

**MINUTES OF A MEETING OF THE  
STANDARDS COMMITTEE  
HELD ON WEDNESDAY 2 SEPTEMBER 2009 FROM 7.00 PM TO 7.45 PM**

*Present:-*

**Wokingham Borough Members:-** *UllaKarin Clark, Pauline Helliar-Symons and Malcolm Storry*

**Independent Members:-** *David Comben, (Chairman), Eric Davies, John Giles and David Soane, (Vice-Chairman)*

**Parish Council representative:-** *Mr J Heggadon, Roy Mantel and Ray Duncan*

*Also present:- Kevin Jacob, Principal Democratic Services Officer  
Colin Lawley, Legal Services Manager and Deputy Monitoring Officer*

**PART I**

**19. MINUTES**

The Minutes of the meeting of the Committee held on 18 June 2009 were confirmed as a correct record and signed by the Chairman subject to the following amendments:

- 1) That Ray Duncan be removed from the list of those submitting apologies;
- 2) That in relation to minute 17, reference to Ray Duncan be deleted and Eric Davies be recorded as the independent member of the Standards Committee to attend the Standards for England Assembly on 12-13 October 2009.

**20. APOLOGIES**

An apology for absence was submitted from Anita Grosz.

**21. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**22. PUBLIC QUESTION TIME**

There were no public questions.

**23. MEMBER QUESTION TIME**

There were no Member questions.

**24. PROPOSED CHANGES TO SUB-COMMITTEES AND PROCESS FOR THE SUBMISSION OF MEMBER QUESTIONS**

The Committee considered a report, (Agenda pages 4 to 7) setting out proposed changes to titles and terms of reference of the Referrals, Hearings Sub-Committee and procedures for the submission of Member questions.

Colin Lawley, Legal Services Manager presented the report to the Committee and commented that the report proposed that the title of the Referrals Sub-Committee be amended to become the Initial Assessment Sub-Committee, that the Hearings Sub-Committee become the Consideration and Hearings Sub-Committee and that functions of the Referrals Sub-Committee relating to the completion of a Code of Conduct investigation

be transferred to the Consideration and Hearings Sub-Committee. It was also proposed that in future questions under from Members of town/parish councils would be treated in the same manner as questions from borough council Members.

The Chairman commented that whilst the role of the Referral Sub-Committees was made clear within its terms of reference, in looking at the arrangements of other Standards Committees he had felt that a title stressing the initial nature of the function performed after the receipt of a Code of Conduct complaint better explained this part of the local filter process than the use of the word referral.

In discussing the proposals, Pauline Helliar-Symons commented that she felt that the use of the word 'assessment' in the title of the first stage sub-committee would be inappropriate as in her view councillors would perceive the meaning of assessment to imply a final analysis or judgment of the merits of a complaint when such an analysis could not be undertaken at that the first stage of the local councillor complaints process. She also felt that the proposed wording of the title was too powerful with the risk that councillors might negatively misconstrue the functions of the overall local assessment procedures. UllaKarin Clark and Malcolm Storry supported these sentiments.

Roy Mantel whilst mindful of the comments made, stated that he was happy with the proposed title of the sub-committee as set out in the report, as in his view, the wording was sufficiently transparent in conveying that only an initial assessment of a complaint would be made at the first stage of the process. This view was also supported by a number of members of the Committee and further discussion took place.

During the course of the discussion, it proposed by Pauline Helliar-Symons and seconded by Malcolm Storry that the Referrals Sub-Committee be renamed the Initial Consideration Sub-Committee and that the Hearings Sub-Committee be renamed the Hearings and Assessment Committee.

The proposed changes to the terms of reference of the Hearings Sub-Committee to allow for the receipt of investigator's reports was supported by members of the Committee.

The Committee also supported the proposal to request that the Constitutional Review Working Group consider changing the process by which questions from parish and town councils councillors to the Standards Committee were dealt with by including such questions within the definition of a 'Member' question. Kevin Jacob commented that if the changes set out in the report were agreed he would write to parish and town councils to make them aware of the change and the relevant deadlines for the receipt of Member questions.

**RESOLVED:**

- 1) That the Standards Committee Referrals Sub-Committee be renamed the Standards Committee Initial Consideration Sub-Committee;
- 2) That the Standards Committee Hearings Sub-Committee be renamed the Hearings and Assessment Sub-Committee;
- 3) That provisions within the terms of reference of the Standards Committee Initial Consideration Sub-Committee, (as agreed above), to the consideration of investigation reports from the Monitoring Officer be deleted and added to the terms of reference of the Hearings and Assessment Sub-Committee, (as agreed above);

- 4) That the Constitution Review Working Group be requested to consider a change to the procedure for the consideration of Member questions to the Standards Committee as set out in paragraph 9.1.7 of the Constitution, by the addition of the following wording, *“Questions from members of the borough, parish and town councils within the Wokingham Borough Council area will all be treated as Member questions and be considered under the Member Questions Agenda item”*.

## **25. STANDARDS FOR ENGLAND – BULLETINS 43 AND 44**

The Committee considered Bulletins 43 and 44, (Agenda pages 10 to 21) produced by Standards for England which set out issues of interest relating to the operation of the Members Code of Conduct and ethical governance within local authorities. The Bulletins had been placed on the Agenda for the Committee’s information and discussion.

The Chairman commented that the Bulletins could also be accessed online via the Standards for England website and encouraged members of the Committee to do so. Members were also encouraged to consider requesting that a particular Bulletin item be placed on the next Committee Agenda if they felt it required further discussion.

UllaKarin Clark referred to the article in Bulletin 43 relating to the anticipated application of the Councillor Code of Conduct to a Member in their private capacity. She expressed deep concern that the Code would be applicable in this way and felt that it would be difficult to determine when a councillor was asking in an official capacity or not. The Chairman commented that in response to a recent Department for Communities and Local Government consultation, the Committee had felt that the Code should only apply to a councillor’s private life if a criminal offence was involved.

Kevin Jacob commented that he would seek clarification on when the relevant section of the Local Government and Public Involvement in Health Act which applied the Code to a councillor’s private life had come into effect.

Eric Davies commented that he felt it would be helpful for the Committee to receive further information on Standards for England Guidance relating to the use of ‘Other Action’ by Standards Committees following the initial consideration of complaints. Colin Lawley commented that the guidance referred to had just been issued and could be circulated to the members of the Committee for the next meeting.

Pauline Helliard-Symons referred to Bulletin 43 and the amount of Officer time spent in completing quarterly and annual returns to Standards for England. Kevin Jacob responded that the quarterly returns took around 10-15 minutes to complete whilst the annual return involved approximately 2-3 hours of his time.

UllaKarin Clark and Malcolm Storry referred to Bulletin 43 and the recent prize awarded by Standards for England to Rossendale Borough Council for winning the Standards and Ethics Category at the Local Government Chronicle Awards 2009. UllaKarin commented that it would be useful to look at what that council had done in order to learn from best practice.

**RESOLVED:** That the Standards for England Bulletins be noted.

**26. DRAFT COMMITTEE WORK PROGRAMME**

The Committee considered a draft work programme for the remainder of the 2009/2010 municipal year which had been circulated separately from the main agenda.

**RESOLVED:** That the draft Standards Committee Work Programme be approved.

*These are the Minutes of a meeting of the Standards Committee*

*If you need help in understanding this document or if you would like a copy of it in large print please contact one of our Team Support Officers.*

## WBC Standards Committee

### Feedback By Eric Davies on the Standards Board Assembly October 2009

#### OVERVIEW

The 2009 Assembly was held in an atmosphere of some uncertainty regarding the future existence of the Standards Board.

*The impression gained was that although it may close down if a Conservative Government is elected (source: The Tory Green Paper) this action would not be a priority for the incoming Government.*

The following were floated by Delegates:

- A possible merger with another statutory body.
- As many Authorities have had some form of Standards Committee for many years prior to the current regime it is probable that many would wish to retain a Standards Committee in future.

*It is apparent that Standards Committees have wide divergences in the scope of their work and method of operation. (e.g. proactive>non-proactive etc)*

The Assembly was fully booked and sessions were very well supported, I attended all the main plenary meetings and the following workshop sessions:

- Local Assessment
- Managing Investigations
- Sharing Good Practice Forum
- Engaging Leaders
- Focus on the "New" Code

The plenary meetings were general in content, sometimes at a very basic level, and the early sessions were a repeat of much of the previous year's Assembly.

*Some Delegates commented afterwards, and I agree with them, that more meetings should be specifically arranged for new members or first time attendees.*

#### SUMMARY OF "HOT" TOPICS

The following were raised during several sessions and summarizes the main concerns of the attendees:

- The Draft Revised Code and the future of the Standards Board post the General Election.
- How to raise the status and profile of the Standards Committee.

- Building trust and relationships while maintaining independence.
- Training and engaging Elected Members.
- Finding suitable reliable outside investigators.
- Controlling and completing outside investigations on time.

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Useful quotes:

- “be a friend not a foe”
- “be a guide dog not a watch dog”

Eric Davies  
Independent Member  
WBC Standards Committee

31 October 2009.

## ASSEMBLY DETAILED NOTES

### PLENARY - THE STATE OF THE NATION

At the first plenary the Standards Board announced that a new DVD had been sent to all Authorities recently and that this should be available to Members shortly.

Extracts and Statistics:

"The new ethical regime is about democracy and not politics"

"Over 50% of complaints are trivial and are eliminated by Standards Committees at the first stage. Most of these are concerned with planning applications".

"Standards Committees have a good record of adhering to the time scales but where outside bodies are involved in investigations very long delays can occur".

"A survey has shown that only 2% of Standards Committee Members are not supportive".

"Only 25 complaints against Members upheld during the last year resulting in 15 suspended and 10 suspended with action".

"Of the complaints received 33% were from Members and 50% from the Public. 66% of complaints are in respect of breaches of the Code".

"80% of parish/town councils have had no complaints".

"There is still a need to raise the profile of Standards".

"The Revised Code is due to be published in May 2010".

### LOCAL ASSESSMENT - WORKSHOP

The following views and suggestions were put forward:

- Mandatory training should be introduced for Councilors who often lack knowledge of the Code and competence. Monitoring Officers should take this up with Council Leaders.
- Chairmen of Standards Committees often lack power.
- Some attendees felt that by attending Council, Parish or Town meetings this led to a loss of the independence of Members of Standards Committees.

### PLENARY - THE BIG DEBATE

*In my view this was anything but as the unanswered question of "what will replace the Standards Board?" went unanswered.*

*The only significant comment I noted was a suggestion to increase the amount of "joint working" between Standards Committees.*

## MANAGING INVESTIGATIONS - WORKSHOP

*This is an area in which I had no previous experience in local government. The session was more concerned with the process than the procedures.*

*The majority of the time was spent discussing how to brief, control and bring to a timely conclusion the outsourced process of conducting an investigation.*

*The Speakers and Delegates felt that obtaining evidence was often a considerable problem as was the difficulty of choosing and obtaining a person to carry it out.*

The independent investigator could be:

- Somebody from another department
- An experienced person from another Authority
- An outsider (e.g. qualified consultant or solicitor)

Comprehensive briefing needs to be given to the investigator, with clear times scales to ensure undue delays do not occur.

Professional firms can be subject to staff changes and this can be a real problem in outsourcing investigations to third parties. The briefing paper must be agreed by all parties and regularly monitored to ensure compliance and the achievement of deadlines.

It was suggested that the Standards Committee should monitor the investigation process.

Also responsible for ensuring the process is effective are the Leader, CEO and MO.

## SHARING GOOD PRACTICE – WORKSHOP

This workshop covered a wide range of topics and

The following suggestions were noted:

- The need for adequate training for Members and Councilors.
- The importance of building trust and relationships with those subject to the Code.
- Standards Committees to be active and visible. (e.g. by attending Council Meetings).
- Produce a newsletter, contribute to Council publications.
- Standards Committee Chairman and MO to hold regular meetings with Leader and CEO, with annual meeting for all Standards Committee.
- Standards Committees to visit parish and town councils and meet with the Chairs.
- Be pro-active such as producing a “toolkit” for parish councils.
- Elected Members to take more ownership of Standards to enhance ethical governance.



- Create the right balance of confidence while retaining independence (“be a friend not a foe”, “be a guide dog not a watch dog”).

## ENGAGING LEADERS – WORKSHOP

*Many negative views were expressed by the attendees at this workshop, the following were some of the perceived problems raised by the Delegates:*

- Lack of a clear remit and Standards Committee parameters not defined or agreed.
- Failure to create a feeling of trust and ownership of Standards.
- Poor Officer Contact and support (excluding MO’s).
- No feeling of “partnership” with elected Councils.
- Difficulty in recruiting Independent Members.
- The apathy of Elected Members on Standards Committees.

*The following recommendations and suggestions were put forward:*

- Independence is a strong selling point and probably the greatest asset in obtaining better recognition.
- Because Councilors are remunerated payment of Independent Members raises their status in the eyes of many.
- Invite Councilors to state why they do not like the Code.
- Produce an Annual Plan and share draft with Leader and CEO.
- Work on improving communication with Members, Councilors and Officers.
- Have a Mission Statement.
- The Chairman’s and his Committees status must be respected by Leader.
- Share standards ethics with others.
- Attend Party Meetings.
- Hold induction day for new Councilors and produce an induction pack. Invest time in further training and updates.
- Attend Parish and wider public meetings.
- Have a Standards Web page.

- Monitor the Councilor's attendance records
- Comment on the Members Report.

One speaker said "He did not jeopardize his independence by attending local or Council meetings, does not receive any remuneration and did not hold one to one meetings with Council Members or Officers".

#### FOCUS ON CODE CHANGES – WORKSHOP

*I was disappointed that this session was overshadowed by the uncertainty about the future of the Standards Board and the Code itself. It was hoped that the new draft Code will now be published in November 2009.*

*The changes discussed were I felt in the main rather minor but perhaps conference fatigue had set in.*

*As the Draft was not available the following are opinions and do not represent the "official view" of the new Code.*

The following points were made:

- The new Code is expected to be implemented in May 2010.
- It should clarify which offences lead to breaches of the Code and the impact of convictions for criminal offences upon Members. A caution or a fixed penalty notices are not expected to be an automatic breach of the Code.
- Pleading guilty before trial might prevent a breach of the Code.
- Conviction outside the UK would not be a breach of the Code unless the act was a criminal one in the UK.
- Even after a conviction there still needs to be a Complaint before the Standards Committee become involved.
- Registering a prejudicial interest under one Code would obviate the need to register it elsewhere.
- There may be changes regarding declarations of gifts and hospitality.

ED/31.10.2009.

<b>TITLE</b>	<b>Review of the Process for Local Hearings</b>
<b>FOR CONSIDERATION BY</b>	The Standards Committee on 2 December 2009
<b>WARD</b>	None Specific
<b>GENERAL MANAGER</b>	Susanne Nelson-Wehrmeyer, Head of Governance and Democratic Services
<b>LEAD MEMBER</b>	Liz Siggery, Executive Member for Corporate Services

**OUTCOME**

To reconfirm or amend the process to be followed by the Hearings and Assessment Sub-Committee. Periodic review of the Committees process and procedures helps ensure that they remain fit for purpose.

**RECOMMENDATION**

That the hearings process set out in Appendix 1 be confirmed as the process to be followed by the Hearings and Assessment Sub-Committee.

**SUMMARY OF REPORT**

Two possible processes to be followed by the Hearings and Assessment Sub-Committee are attached to this report.

The hearings process set out in Appendix 1 was originally approved by the Standards Committee in 2003 and was based upon the Standards for England model process at that time. It has recently been slightly amended to take account of the local filter process and recent regulations, but is otherwise unchanged.

In 2008, Standards for England published a revised model process. This is set out in Appendix 2. The difference between the documents are largely ones of presentation, but a key difference is that Appendix 2 does not include provision for modification of the hearings process by the Chairman of the Sub-Committee if it is considered appropriate to do so in the interests of fairness. This provision is included within Appendix 1, (point 2). Although it would be exceptional to depart from an agreed process during a hearing, this provision at least allows for the possibility of doing so.

It is recommended that the process set out in Appendix 1 be endorsed by the Committee.

## Background

The hearings process set out in Appendix 1 was originally approved in 2003 since then 3 hearings have taken place, including one in the last year.

Given that Standards for England have revised the model process it is felt timely to review the local process so that changes can be made if felt necessary.

## Analysis of Issues

There are no financial implications arising from the use of either process.

Periodic review of the process helps ensure it is fit for purpose, meets the requirements of equality and natural justice. As a result risk of an inappropriate process is mitigated.

<b>Reasons for considering the report in Part 2</b>
None

<b>List of Background Papers</b>
None

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<b>Date</b> Monday, 23 November 2009	<b>Version No.</b> 1

## Wokingham Borough Council

### Standards Committee

#### Procedure for Local Standards Hearings

##### **1. Interpretation**

- (a) 'Member' means the member of the authority who is the subject of the allegation being considered by the Committee, unless stated otherwise. It also includes the member's nominated representative.
- (b) 'Investigator' means the person appointed by the Monitoring Officer, his or her nominated representative or Standards for England to undertake the investigation.
- (c) "The Matter" is the subject of the investigator's report.
- (d) 'The Committee' refers to the Standards Committee or to any Standards Sub-Committee to which it has delegated the conduct of the hearing.
- (e) "The Committee Support Officer" means an officer of the authority responsible for supporting the committee's discharge of its functions and recording the decisions of the Committee.
- (f) 'Legal Adviser' means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the authority, or someone appointed for his purpose from outside the authority.
- (g) "The Chairman" refers to the person presiding at the hearing.

##### **2. Modification of Procedure**

The Chairman may agree to vary this procedure in any particular instance where he/she is of the opinion such a variation is necessary in the interests of fairness.

##### **3. Representation**

The member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another

person. Note that the cost of such representation must be met by the member.

**4. Legal Advice**

The Committee may take legal advice from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the member and the investigator if they are present.

**5. Setting the Scene**

At the start of the hearing, the Chairman shall introduce each of the members of the Committee, the member (if present), the investigator (if present), and any other officers present, and shall then explain the procedure, which the Committee will follow in the conduct of the hearing.

**6. Preliminary procedural issues**

The Committee shall then deal with the following preliminary procedural matters in the following order:

(a) Disclosures of interest.

The Chairman shall ask members of the Committee to disclose the existence and *nature of any personal or prejudicial interests* which they have in the matter, and to withdraw from consideration of the matter if so required.

(b) Quorum

The Chairman shall confirm that the Committee is quorate

(c) Hearing

(d) Proceeding in the absence of the member

If the member is not present at the start of the hearing:-

(i) the Chairman shall ask the Monitoring Officer whether the member has indicated his/her intention not to attend the hearing:

(ii) the Committee shall then consider any reasons which the member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;

- (iii) if the Committee is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iv) if the Committee is not satisfied with such reasons, or if the member has not given any such reasons, the Committee shall decide whether to consider the matter and make a determination in the absence of the member or to adjourn the hearing to another date.

(e) Exclusion of Press and Public

The Chairman shall ask the member, the investigator and the legal adviser to the Committee whether they wish to ask the Committee to exclude the Press or public from all or any part of the hearing. If any of them so request, the Chairman shall ask them to put forward reasons for doing so and ask for responses from the others and the Committee shall then determine whether or exclude the press and public from all or any part of the hearing.

**7. A failure to comply with the Code of Conduct**

The Committee will then address the issue of whether the member failed to comply with the Code of Conduct in the manner set out in the investigator's report.

(a) The Pre-hearing Process Summary

The Chairman will ask the legal adviser or the Committee Support Officer to present his/her report, highlighting any points of difference in respect of which the member has stated that he/she disagrees with any finding of fact in the investigator's report. The Chairman will then ask the member to confirm that this is an accurate summary of the issues and ask the member to identify any additional points upon which he/she disagrees with any finding of fact in the investigator's report.

- (i) If the member admits that he/she has failed to comply with the Code of Conduct in the manner described in the investigator's report, the Committee may then make a determination that the member has failed to comply with the Code of Conduct in the manner described in the investigator's report and proceed directly to consider whether any action should be taken
- (ii) If the member identifies additional points of difference, the Chairman shall ask the member to explain why he/she did not identify these points as part of the pre-hearing process. He/she shall then ask the Investigator (if present) whether he/she is in a position to deal with those

additional points of difference directly or through any witnesses who are in attendance of whose attendance at the hearing can conveniently be arranged. Where the Committee is not satisfied with the member's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the member to challenge the veracity of those findings of fact which are set out in the investigator's report but in respect of which the member did not identify a point of difference as part of the pre-hearing process, or it may decide to adjourn the hearing to allow the Investigator and/or any additional witnesses to attend the hearing.

(b) Presenting the investigator's report

- (i) If the investigator is present, the Chairman will then ask the investigator to present his/her report, having particular regard to any points of difference identified by the member and why he/she concluded, on the basis of his/her findings of fact, that the member had failed to comply with the Code of Conduct. The investigator may call witnesses as necessary to address any points of difference.
- (ii) If the investigator is not present, the Committee shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the investigator. In the absence of the investigator, the Committee shall determine on the advice of the Monitoring Officer, which witnesses, if any, to call. Where such witnesses are called, the Chairman shall draw the witnesses attention to any relevant section of the investigator's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- (iii) No cross-examination shall be permitted but, at the conclusion of the investigator's report and/or of the evidence of each witness, the Chairman shall ask the member if there are any matters upon which the Committee should seek the advice of the investigator or the witness.

(c) The member's response



- (i) The Chairman shall then invite the member to respond to the investigator's report and to call any witnesses as necessary to address any points of difference.
  - (ii) No cross-examination shall be permitted but, at the *conclusion of the member's evidence and/or of the evidence of each witness*, the Chairman shall ask the investigator if there are any matters upon which the Committee should seek the advice of the member or the witness.
- (d) Witnesses
  - (i) The Committee shall be entitled to refuse to hear evidence from the investigator, the member or a witness unless they are satisfied that the witness is likely to give evidence which they need to hear in order to be able to determine whether there has been a failure to comply with the code of conduct.
  - (ii) Any member of the Committee may address questions to the investigator, to the member or to any witness.
- (e) Determination as to whether there was a failure to comply with the Code of Conduct
  - (i) At the conclusion of the member's response, the Chairman shall ensure that each member of the Committee is satisfied that he/she has sufficient information to enable him/her to determine whether there has been a failure to comply with the code of conduct as set out in the investigator's report.
  - (ii) Unless the determination merely confirms the member's admission of a failure to comply with the Code of Conduct (as set out in Paragraph 6(a)(I) above, the Committee shall then retire to another room to consider in private *whether the member did fail to comply with the code of Conduct as set out in the investigator's report.*
  - (iii) The Committee shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
  - (iv) The Committee's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the

investigator, the member or a witness, or to seek the legal advice from or on behalf of the Monitoring Officer. If it requires any further information, it may adjourn and instruct an offer or request the member to produce such further evidence to the Committee.

- (v) At the conclusion of the committee's consideration, the Committee shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among members.
- (vi) The committee shall then return to the main hearing room and the Chairman will state the Committee's principal findings of fact and their determination as to whether the member failed to comply with the Code of conduct as set out in the investigator's report.

**(f) If the member has not failed to follow the Code of Conduct**

If the Committee determines that the member has not failed to follow the Code of Conduct in the manner set out in the investigator's report:

- (i) If the Committee apprehends, from the evidence which they have received during the hearing, that a member has failed to comply with the Code of Conduct (other than the matter which the Committee has just determined), the Chairman shall outline the Committee's concerns and state that the Committee has referred this additional or alternative failure to the Monitoring Officer.
- (ii) The Chairman should then set out any recommendations which the Committee is minded to make to the authority with a view to promoting high standards of conduct among members and seek the views of the member, the investigator and the legal advisor before the Committee finalises any such recommendations.

**(g) If the member has failed to follow the Code**

If the Committee determines that the member has failed to comply with the Code of Conduct in the manner set out in the investigator's report, it will then proceed to consider whether it should impose any sanction in respect of the member and what (if any) would be the appropriate sanction to impose.

**8. Action consequent upon a failure to comply with the Code of Conduct.**

- (a) The Chairman shall ask the investigator (if present, or otherwise the legal advisor) whether, in his/her opinion, the member's failure to comply with the Code of Conduct is such that the Committee should impose a sanction and, if so, what would be the appropriate sanction.
- (b) The Chairman will then ask the member to respond to the investigator's advice.
- (c) The Chairman will then ensure that each member of the Committee is satisfied that he/she has sufficient information to enable him/her to take an informed decision as to whether to impose a sanction and (if appropriate) as to the form of the sanction.
- (d) Any member of the Committee may address questions to the investigator or to the member as necessary to enable him/her to take such an informed decision.
- (e) The Chairman should then set out any recommendations which the Committee is minded to make to the authority with a view to promoting high standards of conduct among members and seek the views of the member, the investigator and the legal advisor;
- (f) The Committee shall then retire to another room to consider in private whether to impose a sanction, (where a sanction is to be imposed) what sanction to impose and when that sanction should take effect, and any recommendations which the Committee will make to the authority.
- (g) At the completion of their consideration, the Committee shall return to the main hearing room and the Chairman shall state the Committee's decisions as to whether to impose a sanction and (where a sanction is to be imposed) the nature of that sanction, and when it should take effect, together with the principal reasons for those decisions, and any recommendations which the Committee will make to the authority.

**9. The close of the hearing**

- (a) The Committee will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the member as soon as practicable after the close of the hearing;

- (b) The Chairman will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Committee's determination and the Monitoring Officer shall arrange for the distribution and publication of that notice (or a summary of that notice, where required) in accordance with Regulation 20 of the Standards Committee (England) Regulations 2008.

# appendix 2

## **Model hearing procedures for the standards committee**

The model hearing procedures below aim to give standards committees a consistent approach to determining matters locally. These procedures are not compulsory, but authorities should make sure that any procedures they do use are consistent with the principles in this guidance.

Standards committees need to have an efficient and effective hearing process. This will help committees deal with all the issues that need to be resolved in a way that is fair to the member. It will also reduce the prospects of any successful appeal.

The model procedure below is intended to give standards committees a consistent approach to determining matters locally.

The model procedures are not compulsory. However, authorities should make sure that any procedures they use are consistent with the principles in this guidance.

### **Interpretation**

- 1) 'Subject member' means the member of the authority who is the subject of the allegation being considered by the standards committee, unless stated otherwise. It also includes the member's nominated representative.
- 2) 'Investigator' means the monitoring officer or ethical standards officer and includes their nominated representative.

3) 'Committee' also refers to a sub-committee.

4) 'Legal adviser' means the officer responsible for providing legal advice to the standards committee. This may be the monitoring officer, another legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.

### **Representation**

5) The subject member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person.

### **Legal advice**

6) The committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee should be shared with the subject member and the investigator if they are present.

### **Setting the scene**

7) After all the members and everyone involved have been formally introduced, the chair should explain how the committee is going to run the hearing.

# appendix 2

## Preliminary procedural issues

- 8) The committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

## Making findings of fact

- 9) After dealing with any preliminary issues, the committee should then move on to consider whether there are any significant disagreements about the facts contained in the investigator's report.
- 10) If there is no disagreement about the facts, the committee can move on to the next stage of the hearing.
- 11) If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The committee may give the subject member an opportunity to challenge any evidence put forward by any witness called by the investigator.
- 12) The subject member should then have the opportunity to make representations to support their version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.

- 13) At any time, the committee may question any of the people involved or any witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the member.

- 14) If the subject member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.

- 15) If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, they must give good reasons for not mentioning it before the hearing. If the investigator is not present, the committee will consider whether it would be in the public interest to continue in their absence.

After considering the member's explanation for not raising the issue at an earlier stage, the committee may then:

- continue with the hearing, relying on the information in the investigator's report
- allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary

# appendix 2

- postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already

16) The committee will usually move to another room to consider the representations and evidence in private.

17) On their return, the chair will announce the committee's findings of fact.

## **Did the subject member fail to follow the Code of Conduct?**

18) The committee then needs to consider whether, based on the facts it has found, the subject member has failed to follow the Code.

19) The subject member should be invited to give relevant reasons why the committee should decide that they have not failed to follow the Code.

20) The committee should then consider any verbal or written representations from the investigator.

21) The committee may, at any time, question anyone involved on any point they raise on their representations.

22) The subject member should be invited to make any final relevant points.

23) The committee will then move to another room to consider the representations.

24) On their return, the chair will announce the committee's decision as to whether the subject member has failed to follow the Code.

## **If the subject member has not failed to follow the Code of Conduct**

25) If the committee decides that the subject member has not failed to follow the Code, the committee can move on to consider whether it should make any recommendations to the authority.

## **If the subject member has failed to follow the Code of Conduct**

26) If the committee decides that the subject member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the subject member as to:

- whether the committee should apply a sanction
- what form any sanction should take

27) The committee may question the investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

28) The committee will then deliberate in private to consider whether to impose a sanction on the subject member and, if so, what sanction it should be.

# appendix 2

- 29) On their return, the chair will announce the committee's decision.

## **Recommendations to the authority**

- 30) After considering any verbal or written representations from the investigator, the committee will consider whether it should make any recommendations to the authority, with a view to promoting high standards of conduct among members.

## **The written decision**

The committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.



<b>TITLE</b>	<b>Standards Committees 'Notable Practice'</b>
<b>FOR CONSIDERATION BY</b>	Standards Committee on 2 December 2009
<b>WARD</b>	None Specific
<b>GENERAL MANAGER</b>	Susanne Nelson-Wehrmeyer, Head of Governance and Democratic Services.
<b>LEAD MEMBER</b>	Liz Siggery, Executive Member for Corporate Services

**OUTCOME**

For the Committee to consider examples of notable practice by Standards Committees from around the country, so that potential improvements to local processes can be identified and investigated.

**RECOMMENDATION**

That the Committee identify any areas of best practice that it would like to receive further information on.

**SUMMARY OF REPORT**

Attached are high level examples of notable practice by Standards Committees from around the country which feature on the Standards for England website under the headings of:

- Engaging Members and leaders
- Training and skills for Members
- Communicating Standards
- Increasing confidence in democracy
- Working in partnership with other authorities
- Rossendale Borough Council Profile – winner of the Local Government Chronicle Standards and Ethics Award 2009

## Background

At its September meeting the Committee received the Standards for England Bulletin 44 which contained reference to the Local Government Chronicle Standards and Ethics Award 2009. Members of the Committee asked for some further information on what other authorities had done in achieving best practice.

## Analysis of Issues

It is good practice for the Committee to receive examples from other authorities so that appropriate improvements can be discussed locally in support of the principles of good governance.

In considering the best practice examples, the Committee should be mindful of the resources available to support it and that the adoption of some of the best practice locally could have a financial impact that would need to be considered in more detail.

<b>Reasons for considering the report in Part 2</b>
None.

<b>List of Background Papers</b>
None

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<b>Date</b> Tuesday, 24 November 2009	<b>Version No.</b> 1

## Engaging members and leaders

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Here are some examples of how local authority staff and standards committee members have proactively engaged members and leaders in championing high ethical standards.

### Notable practice from the 2009 annual returns

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#### Helping members to follow the Code of Conduct

The City of Bradford Metropolitan District Council circulate guidance notes to groups and parish councils. Contact details for the Monitoring Officer have been provided to the parish councils through the Parish Council liaison committee.

Leicester City Council recently produced a guide to declaring interests at ward community meetings that is being used by members.

Redcar and Cleveland Borough Council periodically print messages from the standards committee on the reverse side of members' Declaration of Interest forms.

#### Authorities whose monitoring officer and standards committee work closely with leaders

The Chief Executive Officer, Chair of the standards committee, and Monitoring Officer at Guildford Borough Council have a pre-meeting to discuss the agenda items before each standards committee meeting.

A similar activity takes place at Shropshire and Wrekin Fire Authority, where the Chair of the standards committee and the Chief Fire Officer, or his Deputy, meet before each standards committee meeting.


At the London Borough of Bexley, the Chief Executive Officer attends a standards committee meeting once a year to discuss ethical issues. They also welcome invitations to meet with the Chair of the standards committee if or when specific ethical issues are identified.

### Examples from the 2009 Standards and Ethics Award shortlist

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- Rossendale Borough Council has an engaged chief executive and council leader who champion standards at the authority. They have also worked closely with the Audit Commission to develop an experience based learning approach to ethical conduct.
- Newark and Sherwood District Council has a very proactive monitoring officer, Kirsty Cole, who regularly speaks at different events and has a national profile in the standards committee. This has enabled Kirsty to share her experience and knowledge at events both locally, regionally and nationally, in training IDeA peers on Code of Conduct and ethical governance issues and undertaking work as an IDeA peer undertaking ethical governance reviews.
- Rossendale Borough Council's standards committee monitor current policies and proactively seek to influence and develop new policies, which helps to embed high ethical standards and good governance.
- Leeds City Council's standards committee produce an annual report that is reported to the full council. The standards committee also has a forward work plan, which is kept under review by officers with reference to national developments.

- Rossendale Borough Council has appointed lead officers to act as 'Governance Champions' to promote high standards and advise on issues such as contract procedures, their gifts and hospitality policy and whistle-blowing.

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## Training and skills for members

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All six authorities shortlisted for the 2009 Standards and Ethics award had good, regular training programmes for councillors and standard committee members. Some councils have even made Code of Conduct training compulsory for district councillors. The six shortlisted councils have a clear work programme for their standards committee - going beyond complaints and probity to cover a wider remit.

### Notable practice from the 2009 annual returns

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#### Identifying and assessing member training needs

At Leicester City Council all members have undertaken a skills audit designed to test knowledge and understanding of constitutional and ethical issues. Also, bite-sized learning is available on a number of topics in this area and training on the Code of Conduct is mandatory.

The standards committee of the London Borough of Islington agree the member training and development programme each year. It is based on feedback from the previous year's programme, discussions with the party whips, and from responses to an annual members' survey. The programme is split into specific skills training, knowledge based events, 1:1 support and group support.

### Examples from the 2009 Standards and Ethics Award shortlist


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- Rossendale Borough Council are focused on member development and have worked with the IDeA on a learning programme. All their councillors also have a personal development plan. Some councils ensure their members receive media and presentation skills so they are well equipped to deal with the local media's questions.
- Leeds City Council develop training in formats tailored to their members needs and now provide e-learning courses for councillors to give them extra guidance on the Code of Conduct. Their standards committee review the decisions of the APE and consider any lessons the council could learn.
- Newark and Sherwood District Council worked with the Local Government Training Unit and with qualified mediators to develop a course on mediation, which was attended by over 50 delegates from all over England and Wales.
- Leeds City Council has provided all their parish councillors with access to a new online training system from the IDeA called 'Modern Councillor'.
- As part of Rossendale Borough Council's standards committee's commitment to learning and development; at every meeting members consider a real-life case study of standards issues from another authority to discuss what can be learned from the situation and applied in Rossendale.
- Rossendale Borough Council's councillors serving on Development Control or Licensing Committee must receive training before taking up their position so that they are aware of protocols, policies and regulations governing these meetings.
- Newark and Sherwood District Council has developed a recruitment pack for the appointment of independent members containing a job description, person specification, advertisement and guidance on legislative requirements. A copy of this is referenced on ACSes' website.

#### Links

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- The IDeA run a councillor mentoring programme that aims to provide peer support to councillors and is available for all local authorities.

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## Communicating standards

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Research shows that local authority staff who feel well informed and have a say are more likely to feel involved in and positive about their organisation (IDeA). It is important that councils give a clear message about their stance on standards and what it expects from others.

### Case studies

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- Managing media coverage: Rossendale Borough Council
- Securing proactive publicity: North Tyneside Borough Council

### Notable practice from the 2009 annual returns

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#### Publicising the process for making complaints

- Bolton Metropolitan Borough Council has a dedicated website for standards issues.
- Bristol City Council places an advert detailing the complaints process on employee payslips.
- Dorset County Council's monitoring officer was interviewed on local radio station, Ivel FM.
- Some members of the Epping Forest District Council standards committee were interviewed by the local press on conduct issues.
- Harborough District Council placed an article in a publication circulated to all households with their council tax bills.
- The chair of Plymouth City Council's standards committee gave an interview to the local press.
- Taunton Deane Borough Council distributed leaflets in post offices.

#### Communicating information to members

- If it is a parish council matter, South Cambridgeshire District Council send a copy of the decision notice to the parish clerk. Parish councils are kept informed via the Standards Committee Parish Council Newsletter.
- At South Holland District Council, complaint outcomes are used in training sessions.
- Officers and members at South Kesteven District Council are provided with weekly information detailing decisions and findings that have been made.
- Taunton Deane Borough Council and Three Rivers District Council both send copies of press releases to all members.

#### Communicating information to the public

- At Taunton Deane Borough Council hearings are held in public and are webcast.
- South Cambridgeshire District Council's panel chairmen have received media training and advice on how to handle media enquiries.

- South Tyneside Metropolitan District Council has a media protocol that sets out the publicity issued at the various stages of dealing with complaints.
- At Stratford on Avon District Council the outcome of a hearing was sent to the clerk of the parish council, who arranged for the Councillor's apology to be published in the Parish Council's newsletter.


#### Unique ways of promoting standards

- Buckinghamshire County Council holds annual officer quizzes that include questions on standards.

#### Examples from the 2009 Standards and Ethics Award shortlist

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- Leeds City Council has developed an internal newsletter called 'Governance matters' which promotes ethical and corporate governance issues and details the work of their standards committee.
- Leeds City Council has identified good ethical behaviour as part of the organisations overall aspirational culture.
- Rossendale Borough Council has their own slogan 'Serious about standards' which helps to engage staff. Councils can hold events to engage their members and council officers and keep them up-to-date with what the authority is doing to maintain high standards. For example, some councils host clerk forums that are regular meetings between council officers and town and parish clerks.
- Lincolnshire County Council produce standards committee annual reports that outline the members of the committee, what they do, their work programme and the numbers of complaints and policies they've considered.
- Newcastle City Council has used their internal staff information bulletin to draw staff attention to the code of conduct for members and the work of the Committee. Some councils agree various ethics statements that are used in publicity and in engagement with the public and other stakeholders.
- Rossendale Borough Council's standards issues are reinforced through the corporate Team Briefing, in their staff newsletter 'Grapevine' and through specific information booklets on whistleblowing and their gifts and hospitality policy.

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## Increasing confidence in democracy

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Good communication is essential to let the public know what you do and how you do it. Research shows that the top performing councils are effective at informing the public about the services they provide.

### Notable practice from the 2009 annual returns

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#### Informing and engaging the public

- **Promoting standards Sites**

*We Pledge* is Waveney District Council's brand new campaign to promote the importance of ethical standards in public life. They launched the campaign in Local Democracy Week 2009, to get a range of public bodies signed up to the Ten General Principles of Public Life. The intention was to maintain trust and make residents of Waveney aware of the standards it can expect from its representatives. The Council made its pledge and committed to the campaign at its meeting on 24 September.

Waveney's standards committee is promoting the Principles during visits to all of the Town and Parish Councils within Waveney and will ask them to publicly sign up to and promote the wider *We Pledge* campaign.

Key partners such as those that form the Local Strategic Partnership have already signed up, and the Council is asking organisations who would like to make the pledge to join the growing list.

Waveney's standards committee contacted Lowestoft College Art and Design department to see if students could assist in producing a range of posters to raise awareness of the Ten Principles. From a number of designs, two were selected to be displayed in Council offices and public reception areas across the district and form the central part of a wider ethical governance awareness campaign.

For more information about Waveney's *We Pledge* campaign and to view the winning designs, please visit Waveney District Council's *We Pledge* campaign webpages.

- **Working with parishes**

Wealden District Council carried out a survey of town and parish council attitudes and understanding of the Code of Conduct.

- **Independent members**

Surrey County Council has descriptions of the independent members on the standards committee on its website.

### Examples from the 2009 Standards and Ethics Award shortlist

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- Waveney District Council's standards committee are calling on budding young filmmakers to help them raise awareness of their work. The Waveney Young Filmmaker competition gives young people a great opportunity to showcase their creative talents. The winning film will bring a new perspective to the work of the standards committee giving them a fresh way to promote ethical governance to the local community. Caroline Nixon, Chairman of the standards committee, encourages young filmmakers to get involved: "The Waveney Young Filmmaker Competition offers young people from across Waveney the opportunity to submit their films and have them judged by a panel, including industry professionals. Whether you are a first-time filmmaker or developing your skills, the competition is a fantastic opportunity for budding filmmakers to garner approval for their work and add valuable material to their portfolio. Their original idea will also be shown on the Waveney District Council website".


For more information on the competition, visit the Waveney District Council website.

- Newcastle City Council made sure they promoted the changes to the complaints system with a number of articles in their residents newsletter. This newsletter also included an article written by the standards committee Chair to promote the role of the standards committee.
- Leeds City Council's standards committee has their own communications plan covering members, parishes and the public.
- Newark and Sherwood District Council promotes the role of their standards committee to the local media and in their community newsletter.
- Colchester Borough Council held an 'I'm a Councillor get me out of here' event that aimed to get young people and councillors talking. This involved a number of schools in the Colchester area.
- The chairman of Ceredigion County Council's standards committee took an active role in highlighting the role of the committee, the importance of the Code and the integral role of independent members in a local press article.
- Rossendale Borough Council host an annual Local Democracy Week, which aims to help young people understand more about their council and local democracy. Primary schools tour the Council Chamber, discuss council services and learn about the role of the Mayor and Councillors. Secondary school pupils also take part in a 'Question Time' event to pose challenging queries to local councillors and community leaders.
- Rossendale Borough Council has also produced a Standards bulletin that is published on their website so that local people and partners can be assured of the correct conduct of the council.
- Lincolnshire County Council is one of the few councils providing live webcasts of council meetings with an archive on their website.

## Links

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- The Standards for England has developed a Press Toolkit – Guide for Authorities that is a resource to help authorities effectively handle media enquiries about complaints and investigations relating to authority members.
- The IDeA has a Connecting with Communities: communications toolkit, which is a resource to help councils improve their communication with residents, staff and stakeholders.

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## Working in partnerships with other authorities

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A commitment to partnerships and joint working allows authorities to share experience, knowledge and resources.

### Notable practice from the 2009 annual returns

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- Suffolk County Council organised a seminar on ethical governance, which included a focus on "What is good ethical behaviour in partnership working?"
- Swindon Borough Council invited partners to a "standards in partnerships master class".

### Examples from the 2009 Standards and Ethics Award shortlist

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- Ceredigion County Council hosted the Welsh Standards Conference with Wales ACSeS Group at Aberystwyth University for monitoring officers and standards committee members to share their experiences of the new Code. The Council is also developing close links with the University and the Monitoring Officer will shortly be providing a talk to law students in the University in relation to legal careers in local government.
- Rossendale Borough Council advises Burnley Borough Council on their protocols and work for the standards committee.
- Newark and Sherwood District Council provide best practice, advice and support to other authorities via Nottinghamshire and Lincolnshire standards forums, monitoring officer groups and the organisation of an annual Monitoring Officers' conference.
- Newcastle City Council standards committee has built a proactive relationship with chief whips.
- Newark and Sherwood District Councils monitoring officer has been proactive in leading a Nottinghamshire Monitoring Officers Group which meets regularly to discuss ethics and standards and to share learning and knowledge. As a result, the Nottinghamshire districts have developed common procedures and protocols for dealing with standards complaints.
- Rossendale Borough Council's proposals for a Joint Standards Committee with other councils will provide increased capacity and make it easier to avoid any conflicts of interest. This will create a stronger support and advisory function which can draw on its collective experience to promote greater consistency in procedures and decisions.
- Ceredigion County Council produced a flow chart to assist with training for councillors, which has been distributed to all monitoring officers in Wales.
- Leeds City Council's standards committee maintain a close relationship with the Corporate Governance and Audit committee (CGA) and send them a progress report every six months.
- Newark and Sherwood District Council adopted a deliberate policy to share their learning and best practice not just locally, but regionally and nationally.
- Nottinghamshire Monitoring Officer Group identified a particular problem in respect of the understanding of governance issues within parishes and responded to this by developing the 'Parish Council Toolkit'. All parish councils in Newark and Sherwood District Council have received a copy and many have adopted its model procedures. This has been welcomed by the Society for Local Council Clerks (SLCC) who is working closely with the group to produce version three of the toolkit.

## Authority profile

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### Rossendale Borough Council

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Rossendale Borough Council is a good example of an authority in which a strong standards agenda has made a real difference – both to the way the council functions and to public opinion. A strong, visible standards campaign, with the strapline 'Serious About Standards', has not only boosted Rossendale from 'poor' to 'good' in its Corporate Assessment by the Audit Commission, but has also seen resident satisfaction up by 8% and an increased turn out at local elections.


"We've introduced a strong brand for standards, which is our SAS strapline. We've got it on mugs, we've got it on mousemats, we've got it right across the council, really, so that people don't get the opportunity to forget that we are serious about standards, and that we see it as the strong heart of all the work we've tried to put in place," says Chief Executive Carolyn Wilkins, explaining how the campaign has worked. It has also, she says, been useful in supporting another strand of Rossendale's commitment to standards – the ethical standards training programme it runs for both staff and members.

"We found [the strapline] really useful as a hook for the trainer that comes in. We've done an awful lot of training for elected members, and we have governance champions in all our teams as well who carry those messages out, supporting staff with questions that they might have around the Code of Conduct."

Carolyn admits that getting the ethical point across to members can be a challenge, but has found that the most successful approach has been a mixture of training and promotion, helped by the presence of a strong, independently-chaired standards committee. But she also stresses the importance, in terms of good practice, of making sure that the message comes from the top and is disseminated not just within the authority, but also the public.

"I'm very clear in my leadership stance that we're really committed to this," she says. "It's very important that we do everything transparently, fairly and openly, for elected members and for staff. Equally, we will challenge where we feel that's not happening. We've found it very useful where we've had a call from the public asking, 'Are you serious about this, have you been dealing with it fairly?' because we can say 'Look, this is the process that we go through, this is the training we offer, the advice we've provided.' And it's very clearly set out for people, so they can really access what we're doing."

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