item No:

Item Title:

Nature of Interest:

**A Member with a personal interest in any business of the Council must disclose the existence and nature of that interest at commencement or when interest apparent except:**

- Where it relates to or is likely to affect a person described in 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose the existence and nature when you address the meeting on that business.
- Where it is a personal interest of the type mentioned in 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- Where sensitive information relating to it is not registered in the register, you must indicate that you have a personal interest, but need not disclose the sensitive information.

A Member with a prejudicial interest must withdraw, **either** immediately after making representations, answering questions or giving evidence where 4 below applies **or** when business is considered and must not exercise executive functions in relation to that business and must not seek to improperly influence a decision.

Please tick relevant boxes

Notes

|       | <b>General (not at overview &amp; scrutiny)</b>  |  | Notes  |
|-------|--|--|--|
| 1.    | I have a personal interest* but it is not prejudicial.   | <input type="checkbox"/>                                 | <i>You may speak and vote</i>  |
| 2.    | I have a personal interest* but do <u>not</u> have a prejudicial interest in the business as it relates to the functions of my Council in respect of:  |  |  |
| (i)   | Housing where I am a tenant of the Council, and those functions do not relate particularly to my tenancy or lease.   | <input type="checkbox"/>                                 | <i>You may speak and vote</i>  |
| (ii)  | school meals, or school transport and travelling expenses where I am a parent or guardian of a child in full time education, or are a parent governor of a school, and it does not relate particularly to the school which the child attends.  | <input type="checkbox"/>                                 | <i>You may speak and vote</i>  |
| (iii) | Statutory sick pay where I am in receipt or entitled to receipt of such pay.   | <input type="checkbox"/>                                 | <i>You may speak and vote</i>  |
| (iv)  | An allowance, payment or indemnity given to Members  | <input type="checkbox"/>                                 | <i>You may speak and vote</i>  |
| (v)   | Any ceremonial honour given to Members   | <input type="checkbox"/>                                 | <i>You may speak and vote</i>  |
| (vi)  | Setting Council tax or a precept under the LGFA 1992   | <input type="checkbox"/>                                 | <i>You may speak and vote</i>  |
| 3.    | I have a personal interest* and it is prejudicial <b>because</b> it affects my financial position or the financial position of a person or body described in 8 overleaf <b>and</b> 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 my judgement of the public interest<br><br><b>or</b><br>it relates to the determining of any approval consent, licence, permission or registration in relation to me or any person or body described in 8 overleaf <b>and</b> 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 my judgement of the public interest | <input type="checkbox"/><br><br><input type="checkbox"/> | <i>You cannot speak or vote and must withdraw unless you have also ticked 4 or 5 below</i><br><br><i>You cannot speak or vote and must withdraw unless you have also ticked 4 or 5 below</i> |

|    |  |                          |   |
|----|--|--------------------------|---|
| 4. | I have a personal and prejudicial interest in the business but I can attend to make representations, answer questions or give evidence as the public are also allowed to attend the meeting for the same purpose | <input type="checkbox"/> | <i>You may speak but must leave the room once you have finished and cannot vote</i> |
| 5. | A Standards Committee dispensation applies.  | <input type="checkbox"/> | <i>See the terms of the dispensation</i>  |

\* **“Personal Interest”** in the business of the Council means either it relates to or is likely to affect:

- 8(1)(a)(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body -
- (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
- of which you are a member or in a position of general control or management;
- (iii) any employment or business carried on by you;
- (iv) any person or body who employs or has appointed you;
- (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
- (vi) any person or body who has a place of business or land in your authority’s area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in your authority’s area in which you have a beneficial interest;
- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the authority’s area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer.

**or**

A decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision.

**“a relevant person”** means

- (a) a member of your family or any person with whom you have a close association, or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph 8(1)(a)(i) or (ii).

**“body exercising functions of a public nature”** means

Regional and local development agencies, other government agencies, other Councils, public health bodies, council-owned companies exercising public functions, arms length management organisations carrying out housing functions on behalf of your authority, school governing bodies.

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.

NB Section 21(13)(b) of the LGA 2000 overrides any Code provisions to oblige an executive member to attend an overview and scrutiny meeting to answer questions.

## STANDARDS COMMITTEE

**HELD:** **ITEM 7C**  
**Start:** **19 MAY 2009**  
**Finish:** 4.00pm  
4.50pm

### PRESENT

Independent Members: J Cailes (Chairman)  
P Hanmer (Vice Chairman)  
R Chester  
P Hayman  
R Patterson

Councillors Mrs U Atherley  
S Jones  
T Rice  
G M Roberts

Parish Councillors M Hammond  
D Kitson

Officers: Mrs G L Rowe, Council Secretary & Solicitor  
Mrs J Denning, Assistant Member Services Manager

### 43. APOLOGIES

An apology for absence was received on behalf of Parish Councillor Andrew Cheetham.

### 44. URGENT BUSINESS, IF ANY, INTRODUCED BY THE CHAIRMAN

There were no items of urgent business.

### 45. DECLARATIONS OF INTEREST

There were no declarations of interest.

### 46. MINUTES

RESOLVED: That the minutes of the meeting of the Standards Committee held on 7 April 2009 be approved as a correct record and signed by the Chairman.

### 47. STANDARDS BOARD ANNUAL RETURN - DEADLINE 15 MAY 2009

The Committee considered the report of the Council Secretary and Solicitor, as contained on pages 235 to 242 of the Book of Reports, which detailed the response provided in the Standards Board Online Annual Return 2008/09.

RESOLVED: That the contents of the Standards Board Online Annual Return 2008/09 be noted.

**48. NEW GUIDANCE FROM THE STANDARDS BOARD ON 'OTHER ACTION' - DUE MAY 2009**

The Council Secretary and Solicitor advised that she was still waiting for the new Guidance.

**49. NEW CODE OF CONDUCT AND SECTION 183(4) OF THE LGPIH ACT 2007 RE: APPLICATION OF THE CODE TO 'PRIVATE CAPACITY'**

The Council Secretary and Solicitor advised that the new Code of Conduct had not yet been received.

**50. STANDARDS COMMITTEES - LOCAL DETERMINATIONS AND COSTS**

The Council Secretary and Solicitor referred to a letter received and detailed on page 243 of the Book of Reports from the Department of Communities and Local Government in respect of local determinations and associated costs.

RESOLVED: That the letter from the Department of Communities and Local Government be noted.

**51. MINUTES OF SUB-COMMITTEES**

The Committee considered the minutes of the Review Sub-Committee meeting held on 28 April 2009.

RESOLVED: That the minutes of the Review Sub-Committee be noted.

**52. EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 7C of Part 1 of Schedule 12A of that Act and as, in all the circumstances of the case, the public interest in maintaining the exemption under Schedule 12A outweighs the public interest in disclosing the information.

Independent Member Mr P Hanmer (who was in the Chair for the next item), Councillor S Jones, Parish Councillor D Kitson, Mrs G Rowe, Council Secretary and Solicitor and Mrs J Denning, Assistant Member Services Manager remained in the room for consideration of the next two items.

**53. LOCAL INVESTIGATION - INV 2 - LG5/13 - DECISION 2**

The Committee considered the report of the Council Secretary and Solicitor, as contained on pages 247 to 280 of the Book of Reports, which presented a copy of the final report arising from the local investigation in respect of an allegation by Parish Councillor Marilyn Westley that Parish Councillor Doreen Stephenson may have failed to comply with Halsall Parish Council's Code of Conduct.



RESOLVED: That the matter be considered at a hearing of the Standards Committee, conducted under Regulation 18 of the Standards Committee (England) Regulations 2008.

**54. LOCAL INVESTIGATION - INV 3 - LG5/14 - DECISION 1**

The Committee considered the report of the Council Secretary and Solicitor, as contained on pages 281 to 305 of the Book of Reports, which presented a copy of the final report arising from the local investigation in respect of an allegation by Parish Councillor Marilyn Westley that Parish Councillor John Stephenson may have failed to comply with Halsall Parish Council's Code of Conduct.

- RESOLVED: A. That the Investigating Officer's finding that Parish Councillor John Stephenson has not failed to comply with the Code of Conduct for Members, be accepted.
- B. That the reasons for the finding be agreed, as set out in the Notice of Finding.
- C. That if the subject member does not object to publication of the Notice of Finding, it is appropriate to also publish the notice on the Council's website.

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THE CHAIRMAN



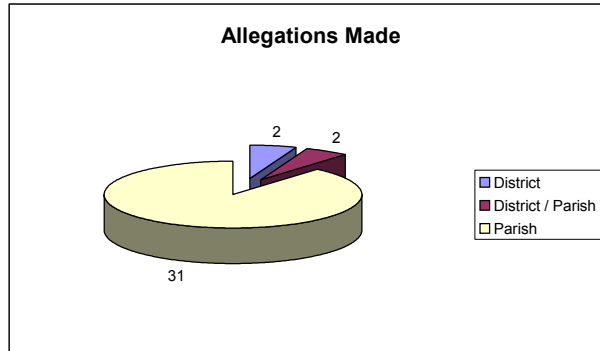
**West Lancashire District Council**

**Complaints to the Standards Committee 2008/2009**

**As at 18/03/2009**

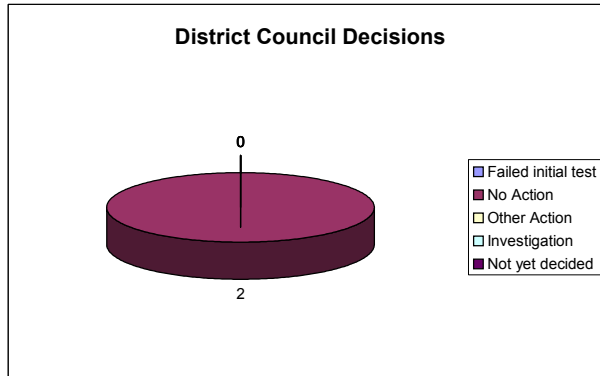
**Allegations made**

|                   |           |
|-------------------|-----------|
| District          | 2         |
| District / Parish | 2         |
| Parish            | 31        |
| <b>Total</b>      | <b>35</b> |



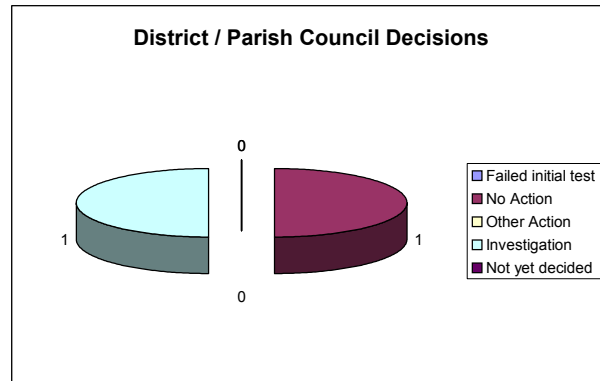
**District Council Decisions**

|                     |          |
|---------------------|----------|
| Failed initial test | 0        |
| No Action           | 2        |
| Other Action        | 0        |
| Investigation       | 0        |
| Not yet decided     | 0        |
| <b>Total</b>        | <b>2</b> |



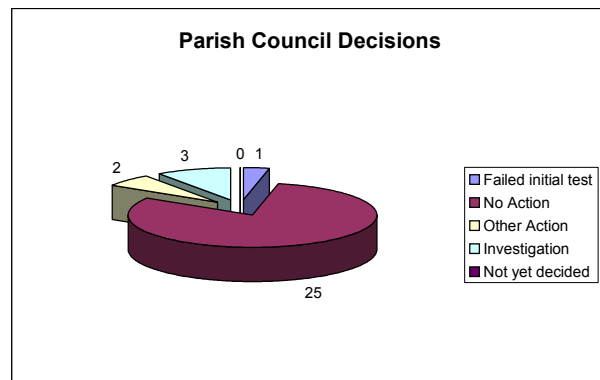
**District / Parish Council Decisions**

|                     |          |
|---------------------|----------|
| Failed initial test | 0        |
| No Action           | 1        |
| Other Action        | 0        |
| Investigation       | 1        |
| Not yet decided     | 0        |
| <b>Total</b>        | <b>2</b> |



**Parish Council Decisions**

|                     |           |
|---------------------|-----------|
| Failed initial test | 1         |
| No Action           | 25        |
| Other Action        | 2         |
| Investigation       | 3         |
| Not yet decided     | 0         |
| <b>Total</b>        | <b>31</b> |





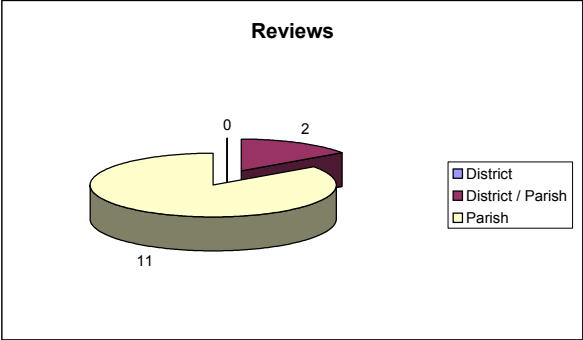
**West Lancashire District Council**

**Reviews - Standards Committee 2008/2009**

**As at 30/03/2009**

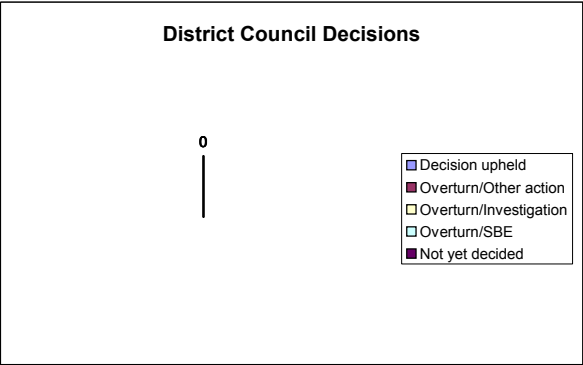
**Reviews**

|                   |           |
|-------------------|-----------|
| District          | 0         |
| District / Parish | 2         |
| Parish            | 11        |
| <b>Total</b>      | <b>13</b> |



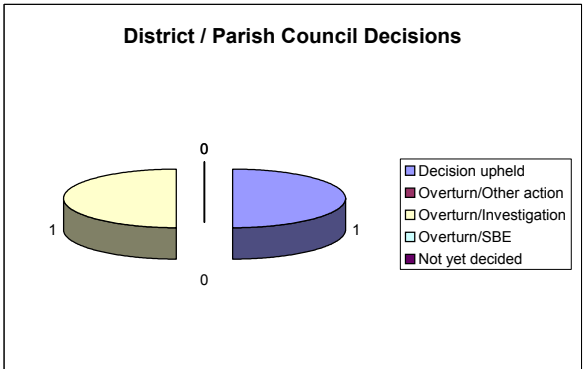
**District Council Decisions**

|                        |          |
|------------------------|----------|
| Decision upheld        | 0        |
| Overturn/Other action  | 0        |
| Overturn/Investigation | 0        |
| Overturn/SBE           | 0        |
| Not yet decided        | 0        |
| <b>Total</b>           | <b>0</b> |



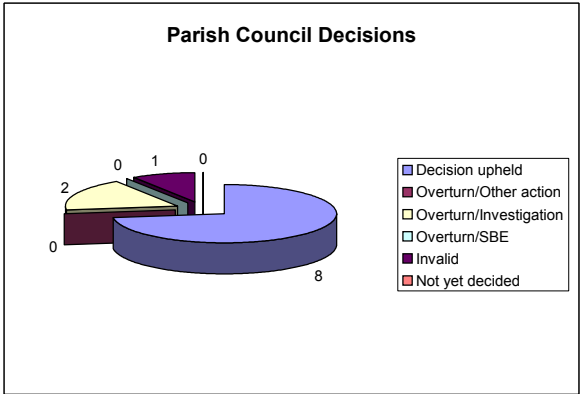
**District / Parish Council Decisions**

|                        |          |
|------------------------|----------|
| Decision upheld        | 1        |
| Overturn/Other action  | 0        |
| Overturn/Investigation | 1        |
| Overturn/SBE           | 0        |
| Not yet decided        | 0        |
| <b>Total</b>           | <b>2</b> |



**Parish Council Decisions**

|                        |           |
|------------------------|-----------|
| Decision upheld        | 8         |
| Overturn/Other action  | 0         |
| Overturn/Investigation | 2         |
| Overturn/SBE           | 0         |
| Invalid                | 1         |
| Not yet decided        | 0         |
| <b>Total</b>           | <b>11</b> |





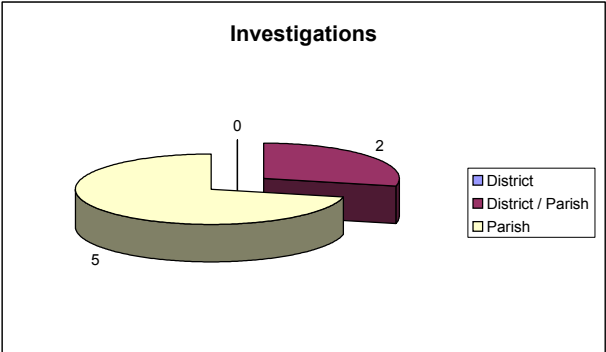
**West Lancashire District Council**

**Investigations - Standards Committee 2008/2009**

**As at 20/05/2009**

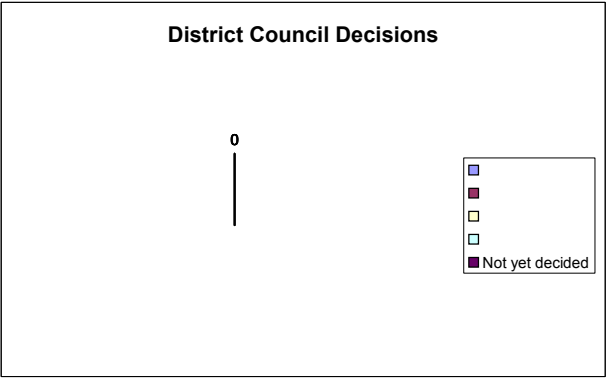
**Investigations**

|                   |   |
|-------------------|---|
| District          | 0 |
| District / Parish | 2 |
| Parish            | 5 |
| Total             | 7 |



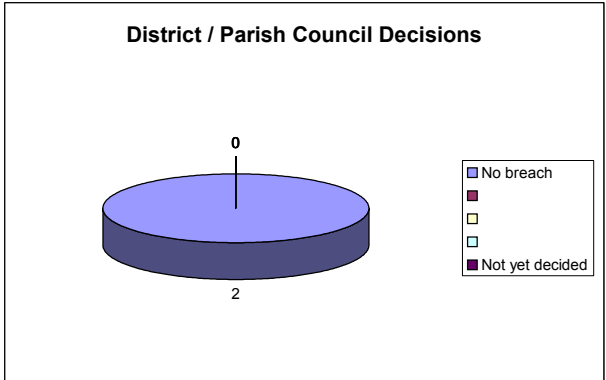
**District Council Decisions**

|                 |   |
|-----------------|---|
|                 | 0 |
|                 | 0 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 0 |
| Total           | 0 |



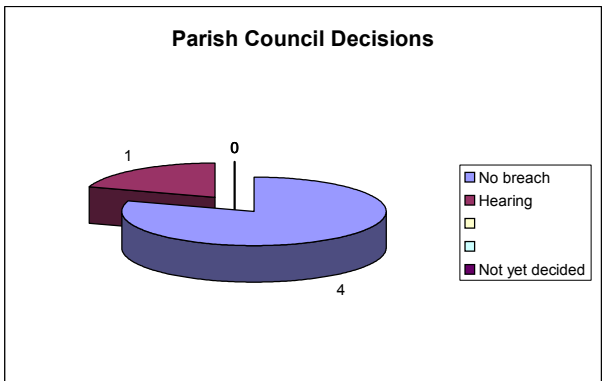
**District / Parish Council Decisions**

|                 |   |
|-----------------|---|
| No breach       | 2 |
|                 | 0 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 0 |
| Total           | 2 |



**Parish Council Decisions**

|                 |   |
|-----------------|---|
| No breach       | 4 |
| Hearing         | 1 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 0 |
| Total           | 5 |







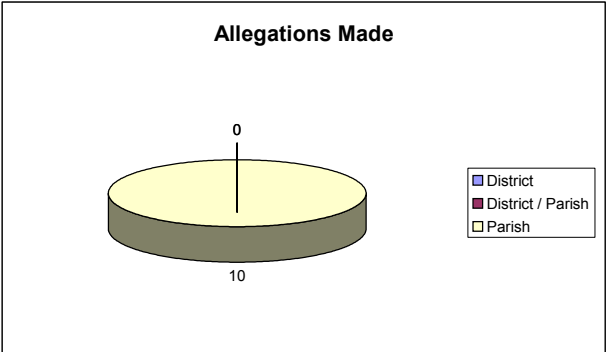
**West Lancashire District Council**

**Complaints to the Standards Committee 2009/2010**

**As at 02/07/2009**

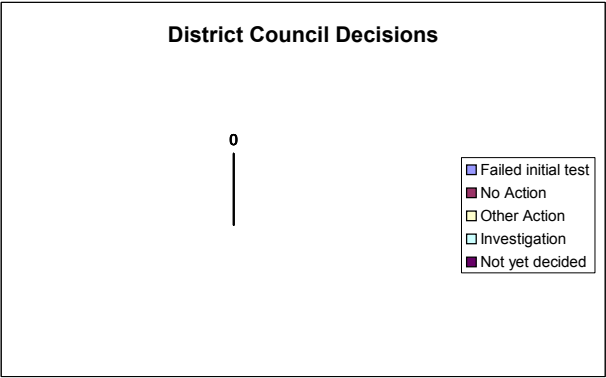
**Allegations made**

|                   |           |
|-------------------|-----------|
| District          | 0         |
| District / Parish | 0         |
| Parish            | 10        |
| <b>Total</b>      | <b>10</b> |



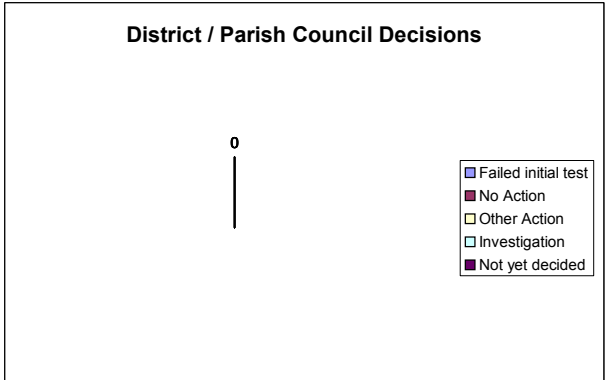
**District Council Decisions**

|                     |          |
|---------------------|----------|
| Failed initial test | 0        |
| No Action           | 0        |
| Other Action        | 0        |
| Investigation       | 0        |
| Not yet decided     | 0        |
| <b>Total</b>        | <b>0</b> |



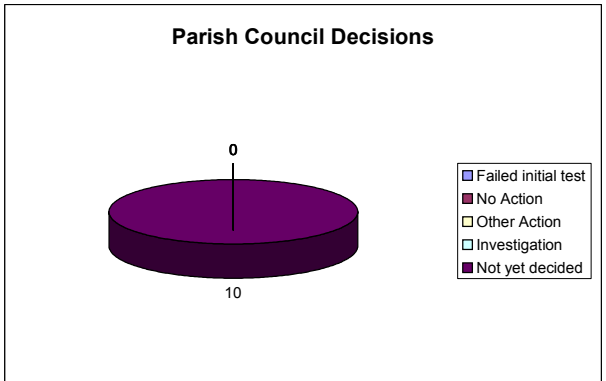
**District / Parish Council Decisions**

|                     |          |
|---------------------|----------|
| Failed initial test | 0        |
| No Action           | 0        |
| Other Action        | 0        |
| Investigation       | 0        |
| Not yet decided     | 0        |
| <b>Total</b>        | <b>0</b> |



**Parish Council Decisions**

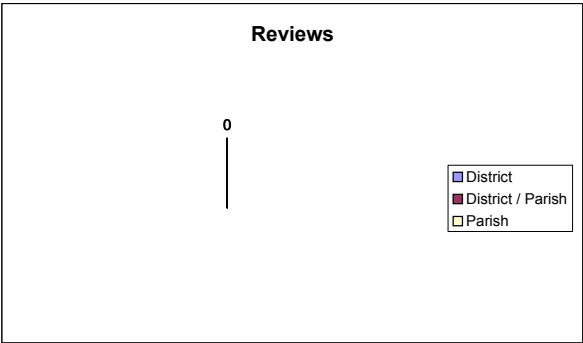
|                     |           |
|---------------------|-----------|
| Failed initial test | 0         |
| No Action           | 0         |
| Other Action        | 0         |
| Investigation       | 0         |
| Not yet decided     | 10        |
| <b>Total</b>        | <b>10</b> |





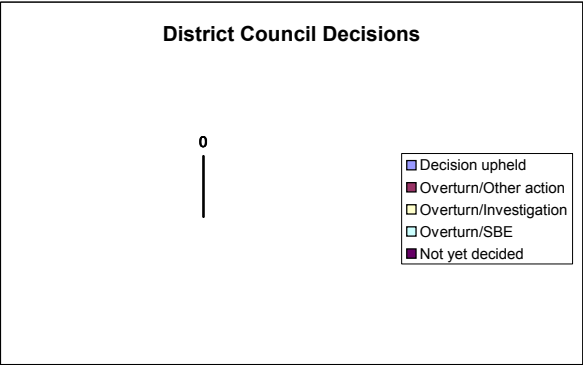
**Reviews**

|                   |          |
|-------------------|----------|
| District          | 0        |
| District / Parish | 0        |
| Parish            | 0        |
| <b>Total</b>      | <b>0</b> |



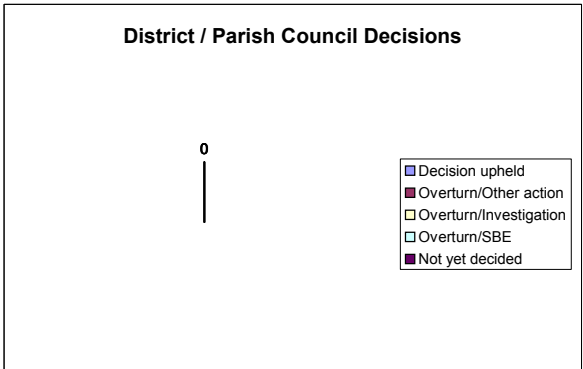
**District Council Decisions**

|                        |          |
|------------------------|----------|
| Decision upheld        | 0        |
| Overturn/Other action  | 0        |
| Overturn/Investigation | 0        |
| Overturn/SBE           | 0        |
| Not yet decided        | 0        |
| <b>Total</b>           | <b>0</b> |



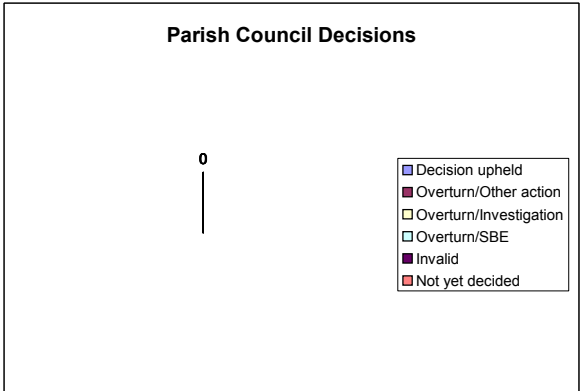
**District / Parish Council Decisions**

|                        |          |
|------------------------|----------|
| Decision upheld        | 0        |
| Overturn/Other action  | 0        |
| Overturn/Investigation | 0        |
| Overturn/SBE           | 0        |
| Not yet decided        | 0        |
| <b>Total</b>           | <b>0</b> |



**Parish Council Decisions**

|                        |          |
|------------------------|----------|
| Decision upheld        | 0        |
| Overturn/Other action  | 0        |
| Overturn/Investigation | 0        |
| Overturn/SBE           | 0        |
| Invalid                | 0        |
| Not yet decided        | 0        |
| <b>Total</b>           | <b>0</b> |





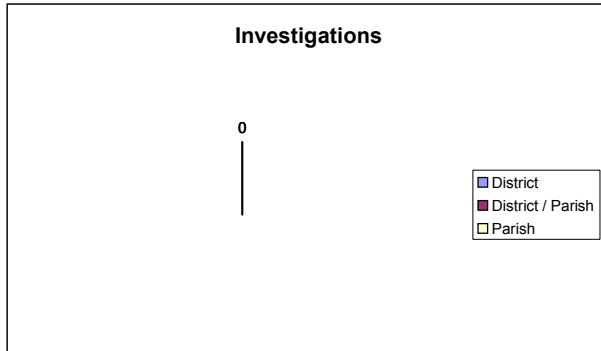
**West Lancashire District Council**

**Investigations - Standards Committee 2009/2010**

**As at 20/05/2009**

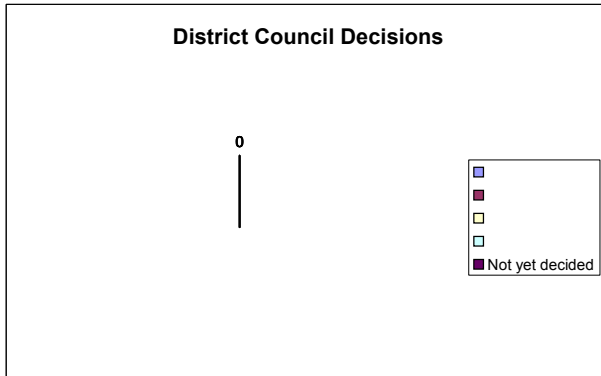
**Investigations**

|                   |   |
|-------------------|---|
| District          | 0 |
| District / Parish | 0 |
| Parish            | 0 |
| Total             | 0 |



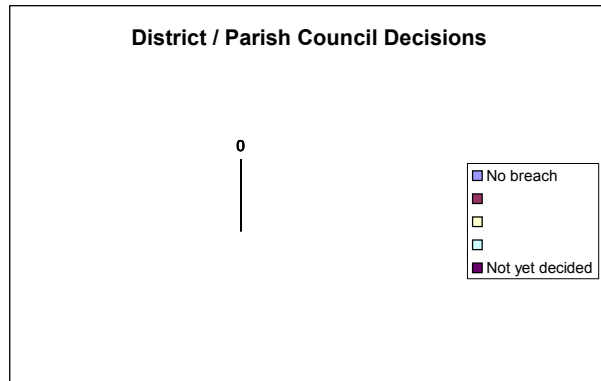
**District Council Decisions**

|                 |   |
|-----------------|---|
|                 | 0 |
|                 | 0 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 0 |
| Total           | 0 |



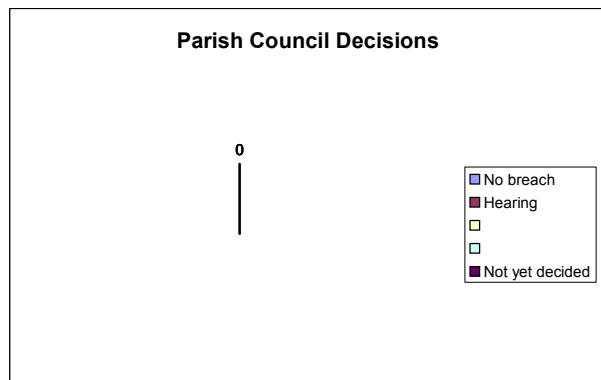
**District / Parish Council Decisions**

|                 |   |
|-----------------|---|
| No breach       | 0 |
|                 | 0 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 0 |
| Total           | 0 |



**Parish Council Decisions**

|                 |   |
|-----------------|---|
| No breach       | 0 |
| Hearing         | 0 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 0 |
| Total           | 0 |





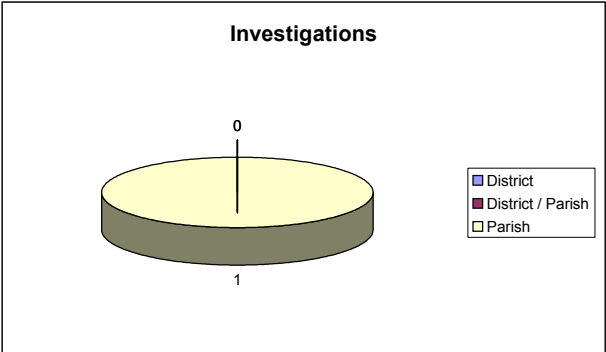
**West Lancashire District Council**

**Hearings - Standards Committee 2009/2010**

**As at 12/05/2009**

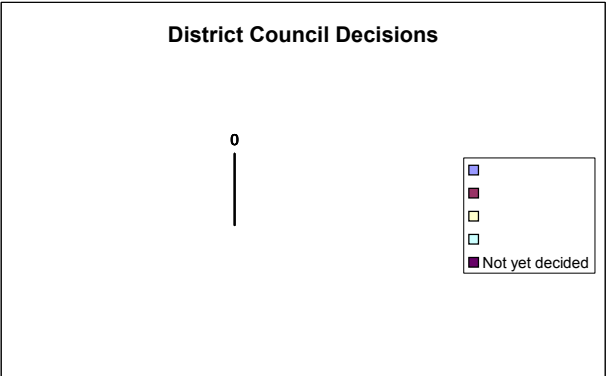
**Hearings**

|                   |   |
|-------------------|---|
| District          | 0 |
| District / Parish | 0 |
| Parish            | 1 |
| Total             | 1 |



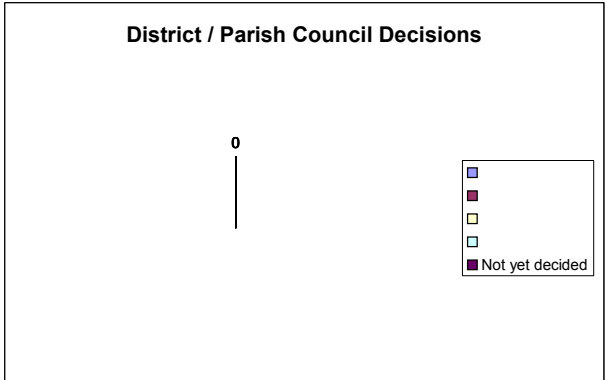
**District Council Decisions**

|                 |   |
|-----------------|---|
|                 | 0 |
|                 | 0 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 0 |
| Total           | 0 |



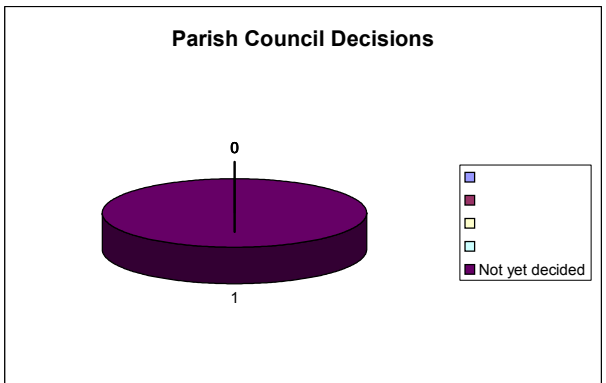
**District / Parish Council Decisions**

|                 |   |
|-----------------|---|
|                 | 0 |
|                 | 0 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 0 |
| Total           | 0 |



**Parish Council Decisions**

|                 |   |
|-----------------|---|
|                 | 0 |
|                 | 0 |
|                 | 0 |
|                 | 0 |
| Not yet decided | 1 |
| Total           | 1 |







## Composition of standards committees

| Size of standards committees   | Number of members (Q1) | Number of members (Q 2) | Number of members (Q 3) | Number of members (Q 4) |
|--|------------------------|-------------------------|-------------------------|-------------------------|
| Largest standards committee  | 18                     | 20                      | 20                      | 20                      |
| Smallest standards committee   | 3                      | 3                       | 4                       | 4                       |
| Average size of a standards committee                                | 9                      | 10                      | 10                      | 10                      |
| Average number of independent members                                | 3                      | 4                       | 4                       | 4                       |
| Average number of parish representatives (authorities with parishes) | 3                      | 3                       | 3                       | 3                       |

| Independent members                   | Number (Q1) | Number (Q2) | Number (Q3) | Number (Q4) |
|---------------------------------------|-------------|-------------|-------------|-------------|
| Most independent members              | 9           | 9           | 8           | 8           |
| Least independent members             | 1           | 1           | 1           | 1           |
| Average number of independent members | 3           | 4           | 4           | 4           |

| Parish information   | Number (Q1) | Number (Q2) | Number (Q3) | Number (Q4) |
|--|-------------|-------------|-------------|-------------|
| Most parishes in an authority                                    | 189         | 189         | 189         | 189         |
| Fewest parishes in an authority                                  | 1           | 1           | 1           | 1           |
| Average number of parishes per authority                         | 33          | 33          | 32          | 32          |
| Average number of parish representatives on standards committees | 3           | 3           | 3           | 3           |
| Most parish representatives                                      | 7           | 8           | 8           | 8           |
| Fewest parish representatives                                    | 1           | 1           | 1           | 1           |

- 1 authority reported that they do not have an independent chair
- All authorities with parishes have parish representation on their standards committee

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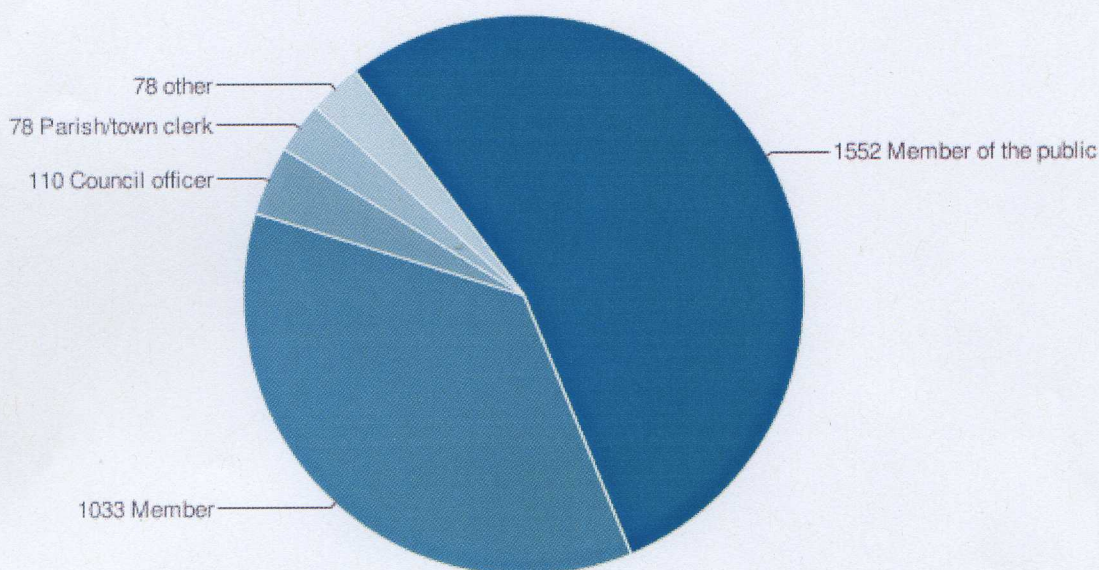


## Source of complaint

The following statistics were compiled from data submitted on quarterly return forms, covering the period 8 May to 30 March 2009.

Monitoring officers have reported a total of 2863 cases received between 8 May and 30 March.

The sources of these are broken down as follows:



The split of cases by authority type is as follows:

| Authority types      | Number of cases | Average number of cases per authority |
|----------------------|-----------------|---------------------------------------|
| County Council       | 91              | 2.6                                   |
| District Council     | 1796            | 7.5                                   |
| London Borough       | 106             | 3.4                                   |
| Metropolitan Council | 310             | 9.1                                   |
| Unitary              | 528             | 11.2                                  |
| Other                | 32              | 0.4                                   |

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## Initial assessment decisions

The following statistics were compiled from data submitted on quarterly return forms, covering the period 8 May 2008 to 30 March 2009.

A decision about whether to refer had not been made on 170 (5.9%) of the cases received so far. The breakdown of decisions for the other 2693 cases is as follows:

| Initial assessments                     | Number | Percentage (%) |
|---|--------|----------------|
| Referred to another authority           | 6      | 0.2            |
| Referred to Standards Board             | 166    | 6.2            |
| Referred to MO for alternative measures | 327    | 12.1           |
| Referred to MO for investigation        | 780    | 29.0           |
| No further action                       | 1414   | 52.5           |

### Timeliness of decisions

The guidance indicates that it should take, on average, 20 working days from receipt of a complaint to a referral decision being made.

- So far, the average length of time a case takes from date of receipt to referral decision is **20 working days**.
- However, **848** cases took longer than 20 days for a referral decision to be made (**31%**)

### Review requests

There have been **344** requests for reviews of referral decisions so far. This shows that a review is requested in **37%** of cases where the initial assessment decision is to not refer the complaint any further.

**384** review requests have been assessed. **22** resulted in the case being referred for investigation (**6%**) and **3** resulted in the case being referred to the Standards Board (**less than 1%**).

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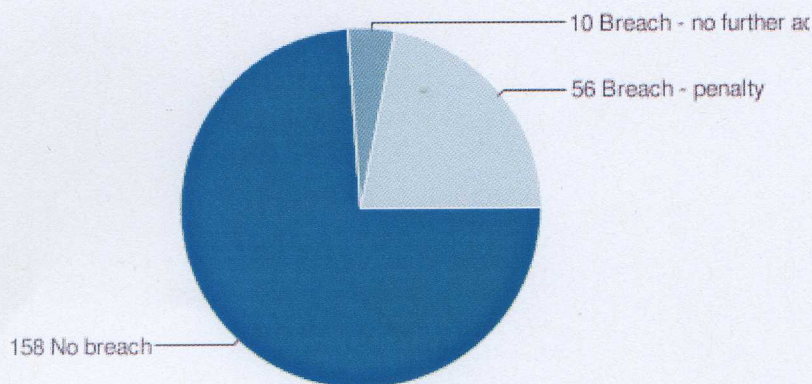


## Investigations

There are **233** cases referred for investigation that have standards committee determination meeting dates recorded on quarterly returns.

The average length of time between the date of the decision to investigate and the date of the determination meeting is **100** working days. This figure discounts cases that are recorded as 1 day or less from decision to determination.

There are **224** cases with investigation outcomes recorded on quarterly returns. The breakdown of these is:



Percentages are:

| Percentage (%) | Outcome                       |
|----------------|-------------------------------|
| 71             | no breach of the Code         |
| 4              | breach but no further action. |
| 25             | breach with penalty           |

There are **132** breaches of the Code recorded under the **66** cases that were either breach with penalty or breach but no further action.

Parts of the Code that breaches are recorded against are listed below, sorted in descending order of number of occurrences. Failure to disclose a personal interest is the most common part of the Code that is breached.

| Part of the code | Number of occurrences | Code description                          |
|------------------|-----------------------|---|
| Part 1 3(1)      | 37                    | You must treat others with respect        |
|                  |                       | You must not conduct yourself in a manner |



|                 |    |  |
|-----------------|----|--|
| Part 1 5        | 28 | which could reasonably be regarded as bringing your office or authority into disrepute   |
| Part 2 9(1)     | 16 | Where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.   |
| Part 1 4(a)     | 11 | You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature   |
| Part 2 12(1)(a) | 11 | Where you have a prejudicial interest in any business of your authority you must withdraw from the room or chamber where a meeting considering the business is being held  |
| Part 1 3(2)(b)  | 7  | You must not bully any person  |
| Part 1 3(2)(c)  | 5  | You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct.   |
| Part 1 6(b)     | 5  | You must, when using or authorising the use by others of the resources of your authority, act in accordance with your authority's reasonable requirements, ensure that such resources are not used improperly for political purposes (including party political purposes); and have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986(15). |
| Other           | 4  |  |
| Part 1 6(a)     | 3  | You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage  |
| Part 1 3(2)(d)  | 2  | You must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.   |
| Part 1 3(2)(a)  | 1  | You must not do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006(14))   |
|                 |    | Where you have a prejudicial interest in any business of your authority you must not seek improperly to influence a decision about that  |



|                 |   |   |
|-----------------|---|---|
| Part 2 12(1)(c) | 1 | business  |
|                 |   | Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise. |
| Part 2 12(2)    | 1 |   |

As data about investigations mounts up over the next few quarters, more detailed analysis will be provided, including splits by authority type, region etc. to pick up on any emerging patterns and themes.

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**11. STANDARDS COMMITTEE - MEMBERSHIP, APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN ESTABLISHMENT OF CONSIDERATION SUB-COMMITTEE**

In a report contained on pages 29 to 34 of the Book of Reports, the Council Secretary and Solicitor asked the Council to consider the membership of the Standards Committee and the appointment of the Chairman and Vice Chairman of that Committee for 2009/10.

She went on to advise that one of the Parish Council representatives, Councillor David Kitson, had resigned from the Committee and that in accordance with the arrangements for the filling of vacancies, she had sought nominations from, and subsequently conducted a ballot of, the Parish Councils. In this latter respect she advised that Councillor Robert Coady of Downholland Parish Council had received the highest number of votes.

- RESOLVED
- A. That the Committee continues to comprise 12 members, namely 5 Independent Members, 3 Parish Councillor representatives, 2 Conservative and 2 Labour Members.
  - B. That Paul Hanmer be appointed to serve for a further two-year term as an Independent Member on the Standards Committee until the date of the Annual Meeting of the Council in May 2011.
  - C. That Parish Councillor David Kitson be thanked for his service on the Standards Committee and Parish Councillor Robert Coady be appointed to serve for a three year term as a Parish Council representative on the Standards Committee, until the date of the Annual Meeting of the Council in May 2012, and Parish Councils be advised accordingly.
  - D. That the appointment of all other Members of the Standards Committee be as indicated on the Appendix circulated earlier in the meeting.
  - E. That John Cailles and Paul Hanmer be appointed as Chairman and Vice-Chairman respectively for the period ending with the next Annual Meeting of the Council.
  - F. That a Consideration Sub-Committee be established by the Standards Committee comprising 3 Members selected by the Council Secretary and Solicitor, in consultation with the Chairman of the Standards Committee, with the Terms of Reference and authority set out in paragraph 8.2 of the report. The Sub-Committee to have an Independent Chairman, one elected Member and at least one Parish Representative when a Parish Council matter is being considered.
  - G. That the Local Determination/Investigation Hearings Sub-Committee be renamed the Hearings Sub-Committee with the updated Terms of Reference and authority be amended as set out in paragraph 8.3 of the report, Membership arrangements to remain the same.







**AGENDA ITEM: 8**

**STANDARDS COMMITTEE:**

**14 July 2009**

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**Report of: Council Secretary and Solicitor**

**Contact for further information: Mrs G L Rowe (Extn. 5004)  
(E-mail: [gill.rowe@westlancs.gov.uk](mailto:gill.rowe@westlancs.gov.uk))**

---

**SUBJECT: RECRUITMENT OF FUTURE INDEPENDENT MEMBERS**

---

Wards affected: Borough wide

**1.0 PURPOSE OF THE REPORT**

1.1 To invite applications from those willing to become Independent Members of the Standards Committee, to interview them and select new Independent Members for appointment by Council who can start their training and then become future Independent Members when the relevant terms of office of existing Independent Members expire.

**2.0 RECOMMENDATIONS**

2.1 That the Council Secretary and Solicitor start the process of recruiting new Independent Members in early Autumn 2009.

---

**3.0 RECRUITMENT**

3.1 The terms of office of Professor Roy Chester and Dr. Peter Hayman expire in May 2010. In order to appoint suitably trained candidates to these positions it would be helpful to start the recruitment process in early Autumn with a view to Council making the appointments in February to take effect from May 2010. This will permit training to take place between February and May so that new independent Members can take up their roles effectively in the new municipal year. Mentoring and knowledge transfer from our existing Independent Members would be most helpful.

3.2 The Council has established a Recruitment of Independent Members Panel to assist with the process.

#### **4.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

4.1 There are no significant sustainability or community strategy implications.

#### **5.0 FINANCIAL AND RESOURCE IMPLICATIONS**

5.1 The recruitment process will be contained within existing resources.

#### **6.0 RISK ASSESSMENT**

6.1 The statutory processes and guidelines for the recruitment of Independent Members must be followed.

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#### **Background Documents**

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

#### **Equality Impact Assessment**

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

#### **Appendices**

None.



**AGENDA ITEM: 9**

**STANDARDS COMMITTEE:  
14 July 2009**

---

**Report of: Council Secretary and Solicitor**

**Contact for further information: Mrs G L Rowe (Extn 5004)  
(E-mail: [gill.rowe@westlancs.gov.uk](mailto:gill.rowe@westlancs.gov.uk))**

---

**SUBJECT: STANDARDS BOARD INTERVENTION, JOINT STANDARDS  
COMMITTEES AND DISPENSATIONS**

---

Wards affected: Borough Wide

**1.0 PURPOSE OF THE REPORT**

1.1 To advise Members of the Standards Committee (Further Provisions) (England) Regulations 2009 (SI 2009/1255), in force from 15 June 2009, which make provision for the Standards Board for England to suspend the functions of a local Standards Committee where the Committee is failing to perform its functions satisfactorily, give a power to establish Joint Standards Committees, and extend the power of Standards Committees to give members dispensations where they would otherwise be prohibited from participating on a matter because of a prejudicial interest.

**2.0 RECOMMENDATION**

2.1 That the Council Secretary and Solicitor circulate a copy of this report to all members so that they are aware of the new provisions.

---

**3.0 SUSPENSION OF STANDARDS COMMITTEE FUNCTIONS**

3.1 The function of initial assessment of complaints of breach of the Code of Conduct by members was transferred from the Standards Board to the Standards Committee (or rather the Assessment Sub-Committee) from 8 May 2008. Most local authorities have taken on this new responsibility and are discharging this function effectively, but the regulations now give a power for the Standards Board to intervene in an individual authority if that were necessary.

3.2 An intervention can be triggered by the Standards Board where:

- (a) It is the view that the authority's Standards Committee has failed:
- to have regard to SBE guidance;
  - to comply with a direction from SBE;
  - to carry out its functions within a reasonable time or in a reasonable manner;
- (b) it is of the view that the authority's Monitoring Officer has failed to carry out his/her functions within a reasonable time or in a reasonable manner;
- (c) the authority or its Standards Committee has requested the Standards Board to intervene.

3.3 Where the Standards Board considers intervention, it must give the authority notice of its intentions and reasons and give the authority at least 28 days to respond before making a direction. The effect of a direction is to transfer the initial assessment function to either the Standards Board itself, or to the Standards Committee of another named authority ("the substitute authority"). In practice, as the Standards Board is not staffed up to resume the initial assessment function, the preferred route is to transfer the function to a substitute authority, but that is likely to be dependent on the two authorities reaching agreement on costs.

3.4 During the period of the intervention, the Standards Board, or the Standards Committee of the other named authority, would undertake the initial assessment and review in exactly the same manner as the original authority, and can decide to refer the allegation for a local or a Standards Board investigation, alternative action or no action, as appropriate. The intervention is strictly in respect of the initial assessment function, so the regulations give a discretion to the Standards Board to use their own investigators and the Adjudication Panel for hearings (or the substitute authority to use its own Monitoring Officer and Hearings Sub-Committee) or to use the Monitoring Officer and/or the Monitoring Officer and/or Hearings Sub-Committee of the original authority if that is appropriate. An intervention can be terminated by the Standards Board at any time.

3.5 Guidance about establishing Joint Standards Committees has been issued by the Standards Board.

#### **4.0 JOINT STANDARDS COMMITTEE**

4.1 The Regulations give a discretion for two or more local authorities to set up a Joint Standards Committee, and make it clear that such a Joint Standards Committee can be established to discharge all of each participating authority's standards functions, or can be established to discharge just some of the authorities' standards functions, such that each authority retains its own Standards Committee to discharge those standards functions which have not been allocated to the Joint Committee. Accordingly, authorities might agree to establish a Joint Standards Committee which would establish an Assessment and

a Review Sub-Committee, but each retain their own Standards Committees to discharge the functions of conducting hearings, providing member training and promoting high standards of conduct. But where all standards functions are allocated to the Joint Standards Committee, then participating authorities would no longer maintain their own separate Standards Committees. Where a function is allocated to the Joint Standards Committee, it cannot then be discharged by the Standards Committee of an individual participating authority.

4.2 Where authorities wish to establish a Joint Standards Committee, the full Council of each participating authority would need to resolve:

- to establish the Joint Standards Committee;
- which standards functions are to be allocated to the Joint Committee and which, if any, are to be retained by the authority's own Standards Committee;
- the administrative arrangements to support the Joint Standards Committee;
- whether standards complaints should be addressed directly to the Joint Standards Committee, or should continue to be addressed to the individual authority;
- the number of members, including Independent and Parish members, to be appointed to the Joint Standards Committee by each participating authority, and their terms of office;
- make provision for the Joint Standards Committee to appoint members to its Referrals, Review and/or Hearings Sub-Committees, as required;
- provide for the payment of allowances to members of the Joint Standards Committee;
- provide a procedure for an authority to withdraw from the Joint Standards Committee; and
- provide how the costs incurred by the Joint Standards Committee shall be shared between the participating authorities (or in default to be determined by an arbitrator).

## **5.0 DISPENSATIONS**

5.1 The original 2002 Dispensations Regulations provided that a member who had a prejudicial interest in a matter which was coming before the Council could apply to the Standards Committee for a dispensation, and that the Standards Committee could give a dispensation to allow the member to speak and to vote on the matter at meetings. The Regulations specified two grounds for dispensation:

- a. the first ground, repeated in the new Regulations, was that the business of the authority would be impeded because more than 50% of the members of the decision-making body (Council, Committee, Sub-Committee or Cabinet) would otherwise be prohibited from voting on the matter;
- b. the Regulations got the second ground wrong, by providing that it would apply where, because of the prejudicial interests of members, the business of the authority would be impeded because the authority was unable to comply with the proportionality requirements for Committees or Sub-

Committees. In practice, the proportionality rules apply only to the process of appointment of Committees and Sub-Committees, and not to attendance at individual meetings, so this ground was ineffective.

- 5.2 The Regulations now re-state the second ground to apply where the business of the authority will be impeded because the absence of members as a consequence of prejudicial interests would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting.
- 5.3 Where one or more members have made a written application for a dispensation, setting out why they consider that a dispensation would be desirable, the Standards Committee may only grant a dispensation if it is of the opinion that it is appropriate to grant a dispensation. A dispensation can be granted for a particular meeting or for a period, not exceeding four years. A dispensation cannot be granted for a member who is prohibited from participating at an Overview and Scrutiny Committee by virtue of having been involved in taking the original decision, or for a Cabinet Member for the exercise of delegated powers (on the basis that the appropriate course would be to refer the matter to the Leader or to full Cabinet for decision). All dispensations are then entered in the register of members' interests.
- 5.4 In practice, the grant of dispensations will continue to be problematic because members are rarely aware of the numbers of members who are going to be debarred from the consideration of a particular matter by reason of prejudicial interests until it is too late to call a Standards Committee to consider their requests for dispensation before the meeting takes place. The re-drafted text of the second ground for a dispensation would suggest that a dispensation can now only be granted where the request is supported by clear evidence that voting at the meeting on this item will be conducted on strict party lines, and that the Standards Committee should only grant the minimum number of dispensations necessary to secure that the same result is achieved as would have been achieved had no members had prejudicial interests (i.e. that the majority party, if any, secures a majority of votes, but not that it secures the same degree of majority as it would otherwise have secured).
- 5.5 Guidance has been issued by the Standards Board on dispensations to reflect the new Regulations.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 6.1 There are no significant sustainability or community strategy implications.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 There are no significant financial and resource implications directly arising from this report.

## **8.0 RISK ASSESSMENT**

- 8.1 The Statutory Regulations must be complied with by the Council as necessary.

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### **Background Documents**

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

### **Equality Impact Assessment**

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

### **Appendices**

None.





# OTHER ACTION GUIDANCE

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# introduction

- 1) This guidance on other action is aimed at members of standards committees. It is not mandatory but has been written to help describe what other action is, when it might be used, and how the process can be managed.
  - Although there is no formal route for dealing with a member who refuses to comply with other action, failure to cooperate may amount to bringing the authority into disrepute.
- 2) Advice for monitoring officers on carrying out other action is available in the Standards Board's guidance, **Local Investigations and Other Action and How to Conduct an Investigation**.
- 3) The Standards Board's key messages on other action are:
  - Complaints should not be referred for other action when an investigation is in the public interest, when an allegation challenges the member's honesty or integrity, or where if proven to be true, the alleged conduct would undoubtedly warrant a sanction.
  - A referral for other action closes the opportunity to investigate.
  - A decision to refer a complaint for other action makes no finding of fact, and the action decided on must not imply that the subject of the complaint has breached the Code of Conduct.
  - Assessment sub-committees cannot direct the subject member or any other party to take action. The direction is to the monitoring officer.

# what is other action?

- 4) An assessment sub-committee has **three** options when dealing with a complaint that a member has failed or may have failed to comply with the Code of Conduct. The Local Government Act 2000, as amended, states that it can decide to refer the complaint to the monitoring officer of the authority concerned, refer it to the Standards Board, or take no action.
- 5) If the assessment sub-committee decides to refer a complaint to the monitoring officer, it can direct them to investigate the matter. Alternatively, it can direct them to take steps other than carrying out an investigation. This is known as other action.
- 6) Generally, there are **two** indicators for other action. The **first** is when there is evidence of poor understanding of the Code of Conduct and/or the authority's procedures. The **second** indicator for other action is when relationships within the authority as a whole have broken down to such an extent that it becomes very difficult to conduct the business of the council.
- 7) The Standards Committee (England) Regulations 2008 explain that the steps a standards committee can direct a monitoring officer to take are:
  - arranging for the member to attend a training course
  - arranging for the member and complainant to engage in a process of conciliation
  - any other steps (not including an investigation) which appear appropriate
- 8) Suggestions as to types of training courses a member might attend, and other steps a standards committee might consider appropriate, are listed in the next section (**What might other action involve?**).

# what might other action involve?

- 9) The Standards Committee (England) Regulations 2008 specifically provide that a referral for other action may consist of a direction to the monitoring officer to arrange for the member to attend a training course. Training may be in anything the assessment sub-committee deems appropriate, such as:
- chairing skills
  - working with external bodies and partnerships
  - governance issues
  - the Code of Conduct
  - council procedures and protocols
  - legal matters
  - planning and licensing
  - working with officers
  - use of council resources
- 10) In general, other action may take the form of directing the monitoring officer to arrange for the:
- redrafting of council procedures or policies
  - training of members of the council as a whole
  - mentoring of a member or members, or whole council
  - management of conflict
  - development of council protocols
  - implementation of a council complaints procedure
- 11) A referral for other action does not mean that the member has been found to have done anything wrong (see the next section '**Deciding to take other action**'). It is therefore very important that the action proposed does not imply this. Other action cannot, for example, take the form of requiring the subject member to apologise. Of course, in those cases where the member has admitted the breach and offered an apology, the assessment sub-committee may decide that no further action is necessary.
- 12) **It is particularly important to remember that an assessment sub-committee can only direct a monitoring officer to take other action. It has no power to direct anyone else to do so.**

# deciding on other action

- 13) A decision to refer a complaint for other action – like all assessment decisions – does not involve making any findings of fact. All parties should understand that a decision to take other action means that no conclusion has been reached about what happened. Furthermore, no decision has been made about whether the subject member failed to comply with the Code.
- 14) Similarly, everyone involved in a decision to take other action must understand that the purpose of such a referral is not to find out whether the member breached the Code of Conduct. This is regardless of how simple it may be to establish the facts. A decision to direct the monitoring officer to take other action is an alternative to an investigation. It cannot ever result in a finding that the member has or has not failed to comply with the Code.
- 15) The assessment sub-committee needs to be satisfied that even if the specific allegation had occurred as alleged, it would not be behaviour which would necessarily require the subject member to face one of the sanctions it could impose. This excludes training, which can be other action decided on at assessment stage, and a sanction following a hearing. The assessment sub-committee should also be satisfied that other action could assist the proper functioning of the council.
- 16) Other action is not intended to be a quick and easy means of dealing with matters which the assessment sub-committee considers to be too trivial or time-consuming to investigate. Genuinely trivial cases are better dealt with by a decision to take no action. While other action can be a cost-effective way of getting a matter resolved, it is not a quick-fix. Furthermore, other action should not be seen as a routine or cheap way of disposing of an allegation, as it can sometimes be a drawn out, costly and time-consuming process.
- 17) Standards committees should take care to avoid it appearing to the complainant that deciding to take other action is sweeping matters under the carpet. The decision should demonstrate to the complainant that their complaint is being addressed and being taken seriously, although perhaps as part of a wider issue.
- 18) Importantly, if a complaint merits being investigated, then it should be referred for investigation. For example, complaints should not be referred for other action when an investigation would be in the public interest. Other action should also be avoided where the allegation fundamentally challenges the member's honesty or integrity. It should additionally be avoided where the allegation, if proven, would warrant any of the sanctions (apart

# deciding on other action

from training) available to a standards committee after a hearing.

- 19) Assessment sub-committees must not refer an allegation for other action without consulting the monitoring officer, who will often be present at the assessment meeting. If the monitoring officer is not present, and has not given any indication of their views on other action, the assessment meeting may need to be adjourned.
- 20) The monitoring officer may be able to advise the assessment sub-committee how viable the proposed other action is, by providing information on the resources available to them. They may be able to tell the assessment sub-committee how much any proposed other action might cost. They might also be able to advise whether, for example, the authority has access to the facilities or resources needed to accomplish it, such as trained mediators.

# when is other action appropriate?

- 21) The first stage in assessing a complaint is to determine whether it is within jurisdiction. In other words, the assessment sub-committee needs to decide whether, if what the complainant alleges were true, the Code of Conduct would apply. If the Code would not apply to the alleged conduct, the only decision an assessment sub-committee is able to make is to take no action. Other action will never be appropriate in these cases.
- 22) In general, the Standards Board believes that other action is most beneficial when used to deal with systemic problems rather than individual ones. The action proposed does not have to be limited to the subject of the complaint. Several members, or indeed a whole authority, could be included in the action the monitoring officer is asked to take.
- 23) Matters which standards committees might consider referring for other action include:
- the same particular breach of the Code by many members, indicating poor understanding of the Code and the authority's procedures
  - a general breakdown of relationships, including those between members and officers, as evidenced by a pattern of allegations of minor disrespect, harassment or bullying to such an extent that it becomes difficult to conduct the business of the council
  - misunderstanding of procedures or protocols
  - misleading, unclear or misunderstood advice from officers
  - lack of experience or training
  - interpersonal conflict
  - allegations and retaliatory allegations from the same members
  - allegations about how formal meetings are conducted
  - allegations that may be symptomatic of governance problems within the council, which are more significant than the allegations in themselves
- 24) We advise standards committees to draw up assessment criteria which detail the matters they will take into account when deciding what action, if any, to take. Every decision to take other action – like all assessment decisions – can then be made with reference to these criteria.



# adjournment

- 25) Some assessment sub-committees are reluctant to refer a complaint for other action without knowing whether the subject member and other members of the authority will cooperate with the proposed approach.
- 26) One way of dealing with this issue is by adjourning the assessment of a complaint that the assessment sub-committee considers might be suitable for other action. The standards committee can then ask the monitoring officer to find out whether the member or members will cooperate. Although this option is not specifically provided for by the legislation, we do not consider that it is prohibited. Meetings may also be adjourned to enable the monitoring officer to find out more information about the complaint.
- 27) It is up to each authority to decide whether their assessment of a particular complaint should be adjourned. They should consider the advantages and disadvantages of adjournment when making this decision. They should also bear in mind that we advise that assessment decisions should be made within an average of 20 working days, and that an adjournment may mean that that the average assessment time increases.
- 28) Advantages of adjournment are:
- Those sitting on the assessment sub-committee will know what the members think about the proposed solution, and may therefore be more confident in making their decision.
  - Members may be likely to cooperate if they are made aware of the options available.
  - When members indicate that the action would be ineffective, the sub-committee still have the option of deciding to refer the complaint for investigation.
  - Further information obtained by the monitoring officer may mean that the complaint is effectively resolved, enabling the sub-committee to decide to take no action.
- 29) Disadvantages of adjournment are:
- Finding out members' views runs the risk of putting the decision about what action to take into the hands of the member, rather than the sub-committee.
  - The authority of the standards committee may be undermined if other action is agreed through negotiations between the monitoring officer and the member or members.
  - By making further enquiries, the monitoring officer may end up starting an investigation before the assessment decision is made.

# adjournment

- The member or members may try to pass on more information to the monitoring officer, to persuade the sub-committee to take no action.
- 30) As an alternative to adjourning the assessment meeting, the standards committee could agree that the monitoring officer seeks views on other action when they receive a complaint.

# role of the monitoring officer

- 31) When a matter has been referred for other action, it is the monitoring officer's duty to give notice to the relevant parties. These relevant parties are:
- the subject member
  - the person who made the allegation
  - the standards committee of any other authority concerned
  - any parish council concerned
- 32) If the standards committee issues a decision notice that goes to all these parties, the Standards Board considers that the monitoring officer's responsibility is met.
- 33) Whoever notifies the parties of the decision should take care over how the decision is conveyed. It is important that the wording does not imply that the member is culpable. It is also important that members do not feel they have been found guilty without an investigation of the allegation. Note that both parties could end up potentially feeling dissatisfied. This is because complainants and subject members do not have the right to have the decision to refer a matter for other action reviewed under Section 57B of the Local Government Act 2000.
- 34) When a monitoring officer receives a referral with a direction to take other action, they must deal with it in accordance with the direction. They do not have discretion to take a different course of action and should make every attempt to ensure that the action specified is carried out successfully.
- 35) Information and advice for monitoring officers on carrying out other action is available in the Standards Board's guidance, **Local investigations and other action** and **How to conduct an investigation**.
- 36) The monitoring officer must submit a written report to the standards committee within three months of receiving the direction, or as soon as possible after that. This report must give details of the action taken or the action proposed to comply with the direction.

# consideration of the monitoring officer's report

- 37) The standards committee or an appropriate sub-committee should consider the monitoring officer's report and decide whether it is satisfied with the action described. The meeting at which the report is considered is subject to the general notice and publicity requirements under regulation 8 of the Standards Committee (England) Regulations 2008.
- 38) The monitoring officer's report can be considered by the same members who initially assessed the complaint, by another sub-committee, or by the standards committee as a whole. This is a decision to be made by each authority, and will depend on the way in which the committee has been set up, what sub-committees it has and the terms of reference of each body.
- 39) The advantage of the same members considering the report is that they will be aware of the details of the original complaint. However, some authorities may consider that convening a sub-committee simply for this purpose is not a good use of time and resources. They might instead choose to include consideration of the monitoring officer's report as an item on the agenda of the regular meeting of the standards committee.
- 40) If the standards committee or sub-committee **is** satisfied with the action described in the monitoring officer's report, it should give notice of this to all of the following:
- the subject member
  - the person who made the allegation
  - the standards committee of any other authority involved
  - any parish council concerned
- The matter is then closed.
- 41) If the standards committee or sub-committee is **not** satisfied, it must give another direction to the monitoring officer, which must again be to take some kind of other action. The standards committee cannot at this stage decide that the matter should be investigated. This is discussed further in the section below.
- 42) If the report describes action which has been proposed but not yet taken, the standards committee should decide whether this is satisfactory. If it has doubts about whether the action will take place, it should consider whether or not to give a further direction to the monitoring officer. The standards committee or sub-committee may also consider making a further direction where the report indicates that the member has refused to cooperate, has done so unwillingly or inadequately, or has not engaged with the process.

# what if other action does not work?

- 43) Each time a standards committee or sub-committee directs a monitoring officer to take other action, the monitoring officer must submit a written report detailing the action taken or proposed. If dissatisfied, the standards committee can direct the monitoring officer to take further other action.
- 44) In theory, if a standards committee continues to be dissatisfied, it can continue to issue directions until it is satisfied. However, standards committees should be proportionate and reasonable in their directions. We believe that the process should be drawn to a close after a limited number of attempts by the monitoring officer to bring about other action – even where this has not occurred in accordance with the direction.
- 45) There is no formal route for dealing with a member who categorically refuses to comply with other action. However, the Standards Board believes that deliberate and continued failure to cooperate with a monitoring officer who is trying to carry out the directions of a standards committee may potentially amount to conduct which brings the office of councillor into disrepute. Furthermore, an assessment sub-committee may take this into account when deciding what action to take if they are assessing a complaint about a member who has previously failed to cooperate.
- 46) If a standards committee receives a complaint that a member did not cooperate with other action in relation to a previous complaint, they should only assess the complaint about the failure to cooperate. They should not take into account the conduct which led to the original complaint.
- 47) If the complaint is accepted for investigation then it is vitally important that any investigation focuses on the lack of cooperation and not the original complaint that led to the other action. Otherwise there is a danger that the original complaint will be resurrected. This is particularly important where the member says that the lack of cooperation was because they had done nothing wrong.

# why other action closes the opportunity to investigate

- 48) Once an assessment sub-committee has decided to refer a matter for other action, this becomes the way forward in that particular case. If a standards committee is not satisfied that the action taken has not achieved the aim of the direction to take other action, it cannot then decide the matter should be investigated. The assessment sub-committee needs to be clear at the outset that should other action be unsuccessful or only partially successful, that it would still then remain the preferred course of action.
- 49) The legislation is clear on this issue. Once an allegation is referred under Section 57A(2) of the Local Government Act 2000 to the monitoring officer to take steps other than investigation, those steps are the ones referred to in regulation 13(3) of the Standards Committee (England) Regulations 2008. They are limited to arranging for training, a process of conciliation or such other steps – not including investigation – which the standard committee considers to be appropriate. There is no power that allows the case to be referred on for investigation if these options under regulation 13(3) are perceived to have failed.
- 50) Regulation 14(1) of the same regulations says that regulation 14 applies only if regulation 13 is not applied. If other action has been attempted, regulation 13 has been applied.
- 51) As well as being set out in statute, there are sound reasons why complaints which have been referred for other action should not then be investigated. Firstly, there are difficulties in deciding why the action has ‘failed’; whether it has failed and if so, why an investigation is thought to be needed. This subjective judgment has the potential to increase the complainant or the subject member’s dissatisfaction with the process. In some circumstances, it may also risk deliberate non-cooperation with the action prescribed in order to secure an investigation.
- 52) An investigation should not be viewed as something that can take place after other action has been attempted and is not to the satisfaction of one of the parties. There is a risk that other action will not be taken seriously if it is seen merely as a precursor to an investigation.

# why other action closes the opportunity to investigate

- 53) The issue of timeliness is also key for all parties when dealing with an allegation of misconduct. It is questionable as to how fair the process would be, for both the subject member and complainant, if it is extended for the duration of the other action taking place and the investigation that follows it. Where other action is undertaken before an investigation, there is the risk that the case will be prejudiced. Witnesses may become prejudiced, there may be problems obtaining evidence, and an investigation may be jeopardised if the issues are discussed in detail as part of a mediation process.

**Standards Committee Work Programme 2009/10 – 14 July 2009**

|   | <b>Timescale</b>     | <b>Progress</b>                               |
|---|----------------------|---|
| 1 Lessons to be learned from reported complaints/monitoring of compliance with the Code   | As and when required | On going                                      |
| 2 New/Revised Protocols   | As and when required | On going                                      |
| 3 Annual Monitoring of Training Report  | Summer 2009          | On target                                     |
| 4 Code of Conduct Seminar for Officers, District and Parish Councillors<br>(Press Release to be issued – Details on website)        | Autumn 2009          |   |
| 5 Report on Annual Standards Board Conference<br>(Para for 7 Days)  | December 2009        | To be circulated to members via e-mail/letter |
| 6 Update on visits by individual Members to District and Parish Council Meetings<br>(Press Release to be issued and put on website) | Autumn 2009          |   |
| 7 Update on Whistleblowing Code   | Autumn 2009          |   |
| 8 Hearings and Investigations   | As and when required | On going                                      |
| 9 Consideration of applications for dispensations   | As and when required | On going                                      |
| 10 Monitoring Officer meeting with Parish Clerks to discuss Standards regime  | Summer 2010          |   |



**AGENDA ITEM 12**

|   | <b>Timescale</b> | <b>Progress</b> |
|---|------------------|-----------------|
| 11 Standards Committee annual meeting inviting Parish Clerks and Parish Chairman to discuss Code (Press Release to be issued)   | Summer 2010      |                 |
| 12 Standards Committee – Annual Report  | May 2010         |                 |
| 13 Annual Meeting Standards Committee and the Chief Executive and Leaders of 2 Political Groups to discuss importance of ethical governance and Annual Report (Press Release to be issued and Para for 7 Days and on website explaining how much the Chief Executive and Leader support and encourage high ethical standards) | Autumn 2009      |                 |
| 14 Consider involvement of the Standards Committee in the Officer Code and Political Restrictions   | Autumn 2009      |                 |
| 15 Consider use of the ethical governance toolkit   | Autumn 2009      |                 |
| 16 Look at conducting Peoples Panel research in relation to opinions of conduct in West Lancashire  | Autumn 2009      |                 |
| 17 Look at the potential involvement of the Standards Committee in complaints handling and review of Ombudsman decisions  | Spring 2010      |                 |
| 18 Local Filter - implementation  | Continuing       |                 |