



MEETING: STANDARDS COMMITTEE

DATE: Thursday 15th July, 2010

TIME: 10.00 am

VENUE: Town Hall, Southport

Member

Substitute

Councillor
Blackburn
Brady
Fairclough
Hill
Howe
Papworth

Councillor
Tonkiss
Moncur
Maher
D Rimmer
Fenton
Mclvor

Independent Members: Mr. N. Edwards (Chair), Mr Edward Davies (Vice-Chair) and Mr. J. Fraser

Parish Council Member Mrs. B. O'Brien and Mr. D. Warren

COMMITTEE OFFICER: Steve Pearce
Head of Committee and Member Services
Telephone: 0151 934 2046 / 2068
Fax: 0151 934 2034
E-mail: steve.pearce@legal.sefton.gov.uk

If you have any special needs that may require arrangements to facilitate your attendance at this meeting, please contact the Committee Officer named above, who will endeavour to assist.

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A G E N D A

1. **Apologies for Absence**
2. **Declarations of Interest**
Members and Officers are requested to give notice of any personal or prejudicial interest and the nature of that interest, relating to any item on the agenda in accordance with the relevant Code of Conduct.
3. **Minutes** (Pages 5 - 6)
Minutes of the meeting held on 25 March 2010
4. **Standards Committee Annual Report 2009 -10** (Pages 7 - 16)
Report of the Interim Head of Corporate Legal Services
5. **Proposed Decentralisation and Localism Bill** (Pages 17 - 20)
Report of the Interim Head of Corporate Legal Services
6. **Case Summaries - Recent Investigations** (Pages 21 - 32)
Report of the Interim Head of Corporate Legal Services

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THESE MINUTES ARE NOT SUBJECT TO CALL IN.

STANDARDS COMMITTEE

MEETING HELD AT THE TOWN HALL, SOUTHPORT ON 25 MARCH 2010

PRESENT: Councillor Mr. N. Edwards (in the Chair)
Councillor Mr. E. Davies (Vice-Chair)

Councillors Bigley, Brady, M Fearn, Papworth and
Mr. J. Fraser

41. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Fairclough and Hill and Parish Councillors Mrs. O'Brien and Warren.

42. DECLARATIONS OF INTEREST

No declarations of interest were received.

43. MINUTES

RESOLVED:

That the minutes of the meeting held on 28 January 2010 be confirmed as a correct record.

44. CASE SUMMARIES - RECENT INVESTIGATIONS

The Committee considered the report of the Legal Director which incorporated copies of three case summaries published by Standards for England following recent investigations by Ethical Standards Officers.

RESOLVED: That

- (1) the report be noted; and
- (2) the case summaries be published on the Members' Portal and Members of the Council be sent an email link.

45. BIAS AND PREDETERMINATION – REFERRAL FROM MERSEYTRAVEL

The Committee considered the report of the Legal Director which provided details of the advice provided by Standards for England to the Merseyside Integrated Transport Authority relating to Bias and Predetermination and circulated to monitoring officers in Merseyside for information.

Agenda Item 3

STANDARDS COMMITTEE- THURSDAY 25TH MARCH, 2010

RESOLVED: That

- (1) the report be noted; and
- (2) the advice note be published on the Members' Portal and Members of the Council be sent an email link.

46. ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Chair reported that the Ninth Annual Assembly of Standards Committees would be held in Birmingham on 18 to 19 October 2010.

RESOLVED: That

- (1) the report be noted; and
- (2) the Chief Executive be requested to authorise the attendance of the Head of Corporate Legal Services and Monitoring Officer at the Annual Assembly.

47. MEMBERS INDUCTION PROGRAMME 2010

The Chair reported that a session on the Members Code of Conduct and the Standards regime would be included in the Members' Induction Programme for 2010 and that he would be attending the session.

RESOLVED:

That the report be noted.

48. MONITORING OFFICER

The Chair reported that Caroline Elwood, Legal Director and Monitoring Officer would be taking early retirement on 31 March 2010.

He also reported that Mr. D. Mackey, Interim Head of Corporate Legal Services and Ms. A. Grant, Assistant Director (Democratic Services) had been appointed by the Council as the Monitoring Officer and Deputy Monitoring Officer respectively.

RESOLVED: That

- (1) the report be noted; and
- (2) the sincere appreciation of the Committee be conveyed to Mrs. Elwood, Legal Director for all of the support and guidance she has given to the Committee together with best wishes for the future.

Agenda Item 4

Meeting: STANDARDS COMMITTEE

Date of Meeting: 15 July 2010

Title of Report: Annual Report 2009/10

Report of:

D Mackey
Interim Head of Corporate Legal
Services

Contact Officer:

(Telephone No.) 0151 934 2032

This report contains	Yes	No
CONFIDENTIAL Information/		√
EXEMPT information by virtue of paragraph(s).....of Part 1 of Schedule 12A to the Local Government Act, 1972 (If information <u>is</u> marked exempt, the Public Interest Test must be applied and favour the exclusion of the information from the press and public).		√
Is the decision on this report DELEGATED?	√	

1.0 Summary

To present the draft version of the annual report of Sefton Council Standards Committee

2.0 Recommendation(s)

That the Committee approve the draft version of the annual report of the Standards Committee, subject to any amendments / comments they may wish to make.

Agenda Item 4

Corporate Objective Monitoring

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1.	Creating a Learning Community		√	
2.	Creating Safe Communities		√	
3.	Jobs and Prosperity		√	
4.	Improving Health and Well-Being		√	
5.	Environmental Sustainability		√	
6.	Creating Inclusive Communities		√	
7.	Improving the Quality of Council Services and Strengthening local Democracy	√		
8.	Children and Young People		√	

Financial Implications

<u>CAPITAL EXPENDITURE</u>	2006/ 2007 £	2007/ 2008 £	2008/ 2009 £	2009/ 2010 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Departments consulted in the preparation of this Report

List of background papers relied upon in the preparation of this Report

3.0 Background

At their meeting on the 28 May 2009 Members resolved that the Legal Director produce an annual report on the work of the Committee. The draft annual report for 2009/10 is now submitted for Members approval, subject to any amendments or comments they may wish to make, and, if approved, will then be presented to full Council on 2nd September 2010.

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THE ANNUAL REPORT OF THE STANDARDS COMMITTEE FOR 2009/10

1.0 Introduction from the Chair

1.1 On behalf of the Members of the Standards Committee it gives me great pleasure to introduce the 2009/10 annual report to the Council. In doing so I feel it appropriate to express my thanks to Members of the Committee, the Monitoring Officer and his staff for their support and wise counsel during the year.

2.0 Composition and Terms of Reference

2.1 The Local Government Act 2000 required all Local Authorities to establish a Standards Committee tasked with promoting and maintaining high standards of conduct among Members and to assist Members to observe the Code of Conduct. Article 9 of the Council's Constitution sets out the composition role and functions of the Committee.

2.2 With effect from May 2009 the Committee has also been responsible for dealing with complaints against Elected Members and has the power to impose a range of sanctions in respect of those Members who have been found to have been in breach of the Members Code of Conduct.

2.3 The Committee is also responsible for issues in relation to the Parish and Town Councils within Sefton and accordingly the Standards Committee must include representatives from Parish Councillors. In addition at least a quarter of the membership must be Independent Members appointed by the Council to serve on the Committee.

2.4 The Local Government Act 2000 was amended in 2008 so as to make it a legal requirement that the Committee is chaired by an Independent Member.

3.0 Members of the Standards Committee

3.1 The Standards Committee must be composed of six Councillors, three Independent Members and two Parish Council Representatives. The Members of the Standards Committee for 2009/10 were as follows:-

Sefton Borough Council Representatives – Cllrs Blackburn, Brady and Fairclough (Cabinet Member) Cllrs Hill, Howe and Papworth

Independent Members – Mr N Edwards (Chair), Mr JR Fraser, Mr E Davies

Parish Council Members - Mrs B O'Brien and Mr D Warren

3.2 During 2009/10 the Standards Committee met on the following occasions:-

28th May 2009

9th September 2009

17th September 2009
 19th November 2009
 15th December 2009
 28th January 2010
 25th March 2010

4.0 Local Standards Framework

4.1 As from May last year the Council's Standards Committee became responsible for dealing with complaints in respect of allegations that there had been a breach of the Code of Conduct. This was previously the responsibility of the Standards Board for England who in future will adopt a more strategic role responsible for training and guidance and monitoring the outcome of complaints and investigations undertaken by Local Authorities.

4.2 Each complaint received by the Standards Committee must be assessed to see whether it falls within the Committee's jurisdiction. Three Sub-Committees have been established for dealing with the potential stages involved in a complaint as follows:-

4.2.1 Initial Assessment Sub-Committee – receives and determines whether to refer for investigation or other appropriate action any written complaint.

4.2.2 Review Sub-Committee – further reviews and re-considers the decision of the Initial Assessment Committee upon appeal.

4.2.3 Hearings Sub-Committee – hears the outcome of any investigation into an alleged breach of the Code and determines any appropriate sanction.

4.3 At their meeting on the 14 July 2008 the Standards Committee agreed to adopt and publicise the assessment criteria for the local assessment of complaints. The adopted criteria are set out in full at **Annex A**.

4.4 In the year 2009/10, the Initial Assessment Sub-Committee has met on one occasion to consider a local complaint. The Hearing considered a complaint and determined as follows:-

NO.	BREACH	DECISIONS
SAC 11	<ul style="list-style-type: none"> ▪ Failing to treat others with respect ▪ Bringing their office or Authority into disrepute (Allegations against Parish Councillors) 	No action

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5.0 Independent Members

Two Independent Members were appointed to the Sub-Committee following a recruitment and selection process. The Council subsequently agreed the recommendation that Mr E Davies, from Formby, and Mr JR Fraser, from Ainsdale, be appointed as Independent Members of the Standards Committee for a three year term of office until May 2011. The Independent Members Chair any meetings of the Sub-Committee.

6.0 Training

6.1 Training and development is an important function of the Standards Committee. During 2009/10 training and development opportunities were provided on the following dates:-

6.1.1 New Members Induction – 13th May 2010, 14th May 2010, 25th May 2010 and 3rd June 2010

7.0 Summary

7.1 The Standards Committee is a non-political body whose Members are required to act in an impartial manner, using their experience and sound judgement to determine complaints laid against Elected Members. The Committee is not a battle-ground for party political disputes.

7.2 This annual report was approved by the Standards Committee at its meeting on the 15 July 2010 and is recommended to the Council.

Neil Edwards
Independent Chair
Standards Committee
July 2010

SEFTON COUNCIL STANDARDS COMMITTEE – ASSESSMENT CRITERIA

These criteria are intended to reflect local circumstances and priorities and are simple, clear and open. They are to ensure fairness for the complainant and the subject member.

1.0 Circumstances where the Initial Assessment Sub-Committee may decide to take no further action

Where the complaint:

- (1) does not have enough information to satisfy the sub-committee that the complaint should be referred for investigation or other action.
- (2) is about someone who is no longer a member of the Council or the Parish Council.
- (3) has not been received within 3 months of the alleged misconduct unless there are exceptional circumstances
- (4) or one substantially similar, has already been the subject of an investigation or other action relating to the Code of Conduct or has been the subject of an investigation by other regulatory authorities.
- (5) is believed to be either:
 - (a) relatively minor
 - (b) tit-for-tat
 - (c) politically motivated
 - (d) malicious
 - (e) not sufficiently serious to warrant further action
- (6) is anonymous, unless it includes documentary or photographic evidence indicating an exceptionally serious or significant matter or
- (7) where the subject member has apologised and/or admitted making an error and the matter would not warrant a more serious sanction
- (8) where it is apparent that the subject Member is relatively inexperienced as a Member
- (9) where it appears that even if the allegations were fully investigated and a breach of the Code of Conduct upheld, training or conciliation would be the appropriate remedy

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers' and members' time. This is an important consideration where the matter is relatively minor. The Standards Committee will take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. It will not refer a complaint for investigation where it considers that the public interest in investigating the complaint is outweighed by the cost and resources that would be likely to be involved.

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2.0 Circumstances where the Standards Committee may decide to refer the complaint to the Monitoring Officer for local investigation

Where the complaint is sufficiently serious to justify the cost of an investigation and it is in the public interest to investigate.

3.0 Circumstances where the Standards Committee may decide to refer the allegation to the Monitoring Officer for other positive action

(1) Where the complaint:

(i) could be dealt with more effectively by:

- (a) requesting an apology
- (b) mediation
- (c) training
- (d) reviewing procedures and protocols

(ii) is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority which could be dealt with by:

- (a) mediation
- (b) training
- (c) reviewing procedures and protocols

(2) Where it is not in the interests of good governance to undertake or complete an investigation into a complaint.

Notes

(a) The Initial Assessment Sub-Committee must consult the Monitoring Officer before reaching a decision to take other action. It is to be noted that the purpose of this approach is not to determine whether there has been a breach of the Code.

(b) If members decide to refer the complaint to the Monitoring Officer for another form of positive action the following must be considered:

- *What is being proposed.*
- *Why it is being proposed.*
- *Why the Member should co-operate*
- *What the Sub-Committee hopes to achieve*

(c) A complaint referred for positive action will not state whether the member breached the Code but that the decision made was an alternative to investigation and that no conclusion was reached on whether the subject member failed to comply with the Code. There will be no opportunity to undertake an investigation into the complaint and it will not be referred back to the Standards Committee even if this action is perceived to have failed.

4.0 Circumstances where the Standards Committee may decide to refer the complaint to the Standards Board for England (SBE)

(1) Where the status of the member or members or the number of members about whom the complaint is made would make it difficult to deal with the complaint eg

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a complaint against the Leader of the Council or senior opposition group members or a Cabinet Member or a Standards Committee Member.

- (2) Where the status of the complainant or complainants would make it difficult to deal with the complaint eg a complaint from the Chief Executive or Legal Director or other senior officer or a Group Leader or Cabinet Member or Standards Committee Member.
- (3) Where a large number of key people are conflicted out and there is a risk of successful judicial review.
- (4) Where there is a potential conflict of interest of the monitoring officer or other officers and suitable alternative arrangements cannot be put in place to address the conflict.
- (5) Where the complaint is so serious or complex, or it involves so many members that it cannot be handled locally.
- (6) Where the complaint requires substantial amounts of evidence beyond that available from the authority's documents, its members or officers.
- (7) Where there is substantial governance dysfunction in the Council or its Standards Committee.
- (8) Where the complaint relates to long-term or systemic member/officer bullying which could be more effectively investigated by someone outside the authority.
- (9) Where the complaint raises significant or unresolved legal issues on which a national ruling would be helpful.
- (10) Where the public might perceive the Council to have an interest in the outcome of a case eg, if the Council could be liable to be judicially reviewed if the complaint is upheld.
- (11) Where there are exceptional circumstances which would prevent the authority or its standards committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation.

5.0 Timescales

The Initial Assessment Sub-Committee will, unless there are exceptional circumstances, reach a decision applying the criteria above within 20 working days of receipt of the complaint.

6.0 Attendance

The subject Member will not be notified that a complaint has been made until the matter has been determined by the Initial Assessment Sub-Committee. Neither the complainant nor the subject Member may attend the Initial Assessment Sub-Committee.

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Agenda Item 5

Meeting: Standards Committee

Date of Meeting: 15th July 2010

Title of Report: Proposed Decentralisation & Localism Bill

Report of:
Mr D Mackey
Interim Head of Corporate Legal
Section

Contact Officer:
(Telephone No.) 0151 934 2032

This report contains	Yes	No
CONFIDENTIAL Information/		√
EXEMPT information by virtue of paragraph(s).....of Part 1 of Schedule 12A to the Local Government Act, 1972 (If information <u>is</u> marked exempt, the Public Interest Test must be applied and favour the exclusion of the information from the press and public).		√
Is the decision on this report DELEGATED?		

1.0 Purpose of Report

To advise Members on the Governments planned Decentralisation and Localism Bill and its effect on Standards for England.

2.0 Recommendation(s)

That Members note the report.

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Corporate Objective Monitoring

<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1.	Creating a Learning Community		√	
2.	Creating Safe Communities		√	
3.	Jobs and Prosperity		√	
4.	Improving Health and Well-Being		√	
5.	Environmental Sustainability		√	
6.	Creating Inclusive Communities		√	
7.	Improving the Quality of Council Services and Strengthening local Democracy	√		
8.	Children and Young People		√	

Financial Implications

<u>CAPITAL EXPENDITURE</u>	2006/ 2007 £	2007/ 2008 £	2008/ 2009 £	2009/ 2010 £
Gross Increase in Capital Expenditure				
Funded by:				
Sefton Capital Resources				
Specific Capital Resources				
<u>REVENUE IMPLICATIONS</u>				
Gross Increase in Revenue Expenditure				
Funded by:				
Sefton funded Resources				
Funded from External Resources				
Does the External Funding have an expiry date? Y/N	When?			
How will the service be funded post expiry?				

Departments consulted in the preparation of this Report

Not applicable

List of background papers relied upon in the preparation of this Report

www.standardsforengland.gov.uk

3.0 Background

- 3.1 As part of the Queen's Speech, the Government announced that a Decentralisation and Localism Bill will be introduced, expected to be published in the Autumn. Part of this Bill includes the abolition of the Standards Board regime but no further details are available at this time.
- 3.2 Bob Chilton, Chair and Glenys Stacey, Chief Executive of Standards for England have recently responded as follows:-

"We are very disappointed at the Government's decision to abolish the Local Government Standards Regime.

Since 2007, Standards for England has dealt only with those matters which Local Authorities could not deal with themselves. Our recent review of this devolved local framework found that it is delivering increased confidence in the accountability of local politicians, improved Member behaviour and contributing to better governance.

We do not have clear details as yet of what is proposed for the future, but for now the local Standards framework remains pending legislative change. Our priorities are to fulfil our statutory duties, to support Local Authorities in maintaining high standards and to assist the Government in developing and implementing any new arrangements".

- 3.3 No further details of the Government's proposals are available at the time of writing this report but a verbal update will be given at the meeting.

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Agenda Item 6

Meeting: STANDARDS COMMITTEE

Date of Meeting: 15TH JULY 2010

Title of Report: CASE SUMMARIES – RECENT INVESTIGATIONS

Report of:

Dave Mackey,
Interim Head of Corporate
Legal Services

Contact Officer:

(Telephone No.)
0151 934 2032

This report contains	Yes	No
CONFIDENTIAL Information/		√
EXEMPT information by virtue of paragraph(s).....of Part 1 of Schedule 12A to the Local Government Act, 1972 (If information <u>is</u> marked exempt, the Public Interest Test must be applied and favour the exclusion of the information from the press and public).		√
Is the decision on this report DELEGATED?		

1.0 Purpose of Report

To update Members on the outcome of two recent investigations by Standards for England.

2.0 Recommendation(s)

That Members note the case summaries and determine whether there is benefit in circulating the summaries to other Council Members.

Corporate Objective Monitoring

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<u>Corporate Objective</u>		<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1.	Creating a Learning Community		√	
2.	Creating Safe Communities		√	
3.	Jobs and Prosperity		√	
4.	Improving Health and Well-Being		√	
5.	Environmental Sustainability		√	
6.	Creating Inclusive Communities		√	
7.	Improving the Quality of Council Services and Strengthening local Democracy	√		
8.	Children and Young People		√	

Financial Implications

	2009/ 2010 £	2010/ 2011 £	2011/ 2012 £	2012/ 2013 £
<u>CAPITAL EXPENDITURE</u>				
Gross Increase in Capital Expenditure	-	-	-	-
Funded by:	-	-	-	-
Sefton Capital Resources	-	-	-	-
Specific Capital Resources	-	-	-	-
<u>REVENUE IMPLICATIONS</u>	-	-	-	-
Gross Increase in Revenue Expenditure	-	-	-	-
Funded by:	-	-	-	-
Sefton funded Resources	-	-	-	-
Funded from External Resources	-	-	-	-
Does the External Funding have an expiry date? Y/N N	When?			
How will the service be funded post expiry?				

Departments consulted in the preparation of this Report

Not applicable

List of background papers relied upon in the preparation of this Report

www.standardsforengland.gov.uk/caseinformation - recent summaries

3.0 Background

- 3.1 The Standards Board has recently published two case summaries relating to recent investigations. Copies of the case summaries are attached at **Appendix 1** as follows:-
- (i) **Fenland District Council** - Complaint that the Member disclosed confidential information. The Ethical Standards Officer found that the Member did not breach the Code of Conduct.
 - (ii) **South Tyneside Council** - Complaint that the Member had failed to show respect to another Member and that he brought his office and/or his authority into disrepute. The Ethical Standards Officer found that the Member did not breach the Code of Conduct.
 - (iii) **Cornwall Council** - Complaint that the Member made an abusive and disreputable personal attack on individual members of the public and on local people generally. The Ethical Standards Officer (ESO) found that the Member's conduct was not on balance capable of damaging the reputation of the office of Councillor or of his Authority and he did not, therefore, fail to comply with paragraph 5 of the Code of Conduct. In respect of an allegation of disrespect, the ESO found that the Member had failed to comply with the Code of Conduct, but in the circumstances of the case, no further action needed to be taken.
- 3.2 Members are asked to note the details of the case summaries and determine whether it would be appropriate to circulate any of the case summaries to other Members of the Council or Parish Councillors.

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APPENDIX 1 (i)

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Case Summary - Fenland District Council

Case no. SBE-09067-ZVAMH SBE-09068-JTZJN, SBE-09069-XGFY2, SBE-09070-28511, SBE-09071-4KF5Q, SBE-09072-V07IQ

Member(s): Councillor Steve Garratt

Date received: 09 Feb 2009

Date completed: 24 May 2010

Allegation:

That the member disclosed confidential information

Standards Board outcome:

The ethical standards officer found that the member did not breach the Code of Conduct

Case Summary

It was alleged that Councillor Steve Garratt disclosed confidential information to Councillor Fred Yeulett when he passed him an email he had received from Councillor Alan Melton which had been marked 'Strictly Confidential'.

The Ethical Standards Officer found that on 20 November 2009 Councillor Melton sent an email to some of his colleagues within the Conservative group and party that expressed his concern about the Council's failure to progress plans for a leisure centre in Chatteris. Councillor Melton marked his email 'Strictly Confidential'

Councillor Garratt received Councillor Melton's email on Saturday 21 November 2009. Councillor Garratt was concerned about some of Councillor Melton's comments and telephoned him to discuss the matter. Councillor Garratt then telephoned Councillor Fred Yeulett, the deputy leader of the Council and Conservative group, to get his opinion of Councillor Melton's proposals. Councillor Yeulett had not been on Councillor Melton's circulation list and so Councillor Garratt forwarded him a copy of the email.

In reaching a decision on this matter the Ethical Standards Officer did not believe that the email's reference to council business settled the issue of whether Councillor Garratt was acting in his capacity as a councillor when he forwarded it. The audience for this email was members of the local Conservative group, some of whom were not councillors. Although the email like many involving local politics touched on matters that the council had considered, its primary purpose and content was political. The Ethical Standards Officer had no doubt that Councillor Garratt's act of passing the email to a senior political colleague was essentially a party political matter.

The Ethical Standards Officer was satisfied that in passing the email to Councillor Yeulett, Councillor Garratt was not acting in his official capacity as a councillor and therefore did not fail to comply with the Code.

Relevant paragraphs of the Code of Conduct

Paragraph 4

"4(d) You must not—

(i) 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, except where—

(1) you have the consent of a person authorised to give it;

(2) you are required by law to do so;

(3) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(4) the disclosure is—

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of the authority"

Case information & reporting

In this section:

- Making a complaint about your councillor
- SfE case summaries
- Case analysis
- Local statistics



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APPENDIX 1 (ii)

Case Summary - South Tyneside Council

Case no. SBE-08422-HUOVO
 Member(s): Councillor Gordon Finch
 Date received: 16 Dec 2009
 Date completed: 11 May 2010

Allegation:

That Councillor Finch had failed to show respect to another member and that he brought his office and/or his authority into disrepute

Standards Board outcome:

Local investigation outcome:

The ethical standards officer found that the member did not breach the Code of Conduct .

Case Summary

The complaint was about a newsletter distributed by Councillor Finch in his ward. It was alleged that the newsletter had wrongly alleged that a member, had fiddled expenses, made racist insults at a public meeting, and with others had "howled and shrieked" at another member. The complainant argued that in distributing the newsletter Councillor Finch had been disrespectful to the member against whom these allegations were made.

The ethical standards officer noted that the article on councillors fiddling expenses did not identify any particular member but rather argued that this was the sort of matter that the local standards committee ought to investigate. In those circumstances the ethical standards officer considered that no disrespect to the particular member was demonstrated.

Similarly in relation to the allegation of racism, the ethical standards officer noted that the member was not identified individually and, in any event, did not consider that the repetition of an allegation which was already in the public domain and which Councillor Finch honestly thought to be justified was disrespectful. Likewise, the ethical standards officer did not consider it to be disrespectful to advertise the web site of a television channel which carried an interview with the councillor who claimed to have been the subject of a racist remark.

It was also not possible to identify any particular councillor by name in relation to comments about the howling and shrieking comment. There was no disagreement that the meeting in question had been abandoned amid scenes of chaos. There was no evidence of disrespect by Councillor Finch in distributing a newsletter which put forward a particular view as to which party or group had been responsible.

So far as the allegation that Councillor Finch had brought either his office or the council into disrepute, the Ethical Standards Officer considered that while some of the matters reported in the newsletter might have lowered the reputation of the Council in the eyes of the public, reporting on those matters, albeit with a political slant and distributing the newsletter could not be regarded as disreputable conduct within the meaning of the Code.

Relevant paragraphs of the Code of Conduct

3(1), 5

Case information & reporting

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APPENDIX 1 (iii)

Case Summary - Cornwall Council

Case no. SBE-09441-09457
 Member(s): Councillor Graeme Hicks
 Date received: 09 Mar 2010
 Date completed: 09 Jun 2010

Allegation:

Allegation of disrespect:

The ethical standards officer found that the member failed to comply with the Code of Conduct, but in the circumstances of the case, no further action needed to be taken.

Allegation of disrepute:

the ethical standards officer found that there had been no failure to comply with the Code of Conduct

Standards Board outcome:

Case Summary

The complainants alleged that Councillor Hicks made an abusive and disreputable personal attack on individual members of the public and on local people generally.

In January 2010 a local newspaper published a letter from Councillor Hicks criticising a campaign against a proposed harbour development. The campaign was by a local residents' group known as the Friends of Penzance Harbour (the Friends). Councillor Hicks signed the letter as an executive member of his council. The complainants highlight as particularly offensive Councillor Hicks' remarks that the Friends spokesman and a local journalist had made claims about the harbour issue that "reminded [him] of the extraordinary claims made by Soviet and Nazi propagandists" or "in the tradition of the infamous Dr Joseph Goebbels" [sic]. The complainants also highlight Councillor Hicks' description of the group's spokesman 'and his friends' as "a discredited and utterly despicable mob".

Councillor Hicks said that he wrote his letter as part of an ongoing public debate. He believed some of the Friends' campaign tactics were misleading or intimidating. He was not suggesting the group's spokesman or the journalist were Nazis, or suggesting that every Friends member or local objector was part of a 'despicable mob'. His remarks were about those protesters who in his view had gone beyond legitimate democratic protest. He apologised if any ordinary protester had been offended by his letter. He further apologised if anyone whose family had suffered at Nazi hands had been upset by his letter. Councillor Hicks said that when he wrote his letter he had been distressed by anonymous internet attacks on his personal integrity and rumours of death threats against his family.

The ethical standards officer noted that there is no evidence that the Friends' campaign was conducted other than peacefully and within the law. There is no evidence that Friends members had abused Councillor Hicks or made threats to him or anyone else. Councillor Hicks did face personal abuse from other sources, and some local people had expressed strongly negative views about Friends' campaign tactics both in the press and to Councillor Hicks directly.

The ethical standards officer considered that while Councillor Hicks' remarks about Soviet and Nazi propagandists were not tasteful or proportionate, he was not suggesting that any individual was personally similar to a Nazi. Councillor Hicks made his 'despicable mob' remark after press coverage of claims and counter claims about the Friends campaign, and in this context the remark would be understood by someone reading the letter to be a personal attack on Friends members and not on all objectors.

The ethical standards officer considered the description of the Friends members as 'a despicable mob' to be a personal attack on the character of Friends members. He drew a distinction between a robust attack on a person's ideas and actions, and an attack on a person's character. He did not consider that the high level of protection that is given to freedom of political expression under Article 10 of the European Convention on Human Rights should apply to Councillor Hicks' personal attack on character. He concluded that in describing the Friends group as a "despicable mob" Councillor Hicks made an unreasonable and excessive personal attack and so failed to treat others with respect. Councillor Hicks therefore failed to comply with paragraph 3(1) of the code of conduct.

The ethical standards officer noted the context of a fiercely argued public debate about the Friends' campaign and that Councillor Hicks was not making a personal attack on every objector. While some members of the public might hold Councillor Hicks' personally in lower esteem as a result of his remarks, Councillor Hicks' conduct was not on balance capable of damaging the reputation of the office of councillor or of his authority. Councillor Hicks did not therefore fail to comply with paragraph 5 of the code of conduct.

In reaching a finding, the ethical standards officer took account of the following:

Councillor Hicks holds a senior position on the authority and has a responsibility to lead by example on ethical standards

The Friends group had an established public platform from which to campaign and to effectively respond to criticism

Councillor Hicks was acting in what he saw as the public interest, and not for any private gain.

Councillor Hicks had been distressed by personal attacks on his integrity and by rumours of threats against his

family

Councillor Hicks gave an apology to the wider public for any offence he had caused

Councillor Hicks has not repeated the conduct

This was the first occasion on which Councillor Hicks had failed to comply with the code of conduct in nine years of service as a councillor

The ethical standards officer found that no action needed to be taken

Relevant paragraphs of the Code of Conduct

3(1), 5

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