



Standards and Audit Committee

Tuesday 7 February 2012 7.30pm

**Committee Room
Runnymede Civic Centre, Addlestone**

Members of the Committee

Councillors A Alderson, J Broadhead, T Dicks, R J Edis 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, Committee Section, Department of Corporate Governance and Assets, Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: clare.pinnock@runnymede.gov.uk).**
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LIST OF MATTERS FOR CONSIDERATION

PART I

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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 2: Minutes

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 28 September 2011, which were included in the October 2011 Minute Book.
- To confirm and sign the Minutes of the meeting of the Standards (Review) Sub-Committee held on 17 October 2011 (Exempt Appendix 'A').

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 (Chief Internal Auditor)
(Ref: Minutes of Standards and Audit Committee, September 2011, page 267, para 265)

1. **Purpose of Report**

1.1 **The purpose of this report is to:**

- i) provide information on the 2012/2013 Internal Audit plan;**
- ii) update Members on resourcing Internal Audit;**
- iii) update Members on Internal Audit work; and**
- iv) update Members of any internal control issues arising from the first part of this year's audit coverage.**

2. Background Information

2.1 The agreed routine for Internal Audit reports to the Standards and Audit Committee is to:

- present the annual Internal Audit plan prior to the start of the financial year for formal approval (in February);
- report actual work carried out as compared to that plan, after the end of the financial year (in June); and
- report recommendations arising and progress made in implementing them, together with any significant control issues (in February and September).

2.2 Following the departure of the only directly employed Internal Auditor in October 2010, the Chief Internal Auditor took voluntary early retirement on 31 March 2011, to enable the Council to consider alternative methods of providing Internal Audit without having to consider possible redundancy payments or TUPE requirements.

2.3 To ensure continued audit coverage for 2011/2012, the Chief Internal Auditor is working part time on a fixed term contract to:

- a) manage the external providers of Internal audit (Haines Watts) until that contract ends 31 March 2012; and
- b) assist the organisation to move to the new method of Internal Audit provision.

3. Report

The Internal Audit Annual Plan

- 3.1 An annual Internal Audit Plan for 2012/2013 has not yet been produced. This is due to the time required of the Chief Internal Auditor to ensure continued provision of Insurance services (a task which has had to take priority), and the Internal Audit that has to be completed before the external auditor's visit in February.
- 3.2 A plan is being compiled currently and it is hoped that this will be ready, at least in outline, to present to Members at the meeting. Drafting an Internal Audit plan for 2012/2013 has the added difficulty that the external auditors will change and it is not known what the new auditors will require.
- 3.3 The Council's current auditors at KPMG are happy with Internal Audit carrying out work on key financial systems throughout the financial year, with no additional testing at year end. It is known from neighbouring Internal Audit sections that this is unusual. Being required to carry out all work in the final quarter of the financial year, or to conduct top up testing near year end, will have significant resource implications for the section.

Resourcing Internal Audit

- 3.4 A request has been received from another Council's Internal Audit section to be considered as a provider. The options are to pursue a partnership option with this Council (in which case other potential partners will need to be identified and considered to meet the requirements of Runnymede's Standing Orders for Contracts), or to let a contract and invite this Council to tender alongside private companies.
- 3.5 A decision had been taken to let a contract from 1 April 2013. This date was originally chosen as previous advice was that the Council would have to follow a lengthy tendering process to meet EU procurement rules. Revised advice is that Internal Audit services are not subject to these stringent rules.
- 3.6 Although this enables the Council to carry out a speedier tendering process, it has not been possible to let a contract from 1 April 2012 due to the other pressures on the Chief Internal Auditor's time.
- 3.7 Letting a contract from 1 April 2013 has the advantage of tying in the contract with the financial year and enabling the contract to be formulated in the knowledge of what the new external auditors require.
- 3.8 To cover the period 1 April 2012 to 31 March 2013, it had been believed that a short tender exercise would be required to let a one year contract.
- 3.9 However, the revised procurement advice has enabled the Council to consider extending the contract of the existing provider, Haines Watts. The contractor is keen to continue for another year, having now gained experience in how Runnymede runs, and has offered an attractive price for the work. As this is considered to be commercially sensitive information, Members will be verbally updated with details at the meeting.
- 3.10 The offer made is considered advantageous to both the Council and the contractor, and has been verbally accepted. By the time of the committee meeting, it is expected that the existing contract will have been formally extended.
- 3.11 The Chief Internal Auditor is in discussions with the Chief Executive with a view to continuing to work part time for a further year to manage the work for 2012/2013 and the tender process (or pursuit of a partnership option). This is reliant on the identification of available budget.

Internal Audit work

- 3.12 The contractors are working through the 2011/2012 Internal Audit plan and at the time of drafting this report, it is anticipated that all their work required for the external auditors will be completed in time for KPMG's visit in February. Auditee availability is becoming an issue (primarily due to lengthy sickness absences), and that may have an impact on completion of the work.
- 3.13 The Chief Internal Auditor has had to spend a significant amount of time on insurance work over the current financial year. Time sheet records for 2011/2012 show the breakdown of time spent as follows:
- | | |
|---------------------|-------|
| Insurance work | 65.5% |
| Internal Audit work | 26% |
| Corporate issues | 8.5% |
- 3.14 Surrey County Council staff have integrated well and are now managing all the claims with a diminishing need for assistance. As this report is being compiled, the legal agreement remains an outstanding task and has taken a significant amount of the Chief Internal Auditor's time. It is hoped that will shortly be resolved.
- 3.15 Much of the time spent on insurance has related to the insurance tender. There was a lull in this work from 2 December 2011 when the Invitation to Tender was issued, enabling some catch up with Internal Audit work. This will be over at the end of January when the bids are due in.
- 3.16 As a result, no Internal Audit recommendations have been followed up. Work from the 2011/2012 Internal Audit plan assigned to the Chief Internal Auditor will be rolled into the 2012/2013 plan with the exception of the IT Operations audit which needs to be undertaken before February.

Adequacy of Internal Control

- 3.17 The contract auditors have not identified any major issues from work carried out so far this year that Members need to be aware of that have not already been raised elsewhere (e.g. in the Statement of Internal Control).
- 3.18 There are concerns regarding the impact of reduced staffing levels, absences of key staff and the vacancy of the post of Corporate Head of Finance. An Interim Corporate Head of Finance is now in place and a permanent replacement is being recruited.

4, Council Policy

- 4.1 None (directly relevant to the above).

5. Resource Implications

- 5.1 Resources are being stretched. Although the Chief Internal Auditor has taken very little of the annual leave awarded to her as part of the one year contract, some work will still have to be delayed until 2012/2013 or not undertaken.

6. Legal Implications

- 6.1 Internal Audit is conducted as part of the authority's duty to make proper arrangements for the administration of its financial affairs under the Local Government Act 1972 (section 151). It is specifically required and governed by the Accounts and Audit Regulations 2003 (as amended in 2006 and 2009).
- 6.2 Regulation 6 of the Accounts and Audit (Amendment) (England) Regulations 2006 provides that a relevant body shall:

'.....maintain an adequate and effective system of internal audit of its accounting records and of its systems of internal control in accordance with the proper practices in relation to internal control.

Any Officer or Member of a relevant body shall, if the body requires:

- a) *make available such documents of the body which relate to its accounting and other records as appear to that body to be necessary for the purposes of the audit; and*
- b) *supply the body with such information and explanation as that body considers necessary for that purpose.'*

6.3 The Regulations state that the 'relevant body' is responsible for maintaining the Internal Audit system, rather than any one specific Officer. It is not possible to delegate this responsibility but in managerial terms it is exercised in Runnymede through the Corporate Head of Finance.

OFFICERS' RECOMMENDATION that –

the Committee notes and acknowledges actions taken so far in respect of Internal Audit and Insurance services.

(TO RESOLVE)

Background Papers

Internal Audit reports (exempt)

6. STANDARDS FOR ENGLAND ABOLITION – UPDATE (CHGA)

1. Purpose of Report

1.1 **The purpose of this report is to update the Committee on the timetable to abolish Standards for England under the Localism Act 2011.**

2. Background Information

- 2.1 The Committee will be aware that the Localism Bill was introduced to Parliament in December 2010 and given Royal Assent in November 2011, thus becoming the Localism Act 2011.
- 2.2 The government has stated that the provisions under the Act will "shift power from central Government back into the hands of individuals, communities and Councils."
- 2.3 The following is extracted from the Plain English Guide to the Localism Act – Update, published in November 2011.

"Abolition of the Standards Board

Councillors play a crucial role in local life. The people who elect them have the right to expect the highest standards of behaviour. The Government thinks it is important to have safeguards to prevent the abuse of power and misuse of public money. Currently, all local authorities must, by law, adopt a national code of conduct and a Standards Committee to oversee the behaviour of their Councillors and receive complaints. A central body, the Standards Board for England, regulates each of these Committees.

In practice, however, this system of safeguards is ineffective. It is too easy for people to put forward ill-founded complaints about Councillors' conduct. Lengthy debates about petty complaints or deliberately harmful accusations can undermine people's faith in local democracy and put them off standing for Public Office.

Through the Localism Act, the Government has abolished the Standards Board Regime. Instead, local authorities will draw up their own codes, and it will become a criminal offence for Councillors to deliberately withhold or misrepresent a financial interest. This means that Councils will not have to spend time and money investigating trivial complaints, while

Councillors involved in corruption and misconduct will face appropriately serious sanctions. This provides a more effective safeguard against unacceptable behaviour.”

2.4 The Localism Act repeals the Relevant Authorities (General Provisions) Order 2001, which established the existing principles in the current Code of Conduct.

3. Report

3.1 The Government’s intention is to effect the abolition of the “Standards Board Regime” through the Localism Act 2011. Therefore, under the standards provisions of the Act, Standards for England will be abolished.

3.2 In November 2011, the Government clarified its timetable for the abolition of Standards for England and a press release was issued on their website to explain the process, and from which this report is substantially drawn.

3.3 The abolition is subject to formal confirmation through regulations. However, it is the Government’s intention that the abolition of local Standards Committees with the power to suspend Councillors will take effect on 1 July 2012. It was to have taken effect earlier in 2012; but in response to representations from local authorities and the Association of Council Secretaries and Solicitors, the date was put back to allow more time for all those affected to put in place new arrangements.

3.4 The regulatory role which Standards for England had in handling cases on behalf of local authorities in England and Wales and issuing guidance ceased on 31 January 2012, with some transitional arrangements for cases in train.

3.5 Members are advised that from this date, Standards for England no longer had powers to accept new referrals from local Standards Committees or conduct investigations into complaints against members. Standards for England confirmed that any existing referrals or investigations would be transferred back to the relevant authority for completion under agreed handover arrangements with individual Monitoring Officers. However, any complaints which were being handled locally on that date would need to continue through to a conclusion; and similarly any matters relating to completed investigations or appeals which had been referred to the First Tier Tribunal would also continue to conclusion.

3.6 There are no cases from this Council pending with Standards for England.

3.7 Elsewhere on this agenda is the regular report on recent cases considered by the First Tier Tribunal. This is the last such report this Committee will receive.

3.8 The Committee is asked to note that the replacement provisions concerning the adoption of a new Code of Conduct and the establishment of a new Standards Committee will come into operation from 1 July 2012.

3.9 A new Code of Conduct is currently being drafted. The Act requires the Code to be consistent with the following principles:

- selflessness
- integrity
- objectivity
- accountability
- openness
- honesty
- leadership

3.10 Peter Keith Lucas (Local Government Partner at Bevan Brittan) has commented on the fact that the general principles of personal judgement, respect for others and a duty to uphold the law and stewardship have ‘disappeared’. However, there is scope to re-introduce them should this Committee so wish. Officers recommend that drafting a new Code of Conduct based on the existing code and drawing on best practice elsewhere would be sensible, to include those elements which the Localism Act has removed.

- 3.11 The new Code of Conduct must also address the issue of 'interests'. The Act refers to 'pecuniary and 'other than pecuniary' interests (not yet fully defined) and each Authority must decide in accordance with the regulations what constitutes these interests and if and when they should be registered and or disclosed.
- 3.12 Authorities must also determine when a Member's interest is such that they should withdraw from a meeting. The Act makes it a criminal offence for a Member to participate in a matter in which they have what is now to be known as a Disclosable Pecuniary Interest (DPI) unless they have a dispensation. Council Standing Orders will need to be amended to include this provision.
- 3.13 Members are asked to note that the concept of 'pre-determination' will not be part of the new regime.
- 3.14 Members may find the following useful, extracted from the Guide referred to in paragraph 2.3. A copy of the full guidance is available for inspection in the Members' Room.

“Clarifying the rules on predetermination

In parallel with the abolition of the Standards Board, the Government has used the Localism Act to clarify the rules on 'predetermination'. These rules were developed to ensure that councillors came to Council discussions - on, for example, planning applications - with an open mind. In practice, however, these rules had been interpreted in such a way as to reduce the quality of local debate and stifle valid discussion. In some cases Councillors were warned off doing such things as campaigning, talking with constituents, or publicly expressing views on local issues, for fear of being accused of bias or facing legal challenge.

The Localism Act makes it clear that it is proper for Councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their Councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on.”

- 3.15 There may be knock on effects of the Localism Act and new Code of Conduct for the Codes of Conduct for Licensing and Planning. Officers are examining what these effects might be and the outcome will be reported to the relevant Committees in due course.
- 3.16 The repeal of Section 55 abolishes the statutory requirement for a Standards Committee. However, arrangements for dealing with misconduct must be put in place to avoid all matters being taken to full Council. This Committee's views will be sought on whether it would recommend that a 'voluntary' Standards Committee be established to consider issues of potential misconduct. The Committee would be voluntary in the sense that the power to establish one is discretionary. In theory, most interpreters of the Localism Act consider that the existing co-opted non-elected Members could be co-opted as non-voting Members of the new Committee. Therefore, their role is likely to change and the current thinking is that they could not chair the meetings. However, the fine detail of all these matters needs to be considered carefully, and in the light of regulations when they emerge.
- 3.17 As stated above the authority must adopt arrangements for dealing with complaints against elected Members. This includes who will receive such complaints (currently, the Monitoring Officer), who will determine how they are to be resolved, either informally or through investigation and the details of the investigatory and sanctioning process where a breach is found. However, Members are asked to bear in mind that in future there will no longer be any statutory sanctions, so a range of actions will need to be considered which deal with complaints robustly and to the satisfaction of all parties.
- 3.18 Under the current regime the Council has to have two Independent members of this Committee (the Chairman and Vice-Chairman). Under the new regime the Council is required to have an Independent Person with a different role. The authority must seek the views of the independent person and take them into account before making a decision on an allegation which it has decided to investigate. Their views can also be sought by the Member against whom an allegation has been made. This could prejudice their position. Therefore, it is essential that two and if possible, three people are appointed. The

Investigation process will need to be updated and the Constitution amended accordingly. As now, the Monitoring Officer will conduct investigations or appoint someone else to do it.

- 3.19 Section 49 of the Act presents authorities with a problem because the Independent Person cannot have had any association with the authority within the preceding five years which means that the current co-opted independent Members of this Committee are unfortunately precluded from being appointed as the Independent Persons. In addition, the independent person cannot have been employed by the authority or any other relevant authority in the preceding five years. However, the current independent members of this Committee could be members of the new 'voluntary' Standards Committee as set out in paragraph 3.16.
- 3.20 The current understanding is that the independent persons must be appointed by 1 July 2012, and a new Code of Conduct approved by full Council. Realistically, the new Code will need to be approved therefore by the meeting of the full Council on 16 May 2012. An additional meeting of this Committee will need to be convened before then to approve the new Code and to agree arrangements to recruit new Independent Persons as well as make decisions on how the Committee should operate in future. To date, this meeting has been arranged to take place on 10 April 2012, and all members of the Committee have been invited to attend.
- 3.21 The other implication of abolishing the Standards Committee is how audit issues will be dealt with in future. In order to make matters easier the proposal would be, subject to the Committee's views, to keep the Standards and Audit Committee but alter the membership and its terms of reference.
- 3.22 Local Authorities have been asked to direct any questions about future standards arrangements to the Local Government Standards team in the Conduct and Council Constitutions Division at the Department for Communities and Local Government (DCLG).
- 3.23 Further updates will be brought to this Committee once the regulations make clear what the implications are for the future function and role of this Committee.
- 3.24 A draft timetable is attached at Appendix 'B' for information, which will be subject to amendment as new guidance and/or Regulations are issued and decisions made on the best way forward.

The Committee is asked to give its views and any recommendations on:-

- i) the future composition, terms of reference and remit of the Standards and Audit Committee;**
- ii) the future role of the current Independent non-elected co-opted Members (currently) of this Committee;**
- iii) the principles to be contained within the new Code of Conduct and what range of sanctions might be suitable for breaches thereof;**
- iv) what should constitute 'pecuniary' and 'other than pecuniary' interests and in what circumstances these should be registered and/or declared and which would require withdrawal from a meeting; and**
- v) the proposals with regard to the appointment of Independent Persons and endorsement of the mechanism to recruit them**

(TO RESOLVE)

Background Papers

Press Release on Standards for England Website, dated 6 December 2011
A Plain English Guide to the Localism Act – Update – November 2011
Press Releases and articles on the Association of Council Secretaries and Solicitors and Local Government Lawyer websites and other local authorities in Surrey and elsewhere.

7. LOCAL GOVERNMENT OMBUDSMAN INVESTIGATIONS – AN UPDATE (CHGA)

1. **Purpose of Report**

1.1 **The purpose of this report is to inform Members on the receipt, outcome and progress of matters handled by the Commissioner for Local Administration (Local Government Ombudsman) since the last meeting of this Committee (28 09 11).**

2. Background Information

2.1 The Local Government Ombudsman ('LGO') does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So, if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it back to the Council as a 'Premature Complaint' to see if the Council can itself resolve the matter.

3. Report

3.1 For the period 1 October to date, the Council has been notified of six instances that have been referred to the LGO. Of these, two were outside the jurisdiction of the LGO, two were not pursued and two were discontinued. A more detailed analysis of these cases can be found at Appendix 'C'. There are currently no pending cases.

(FOR INFORMATION)

Background Papers

Relevant papers on Corporate Head of Governance and Assets' Ombudsman file series 61.21 (exempt).

8. PUBLIC REGISTER OF MEMBERS' INTERESTS (CHGA)

1. **Purpose of Report**

1.1 **The purpose of this report is to advise Members that the Public Register of Interests will, from May 2012, be available on the Council's website and to highlight the implications of the Localism Act on its form and content.**

2. Background Information

2.1 All elected Members and Co-opted Members of Runnymede Borough Council are required under the Local Government Act 2000 and The Local Authorities (Model Code of Conduct) (England) Order 2001 (amended 2007) to complete a 'Declarations of Interest' form which is placed in the Public Register of Members' Interests.

2.2 Newly elected Members are sent an initial form to complete within 28 days of their taking office. Existing Members are sent a new form each year at the same time along with a copy of their old form electronically (to save paper), to update as necessary, again within 28 days of the new Municipal Year.

3. Report

3.1 In the interests of improving transparency and access to information the forms which Members and Co-opted Members complete will now be made available on the Council website. Many other Councils do this so it would not be out of step for Runnymede to follow suit.

3.2 A public register of complaints made about Members of the Council is already kept and is available to view on the website.

3.3 In the light of the Localism Act and re-modelling of how Members' Interests might be defined, Officers are preparing detailed guidance about the completion of the Declarations of Interest forms to ensure all the relevant information is recorded and it will be clear on the forms and guidance that the forms will be published on the website, save for information that can be

legitimately withheld to protect a member's welfare and other similar circumstances as defined in the Act and any subsequent regulations.

- 3.4 Because the Implementation of the Localism Act has been put back to July 2012 (after the start of the new Municipal Year), the current system and forms will have to be operated in May and the exercise repeated with new forms etc as necessary for all Councillors and co-opted Members, as appropriate, post July.
- 3.5 It is hoped that having the information on the website will encourage Members to complete their forms in detail and return them promptly so that the scanning and adding to the website can be done in one batch.
- 3.6 Each individual's form will appear in their listing under 'Your Councillors'. Co-opted Members currently do not have their own web-pages, so suitable arrangements will need to be put in place accordingly.

4. Resource Implications

- 4.1 When the forms arrive they will be scanned and sent to the Web Team to be put on the website. This is a relatively straight forward process.

5. Equalities Implications

- 5.1 An Equalities Screening Assessment has been conducted which has identified that access to information for people unable to come to the offices in person to inspect the Register will be improved by having access on-line. People will still be able to inspect the Register in person if they wish; it is kept in the Committee Section.

(FOR INFORMATION)

Background Papers

None.

9. FIRST-TIER TRIBUNAL (LOCAL GOVERNMENT STANDARDS IN ENGLAND) – RECENT CASES (CHGA)

(Ref: Minutes of Standards and Audit Committee, February 2011, page 519, para 533)

The following recent cases may be of interest to Members:

As noted elsewhere on this agenda, this is the last such report this Committee will receive following the abolition of Standards for England.

A Member of Ellistown and Battleflat Parish Council was the subject of nine complaints, some of which were related to the same matter.

The first three complaints were about separate items of personal and Council property, which it was alleged the Member refused to either release or return to the Council.

The fourth complaint concerned financial interests and the alleged disclosure of the tender price for a contract to another supplier with whom the Councillor had close financial links.

The fifth complaint was also in respect of interests but also that the Member in question had made derogatory remarks about the Council at a meeting attended by himself and two other elected Members and that he attempted to lobby them in respect of waiving the rent for use of a football pitch by a working men's club of which he was a Member. Further, the Member in question had not completed his Declarations of Interest form and had not declared the interests referred to in the fourth and fifth complaints, nor his membership of the Conservative Party.

The next two complaints concerned personal finances. It was alleged that the Councillor had wrongly claimed that money received from a developer was a gift towards a community centre development and that the money could only be used for that purpose. It was also alleged that he was wrongly in receipt of a monthly allowance for the time he served as Chair of the Council.

Finally, the Councillor was alleged to have made telephone calls to the workplace of one of the complainants wrongly alleging that she had misrepresented herself as a solicitor.

The Ethical Standards Officer (ESO) referred the first of the allegations to North West Leicestershire District Council's Standards Committee for determination. So far as allegations 2-8 were concerned, the Ethical Standards Officer did not find the evidence to support the allegations. So far as the final allegation was concerned, the Ethical Standards Officer found no evidence that the Councillor had been acting in his capacity as an elected Member of the Council.

The importance of completing one's Declarations of Interest form fully should be noted. The implications of not doing so are firstly that the Member in question will have breached the Code of Conduct which requires interests to be declared within 28 days of their taking office or being re-elected.

Secondly, the Authority is required to keep and have available at all reasonable times a Public Register of Members' Interests. If the Authority cannot do that, it too (but specifically the Monitoring Officer) will have breached the provisions of Section 81 of the Local Govt Act 2000. However, this will change under the new regime.

The second case concerned the alleged misuse of Council resources and disreputable conduct by an Elected Member during the course of his assisting a member of the public who was experiencing difficulties regarding a benefits package provided by the Council.

The ESO had to consider whether e-mails sent by the Councillor to the individual, with whom he had a pre-existing relationship, were done so in his official capacity. He found that the IT policy was not sufficiently explicit to preclude its usage in the way made and recommended it be reviewed. As a consequence of this failing in the IT policy no breach of the Code was found. However, the ESO did consider that the Councillor had failed to maintain sufficient distinction between conduct undertaken in his official capacity and that undertaken in his private capacity although he did not believe this error in judgement to be sufficiently serious as to be capable of amounting to disreputable conduct.

Members need to be mindful that their communications with the public can be the subject of scrutiny and that it is prudent to act as if one is 'on duty' to avoid accusations of inappropriate conduct.

(FOR INFORMATION)

Background papers

Published cases on the website of the First-Tier Tribunal's (Adjudication Panel for England) website at www.adjudicationpanel.tribunals.gov.uk and www.standardsforengland.gov.uk.

10. 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)

Part II

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

a)	<u>Exempt Items</u>	Paras.
	Exempt Appendix 'A' to item 2: Minutes	1, 3 and 7

b) Confidential Items

(No items to be considered under this heading).