

# Standards and Audit Committee

**Wednesday 30 September 2009 7.30pm**

**Committee Room  
Runnymede Civic Centre, Addlestone**

## Members of the Committee

Councillors A J Davis, R J Edis, Mrs C E Gant, Mrs L M Gillham and A P Tollett

### Additional Non-Elected Members of Standards and Audit Committee

Mrs C A Spurling (Vice-Chairman) and Mr S Tully (Chairman)

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

## A G E N D A

### Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant "background papers" are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C Pinnock, Administration and Leisure Department, Committee Section, Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: [clare.pinnock@runnymede.gov.uk](mailto:clare.pinnock@runnymede.gov.uk)).**
- iii) Agendas and Minutes are available on a subscription basis. For details, please ring Mr B A Fleckney on 01932 425620. Agendas and Minutes for all the Council's Committees may also be viewed on [www.runnymede.gov.uk](http://www.runnymede.gov.uk).
- iv) In the unlikely event of an alarm sounding, members of the public should leave the building immediately, either using the staircase leading from the public gallery or following other instructions as appropriate.

## **LIST OF MATTERS FOR CONSIDERATION**

### **PART I**

#### **Matters in respect of which reports have been made available for public inspection**

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### **PART II**

#### **Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

a) Exempt Items

Exempt Appendix 'A' to Item 5: Internal Audit – Progress with Recommendations

b) Confidential Items

(No items to be considered under this heading).

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions, which set out the procedures to be followed in the event of fire or other emergency.

2. MINUTES

To confirm and sign the Minutes of the Meeting held on 9 June 2009 which were included in the July 2009 Minute book previously circulated.

3. APOLOGIES FOR ABSENCE

4. DECLARATIONS OF INTEREST

If Members have an interest in an item, please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests, which are recorded in the Minutes to be considered at this meeting, need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial.

5. INTERNAL AUDIT – PROGRESS WITH RECOMMENDATIONS (DF)

(Ref: Minutes of Standards and Audit Committee, June 2009, page 43, para 53)

1. Purpose of Report

1.1 **The purpose of this report is to review the recommendations made in audit reports issued, and the progress made in their implementation.**

2. Background Information

2.1 Since the Standards and Audit Committee was created, established practice has been to report the status of current audit recommendations to each meeting of the Committee.

2.2 The previous report was made to the last meeting of this Committee in June 2009.

3. Progress with implementing audit recommendations

3.1 Previously reported recommendations, where progress has been made in their implementation, together with recommendations made in more recent audit reports, are tabled in Exempt Appendix 'A'.

3.2 The audits are listed in order of the audit opinion determined by the conclusions formed from conducting each audit. The opinions range from 'good' to 'critical' and a definition of each appears on the last page of Exempt Appendix 'A'.

3.3 The Internal Audit section has now introduced a system of setting up automated emails to be sent just after the target dates, at the time each audit report is issued. Whilst this does not guarantee the auditees will respond, it is hoped this will help the section track progress earlier.

**OFFICERS' RECOMMENDATION that –**

**the Committee expresses satisfaction with the matters identified and the action taken to date.**

**(TO RESOLVE)**

Background Papers

relevant Internal Audit reports (exempt)

6. AUDIT COMMITTEES – BEST PRACTICE (DF)

1. **Purpose of Report**

1.1 **The purpose of this report is to advise Members of discussions held at a London Audit Group seminar regarding Audit Committees Best Practice.**

2. Background Information

2.1 There are a small number of professional Internal Audit Groups which provide invaluable facilities for networking and picking up ideas for trying other ways of doing things.

2.2 One of the more active of these is the London Audit Group.

3. Report

London Audit Group Seminar 18 November 2008

3.1 In November 2008 the Chief Internal Auditor attended a seminar arranged by this group where one of the topics on the agenda was Audit Committees.

3.2 During that seminar, each delegate was asked to provide one example of Best Practice as operated by their own Council's Audit Committee.

3.3 These were later collated and circulated to delegates to share.

3.4 The resulting document is attached at Appendix 'A' for information.

**(FOR INFORMATION)**

Background Papers

None.

7. DATA MATCHING – UPDATE (DF)

(Ref: Minutes of Standards and Audit Committee, June 2009, page 44, para 54)

1. **Purpose of Report**

1.1 **The purpose of this report is to update the Committee with the latest outcomes and costs of the 2008 Data Matching exercise.**

2. Background Information

2.1 The Audit Commission runs a data matching exercise as part of a National Anti Fraud Initiative (NFI). The Council participates in this exercise, which to date has been a biennial event.

2.2 When the NFI commenced in 1996, the objective was to combat Benefit fraud. Since then, the scope has been broadened to cover fraud in a wide range of public services. Data sets are now provided by a number of public sector organisations (normally every two years) and matched against each other to identify e.g.

- employees of public sector organisations not having UK visas,
- tenants exercising their Right to Buy who are in receipt of Benefit or have rent arrears,
- duplicate payments,
  
- fraudulent
  - benefit claims,

- pension payments,
- insurance claims,
- parking permits.

2.3 It must be stressed that a data match does not necessarily mean that a fraud has been committed. At this stage, the output from the exercise has simply reported that there are two records in two systems where the details (e.g. a name, address or date of birth) are the same. Where there is a data match the onus is on the participating organisations to investigate the reasons for the match to establish whether or not there is any evidence of fraud or error.

3. Report

3.1 For the 2008 Data Matching exercise, Runnymede supplied the following information:

- Payroll
- Trade creditors
- Housing - rents
- Housing - sold Council houses
- Transport passes for the concessionary travel scheme
- Licences - Taxi drivers
- Personal licences to supply alcohol
- Council Tax
- Electoral Register

3.2 In addition, the Council's insurers supplied data relating to insurance claimants and the DWP provided Benefits data.

Progress with investigations

3.3 Attached at Appendix 'B' are:

- the number of matches for each data type,
- how many of these had been highlighted by the NFI as needing priority attention ('recommended filter' matches),
- how many matches had been/were being investigated as at 1 September 2009,
- how many are left to investigate.

3.4 NFI's suggested timetable for carrying out this work is:

31 May 2009	Initial reviews of all priority matches to have been completed and identification of those that need further work.
May-June 09	Some cases closed and outcomes recorded.
30 Sept 09	Majority of investigation work complete and few matches still showing as opened.
31 Jan 10	Completed

3.5 By the beginning of September, over half the matches had been investigated and closed on the system. Just four of the 165 priority matches are still open on the system. These relate to Benefits and have been flagged for more detailed investigation.

Findings

3.6 Potential frauds identified relate to claims for Benefits and for Council Tax Single Person Discount.

3.7 In the case of Benefits, two possible sanctions have been identified. A further 68 cases have been identified for further investigation which may or may not be found to be fraudulent.

- 3.8 Where the matching exercise has highlighted multiple occupancy of properties for which Council Tax Single Person Discount has been claimed, letters have been sent and responses (or lack of them) are being followed up.
- 3.9 In many cases, claimants are still entitled to the discount (e.g. other household members are students). However, the exercise has so far identified 67 cases in which respondents have admitted to living with other adults eligible for Council Tax. Whilst one or two have provided dates going back 3 to 4 years, most have provided fairly recent dates when the entitlement ceased.
- 3.10 In view of the difficulty in proving (or disproving) the information provided, dates provided have been accepted. Again due to difficulties of obtaining evidence, these cases have been reported to NFI as errors rather than frauds.
- 3.11 So far the net result of this part of the exercise has been an additional £26,600 Council Tax (approximately) due to the Council.
- 3.12 The next stage will be to cancel the discount for those who have not responded. That will initially increase this figure. It is likely that this action will prompt at least some of the remaining claimants to respond but the final figure for additional Council Tax is expected to exceed £26,600.
- 3.13 There are still a number of Creditor matches to be reviewed. As reported to the last meeting of this Committee in June, the intention is to look at high value matches and work towards a pre-determined de-minimus figure (initially £500). Creditor matches already reviewed have not identified any issues.

#### 4. Resource Implications

- 4.1 Resources required for the 2008 exercise to 1 September 2009 are set out below:

	<b>Tasks</b>	<b>Resources required</b>
Staff time	Downloading data and uploading to NFI secure website	5 days
	Investigating matches	39 days <i>(see note below)</i>
External resources	Additional costs e.g. paying software suppliers to download data	£650 for travel pass data
	Council Tax postage costs	See table below
Key contact (Chief Internal Auditor)	Co-ordinating and liaising with Officers and NFI	26 days

*Note – this table does not include the time spent by Benefit Fraud Officers investigating matches passed to them for further investigation as this is considered to be fraud work rather than NFI work.*

- 4.2 In addition to the resources shown in the above table, the Audit Commission charges a fee of £2,000 for the data matching exercise. This forms part of the fee that the Council pays for its external audit.
- 4.3 There has been a saving for the Council in respect of the Council Tax Single Person Discount investigations compared with the additional costs that Runnymede would normally have incurred from reviewing these discounts.
- 4.4 It has been routine procedure to conduct a review of these cases by writing to each claimant every two years and requesting them to sign and return a document confirming they are still entitled to the discount.
- 4.5 As staffing resources available have been insufficient to carry out both the routine review and the NFI work, only the latter has been carried out this year. Rather than involve every

claimant, this has focussed only on those claimants having inconsistent information on the Electoral Register.

4.6 The following table shows comparative additional costs for the two exercises.

	Runnymede Routine Review		NFI exercise	
Letters initially sent	10,000 @ 20p	£2,000	637 @ 20p	£128
Responses via pre-paid envelopes	8,500 @ 20p	£1,700		£100
reminders	1,500 @ 20p	£300	108 @ 20p	£ 21
Letters advising discount is to be cancelled			57 @ 20p	£11
<b>Total postage costs</b>		<b>£4,000</b>		<b>£260</b>
Printing		£1,500		
Temporary staff		£1,500		
<b>Total additional expenditure</b>		<b>£7,000</b>		<b>£260</b>

4.7 It should be noted that this does not include the costs of staff time, which has been made available from existing resources.

4.8 It might be expected that targeting resources at 'suspect' claims ought to also produce a time saving. However, Officers have had to spend time following up the data supplied from the Electoral Register. Although fewer cases have been reviewed, the time per case has been significantly higher.

4.9 Although records have been retained of time spent on the NFI exercise (32.5 days for Council Tax staff), accurate information is not available to be able to compare this to the time normally spent on the routine review. Neither is it possible to compare the additional Council Tax raised between the two reviews.

## 5 Legal Implications

5.1 Section 32 of the Serious Crime Act 2007 gives the Audit Commission the power to require a body to provide such data as they may reasonably require for the purpose of data matching. Failure to comply with their request without reasonable excuse is a criminal offence.

5.2 A Code of Practice has been approved by Parliament which assists data matching participants to balance this with the requirements of the Data Protection Act.

5.3 Regard must be had to the Code of Data Matching Practice when participating in such data matching exercises. Processing personal data engages Article 8 of the EC on Human Rights, which deals with the right to respect for private and family life and the home. This means that any data processing must be in accordance with the law and proportionate.

### **(FOR INFORMATION)**

#### Background Papers

Further information can be obtained from the following websites:  
[www.runnymede.gov.uk/DataMatching](http://www.runnymede.gov.uk/DataMatching)  
[www.audit-commission.gov.uk/nfi](http://www.audit-commission.gov.uk/nfi)  
[www.audit-commission.gov.uk/localgov/audit/nfi/Pages/code.aspx](http://www.audit-commission.gov.uk/localgov/audit/nfi/Pages/code.aspx)

8. RISK MANAGEMENT (DF)  
(Ref: Minutes of Standards and Audit Committee, September 2008, page 181, para 178)

1. **Purpose of Report**

1.1 **The purpose of this report is to advise the Committee of progress in implementing the Council's Risk Management Strategy and updating the risk register.**

2. Background Information

2.1 The Risk Management Strategy was last revised and approved by this Committee in September 2005.

2.2 The strategy requires the Council to:-

- identify the risk of events occurring that will threaten the achievement of desired objectives;
- put controls in place to prevent these risks occurring or to mitigate their impact;
- document and prioritise the residual risks;
- produce an action plan to address any residual risks that are unacceptable;
- review the controls that are being operated; and
- report to Committee at least annually on key risks and the way in which the strategy has been implemented.

2.3 During the past year, the Directors' (Chief Officers') Management Team has co-ordinated the production of a risk management action plan and monitored the steps taken to control the Council's risks.

2.4 The latest annual review of the Council's strategic risks was undertaken in July 2009. This involved a workshop of senior Officers and followed the format adopted in previous years. A report on the outcome of the exercise is reproduced at Appendix 'C'.

3. Report

***Annual review of strategic risks***

3.1 The July review identified 29 corporate risks compared with 33 on last year's risk register (7 risks were removed and 3 new risks recorded). Full details are set out in Appendix 'C'. Officers have scored each risk against the matrix adopted by the Council in its Risk Management Strategy. A diagram of the Council's risk profile, illustrating where each of the risks has been plotted on the matrix and their relationship to the Council's risk appetite, is shown on page 6 of Appendix 'C'.

3.2 Chief Officers have compiled an action plan for each of the 13 risks that lie outside the Council's appetite for risk.

***Annual review of implementing the risk management strategy***

3.3 Chief Officers have reviewed the Risk Management Strategy (reproduced at Appendix 'D') and believe this continues to reflect the Council's business needs. Some minor textual amendments have been made to update the document with contemporary references and these are shown as tracked changes. The annual review of strategic risks (Appendix 'C') reports the amendment Officers have made to the risk tolerance line and the diagram on page 6 of Appendix 'C' has been revised accordingly.

***Training***

3.4 The Safety Advisor (an Officer in the Technical Services Department) organises municipal safety training throughout the year to address operational risks faced by each department.

3.5 The following courses took place in the period from 1 January to 17 September 2009:-

Course Name	Course duration (hours)	Number of courses held	Number of staff attended
Induction Training	4	2	15
Induction Training (ELC)	3	4	30
Manual Handling (ELC)	2	1	7
Fire Warden Training*	3	2	34
Fire Training (Parks)	1	1	8
Fire Training (Reception)	1	2	4
Fire Training (Depot office)	1	1	9
Manual Handling Training and Assessment (DSO Refuse and Street Cleansing)	16 (classroom and practical)	Individual crew training and assessment	39
Manual Handling and COSHH Training (Community Services Cleaners)	2	1	8
Suspect Package Training (DMS)	1	1	7
Suspect Package Training (Depot office)	1	1	2
Civic Centre Fire and Bomb awareness	1	10	207

\* The Fire Warden training was conducted by an external provider.

**(FOR INFORMATION)**

Background Papers

None.

9. STATEMENT OF ACCOUNTS 2008/09 AND AUDITOR'S ANNUAL REPORT TO THOSE CHARGED WITH GOVERNANCE (DF)  
(Ref: Minutes of Standards and Audit Committee, September 2008, page 179, para 175 and Corporate Management Committee, June 2009, page 119, para 144)

**1. Purpose of Report**

- 1.1 The purpose of this report is to present the Committee with the Statement of Accounts and the report to those charged with governance issued by KPMG following the conclusion of their audit of the financial statements for the year ended 31 March 2009.**

**2. Report**

- 2.1 The Statement of Accounts was approved by Corporate Management Committee on 25 June 2009. KPMG commenced their audit of the statements on 20 July 2009. There were no significant changes to the Statements. However, a small number of minor amendments were identified by KPMG (listed in the auditor's report) and improvements to format and clarity of wording were made, where appropriate, during the course of the audit. The Statements are very lengthy and have been e-mailed to Members of the Committee only.
- 2.2 The Council's appointed auditor is Neil Thomas, an Associate Partner of KPMG, and the day to day management of the audit was co-ordinated by Rebecca Pett, a Manager at KPMG, who presented their report to the Corporate Management Committee on 3 September. A copy of KPMG's report has been circulated to Members of this Committee only.

- 2.3 The Statement of Accounts for the 2008/09 financial year and the Auditor's report are presented for consideration by this Committee so that Members can be satisfied that the Council has adequately discharged its reporting and governance responsibilities.
- 2.4 KPMG and the Audit Commission will issue an Annual Audit and Inspection Letter for 2008/09 later in the year when their combined work on inspection and performance assessment has been concluded.

**(FOR INFORMATION)**

Background Papers

Report to those charged with governance 2008/09, KPMG, dated 26 August 2009

10. JOINT STANDARDS COMMITTEES (DAL)

1. Purpose of Report

1.1 **The purpose of this report is to inform Members of available guidance from the Standards Board for England on the possible use of Joint Standards Committees.**

2. Background Information

2.1 The Standards Committee (Further Provisions) (England) Regulations 2009 allow authorities to establish Joint Standards Committees with other bodies. Joint Standards Committees can carry out any of the functions of a stand alone Standards Committee.

2.2 The Standards Board (which now wishes to be known as 'Standards for England') published guidance in July.

3. Report

3.1 Officers do not propose to report on the regulations and guidance in detail, as presently it appears unlikely that Runnymede will be involved in joint arrangements. However, this report is presented to give an overview and keep Members informed.

3.2 Standards for England has identified a number of potential benefits of forming a joint Committee:

- Avoiding conflicts of interests through having a wider Member pool.
- Consistency of procedures between authorities.
- Greater perceived independence, thus improving public confidence.
- Greater capacity.
- Shared resources and expertise.
- A higher profile for the Standards Committee.
- The ability to jointly commission and fund mediation training and investigations.
- The opportunity to create stronger support and advisory functions.

3.3 Problems are also possible:

- Increased bureaucracy.
- Member resistance.
- Different resourcing arrangements within authorities.

- Loss of local ownership.
- 3.4 The Guidance suggests three model structures for joint arrangements, ranging from joint committee initial consideration of allegations with individual committees responsible for hearings, through joint committees dealing with all complaints hearings and sanctions, to joint committees exercising all functions, including responsibility for promoting and upholding high standards of Member conduct. The final model is not recommended for most situations because Standards for England consider it desirable that there should be a sense of local responsibility for promoting and maintaining high standards of conduct.
- 3.5 Joint Committees must include at least one elected Member from each authority involved, and at least 25% of the Members must be independent Members.
- 3.6 The Guidance provides further detailed suggestions including specimen terms of reference.

4. Conclusion

- 4.1 As Members are aware, a number of Surrey authorities are investigating the sharing of independent Members, but so far there appears to be little interest in establishing Joint Standards Committees. Officers believe that at present such an arrangement would be likely to increase work for Runnymede Members and Officers rather than decrease it, because of the low level of complaints so far experienced. The situation can always be reviewed with neighbouring authorities should circumstances change.

**(FOR INFORMATION)**

Background Papers

None.

11. DISPENSATIONS GRANTED BY THE COMMITTEE (DAL)

1. Purpose of Report

- 1.1 **The purpose of this report is to brief Members on the Committee's current powers to grant dispensations from the requirement to leave a meeting when Members have a prejudicial interest, and to draw attention to Standards for England Guidance.**

2. Background Information

- 2.1 Standards Committees have for a number of years been able to grant dispensations to Members, avoiding the need for them to withdraw from meetings in certain circumstances. These circumstances were however extremely restricted and in some respects lacked clarity.
- 2.2 The Government has made new provision for the granting of dispensations in the Standards Committee (Further Provisions) (England) Regulations 2009.

3. Report

- 3.1 The circumstances in which dispensations can be granted are still quite restricted. Dispensations may be given in the following circumstances:

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

In deciding whether the criteria apply, the Standards Committee must ignore the effect of any dispensations already granted.

- 3.2 There are two exceptions:

- A dispensation cannot be given to allow a Member to vote at an Overview and Scrutiny Committee about a decision made by a body of which they were a Member when the decision was taken.
  - The other dispensation only applies to Members of authorities operating executive arrangements.
- 3.3 Dispensations can be granted to cover more than one meeting, but cannot last for longer than four years.
- 3.4 The Guidance is available on Standards for England's website at <http://www.standardsforengland.gov.uk/TheCodeofCondcut/guidance/Standardscommittees/dispensations%20FINAL.pdf>. The Guidance seeks to clarify the application of the legal criteria and also discusses issues to consider when granting dispensations. The Guidance points out that in an authority with a large political majority, it will be comparatively rare that issues of prejudicial interest can change the voting political balance on a Committee. In Runnymede, it is possible that the situation might arise with some small Committees or Sub-Committees.
- 3.5 The Guidance also points out that the grant of a dispensation is not automatic. The Committee must consider it appropriate for a dispensation to be granted, and in making its decision it will need to balance the prejudicial interest of the Member seeking the dispensation against the potential effect on the outcome of the vote if he or she cannot vote. The Guidance accordingly suggests that the Committee consider:
- the nature of the interest and the consequent effect on public confidence in the conduct of the Council's business;
  - whether the interest is common to a significant proportion of the public;
  - whether the Member can bring particular expertise or background to the discussion;
  - to what extent the Member has a non financial interest arising purely from Membership of a voluntary organisation or public body.

It is suggested that questions such as these will inform the Committee's decision.

- 3.6 The Guidance also urges authorities to have an understood procedure, available to Members, for granting dispensations, covering how to apply, whether the application will be considered by written representation or orally, and whether the Committee would wish to apply any local criteria as a matter of course. Officers would propose the following simple process for use in Runnymede:
- a) Applications should be made in writing to the Monitoring Officer. The application must reach the Monitoring Officer no later than 9am on the ninth working day before the earliest meeting for which the dispensation is sought. In the absence of the Monitoring Officer the application may be delivered to the Deputy Monitoring Officer and, in the absence of both, to a member of the Legal staff. It is the applicant Member's responsibility to ensure that the application reaches the appropriate person.
  - b) The Monitoring Officer will ensure that the application is considered by the Standards and Audit Committee (at a special meeting if need be) before the earliest meeting for which the dispensation is sought.
  - c) The application must state the date of the first meeting at which the application is sought, the nature of the prejudicial interest, the ground under the regulations on which the application is made, and for how long the applicant would like the dispensation to last. The applicant should also state any additional supporting detail he or she considers relevant and for this purpose might find it helpful to refer to the current Guidance on Dispensations published by Standards for England.
  - d) The Standards and Audit Committee will consider the written application with the advice of the Monitoring Officer or his representative and the applicant will be

notified of the outcome as soon as possible. Oral representations will not be considered unless the Committee grants permission to the applicant to clarify or amend anything stated in the written application. Subject to this, the applicant may not be present for the Committee's deliberations.

- e) The decision will be recorded in writing and a copy will be kept with the Register of Members' Interests.

**OFFICERS' RECOMMENDATION that -**

**the procedure set out at paragraph 3.6 of this report be adopted for the consideration of applications for dispensation.**

**(TO RESOLVE)**

Background Papers:

None.

12. LOCAL GOVERNMENT OMBUDSMAN INVESTIGATIONS (DAL)  
(Ref: Minutes of Standards and Audit Committee, June 2009, page 45, para 56)

The following matters have progressed with the Commissioner for Local Administration since the last meeting of this Committee.

<u>Matter</u>	<u>Date Notified</u>	<u>Outcome</u>
Alleged inadequate handling of planning breaches at Padd Farm, Hurst Lane, Egham	5 September 2007	No change since last meeting - the Ombudsman has declined to pursue either complaint at present but may review this case once the position on enforcement is clearer following appeal outcomes and/or court action.
Alleged unreasonable failure to confirm that occupier may lawfully use business premises at Padd Farm, Hurst Lane, Egham	29 June 2009	Not pursued - no evidence of maladministration in handling query.
Alleged unreasonable failure to re-admit complainant to membership of Egham Leisure Centre following suspension	24 April 2009	Not pursued - no evidence of maladministration.
Failure by Council to pay for damage to fencing and garden caused by cattle allegedly straying from Council land	3 August 2009	Not pursued - Ombudsman will not intervene in legal disputes in the absence of apparent maladministration.

**(FOR INFORMATION)**

Background Papers

Relevant papers on Director of Administration and Leisure's Ombudsman files series 61.21 (exempt)

13. ADJUDICATION PANEL FOR ENGLAND AND STANDARDS FOR ENGLAND - RECENT CASES (DAL)  
(Ref: Minutes of Standards and Audit Committee, June 2009, page 44, para 55)

1. A Member of Falmouth Town Council and Cornwall Council was alleged to have failed to treat others with respect, bullied another person, disclosed confidential information, brought his office or authority into disrepute, improperly secured an advantage or disadvantage, failed to declare a personal interest and failed to withdraw from a meeting in which he had a prejudicial interest.

The matter centred on a controversial planning application. The Member in question had voiced his support in principle for a development, having attended a confidential presentation made by the developer, accompanied by other Members of the Planning Committee. Local objectors were strongly critical of his position, he had received written representations and the press were also involved. A number of the allegations against the Member were based on second or third hand information. Other Members and Officers involved with the matter and events which led to the complaint being lodged did not support the allegations, in particular that the Member had referred to a local family that objected to the application as 'idiots' and had unreasonably denied them the opportunity to speak at a Planning meeting. In respect of his alleged prejudicial interest, the Member said he had heard informally that the developer might, on an unspecified future date, be asked to refurbish the community centre that he ran. However, no such proposal was in the planning application itself and the Member had asked for and received written legal advice regarding potential interests and was advised that he had none. In the event the Member voted against the application at Committee.

Regarding bullying, the Member had asked an Officer to write to another Member about her inappropriate behaviour in Committee, but stated that he had done so correctly in his role as Committee Chair and others felt that the letter was fair and proportionate and did not seek to influence the matter. The Councillors named in the case said that they had never been bullied or pressurised and the Ethical Standards Officer found no evidence to support the allegations and concluded that the Member did not breach the Code of Conduct.

2. A Member of Walsall Metropolitan Borough Council attended a Members' training session, after which a Council Officer found a USB memory stick on the floor. In order to establish whose it was, the Officer looked at the material on it. The memory stick contained a letter written by the Member, and also a picture of a young girl in an indecent pose. The Member was charged by the Police for offences related to the images on the memory stick, which was his own personal property. He was fined £250 for each count and placed on the Sex Offenders Register for two years. He later resigned from the Council.

The Ethical Standards Officer considered that the evidence was clear that the Member's conduct, which led to his criminal conviction, was carried out in his private capacity. There was no evidence that he was acting in his official capacity, performing his authority's functions, or misusing his position as a Councillor when he committed the offences for which he was convicted. The Ethical Standards Officer found no evidence that the Member had failed to comply with the Code of Conduct.

3. A former Suffolk County Councillor was disqualified for one year on 16 September 2009 following a Standards for England investigation into allegations that she voted twice at a full Council meeting.

The Adjudication Panel for England found that the Member, who lost her seat in the recent council elections, had brought her office and authority into disrepute by misusing the council's electronic voting system.

Suffolk County Council uses a voting system whereby councillors 'log in' with a smartcard, which is placed into a slot in a delegate unit on the table in front of them, and then vote by pressing a button. In a meeting on 25 September 2008, the Councillor seated next to the Member in question had left the council chamber before votes were cast, leaving his smartcard in the delegate unit in front of him. Two other Members alleged that they had seen the Member, after she had cast her own vote, use the other Councillor's delegate unit to vote for a second time. The absent Councillor had not asked her to vote on his behalf and was unaware of her actions.

The investigation found that the electronic voting system had never falsely recorded a vote, and that the technology involved made it impossible for a vote to be registered in this way by mistake.

It was determined that although the extra vote was not enough to affect the council's decision on that occasion, casting two votes was a clear abuse of procedure and seriously undermined the integrity of the democratic process.

“The Adjudication Panel’s decision to disqualify the Member sends a strong message to the electorate that appropriate action can be taken against Members whose ethical standards fall short of expectations.”

**(FOR INFORMATION)**

Background Papers

Published cases on the websites of Adjudication Panel for England and Standards for England at [www.adjudicationpanel.tribunals.gov.uk](http://www.adjudicationpanel.tribunals.gov.uk) and [www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk).

14. DEALING WITH STAFF APPEALS - BRIEFING (DAL)  
(Ref: Minutes of Standards and Audit Committee, June 2009, page 45, para 57)

At the last meeting of this Committee, Members identified a need to be trained in how to deal with staff appeals.

Officers will outline to the Committee the kind of appeals that might arise from staff, how they are handled, and the considerations involved.

**(FOR INFORMATION)**

Background Papers

None.

15. EXCLUSION OF PRESS AND PUBLIC

**OFFICERS' RECOMMENDATION that –**

**the press and public be excluded from the meeting during discussion of the following reports under Section 100A(4) of the Local Government Act 1972 on the grounds that the reports in question would be likely to involve disclosure of exempt information of the description specified in paragraphs 1, 3 and 7 of Part 1 of Schedule 12A of the Act.**

**(TO RESOLVE)**

**Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

- |    |   |               |
|----|---|---------------|
| a) | <u>Exempt Items</u>   | <b>Paras.</b> |
|    | Exempt Appendix 'A' to item 5: Internal Audit - Progress with Recommendations | 1, 3 and 7    |
| b) | <u>Confidential Items</u>   |               |
|    | (No items to be considered under this heading).                               |               |