



AGENDA

NOTE: In the case of non-members, this agenda is for information only

- Committee** - **STANDARDS COMMITTEE**
- Date & Time** - TUESDAY, 11 DECEMBER, 2007 AT 2.15 pm
- Venue** - CONFERENCE SUITE, ELIZABETH HOUSE,
WALPOLE LOKE, DEREHAM

Members of the Committee requiring further information, or with specific questions, are asked to raise these with the appropriate officer at least two working days before the meeting. If the information requested is available, this will be provided, and reported to Committee.

Committee Members:

Mr D. Williams, JP (Chairman) (*Breckland*)
Mr R. Childerhouse, JP (*Breckland*)
Mrs J. Jenkins (*Independent*)
Mrs M. Oechsle, JP (*Parish*)

Substitute Members

Councillor E. Gould (*Breckland*)
Mr J.P. Labouchere (*Breckland*)
Mr M. Eveling, JP (*Independent*)
Mr B. Rayner (*Parish*)
Mr M. Whittleby (*Parish*)

Persons attending the meeting are requested to turn off mobile telephones

Committee Services
Elizabeth House, Walpole Loke,
Dereham Norfolk, NR19 1EE

Date: Friday, 30 November 2007

PART A
ITEMS OPEN TO THE PUBLIC

	<u>Page(s)</u> <u>herewith</u>
1. <u>MINUTES</u>	1 - 15
To confirm the minutes of the meetings held on 30 October and 14 November 2007.	
2. <u>APOLOGIES</u>	
To receive apologies for absence.	
3. <u>URGENT BUSINESS</u>	
To note whether the Chairman proposes to accept any item as urgent business pursuant to Section 100(B)(4)(b) of the Local Government Act 1972.	
4. <u>DECLARATION OF INTEREST</u>	
Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Members' Code of Conduct requires that declarations include the nature of the interest and whether it is a personal or prejudicial interest.	
5. <u>NON-MEMBERS WISHING TO ADDRESS THE MEETING</u>	
To note the names of any non-members wishing to address the meeting.	
6. <u>APPLICATION FOR DISPENSATION - SCOULTON PARISH COUNCIL</u>	16 - 17
Report of the Deputy Chief Executive.	
7. <u>STANDARDS COMMITTEE: COMPOSITION TO CARRY OUT NEW FUNCTIONS</u>	18 - 19
Report of the Deputy Chief Executive.	
8. <u>NEXT MEETING</u>	
To note the date of the next meeting on 22 January 2008.	

BRECKLAND COUNCIL

At a Meeting of the

STANDARDS COMMITTEE

**Held on Tuesday, 30 October 2007 at 2.15 pm in
Norfolk Room, Conference Suite, Elizabeth House, Walpole Loke, Dereham**

PRESENT

Mr D.R. Williams JP (Chairman) Mrs M. Oechsle JP
Mrs J. Jenkins Mr J.P. Labouchere

Also Present

Mr M.D. Eveling JP Mr M. Whittley
Mr B.D Rayner

In Attendance

John Chinnery - Solicitor & Standards Consultant
Elaine Wilkes - Senior Committee Officer

Action By

41/07 MINUTES

A correction was made to note the addition of Mr M. Eveling's name to the list of apologies for absence, subject to which the minutes of the meeting held on 11 September 2007 were confirmed as a correct record and signed by the Chairman.

42/07 APOLOGIES

An apology for absence was received from Mr R. Childerhouse.

43/07 NON-MEMBERS WISHING TO ADDRESS THE MEETING

The following substitute members were present as observers:

Mr M. Eveling
Mr B. Rayner
Mr M. Whittley

**44/07 COMPLAINT AGAINST MR ROY RUDLING, EX-COUNCILLOR
OF BRECKLAND COUNCIL (AGENDA ITEM 7)**

The following persons were present for the hearing into this matter:

Member Concerned	Mr Roy Rudling
Member's Witnesses	Mrs Jackie Seal, Clerk to Watton Town Council
Legal Adviser to the Committee	Mr John Chinnery, Standards Consultant

Attending Officers

Miss E. Wilkes, Senior
Committee Officer

Observers

Mr B. Rayner, Substitute
Committee Member
Mr M. Whittley, Substitute
Committee Member
Mr M. Eveling, Substitute
Committee Member

Action By

Allegation

The allegation and relevant sections of the Code were stated in the Investigating Officer's report.

Procedures for the Hearing

The Chairman introduced the Committee and attending Officers and explained that the hearing would be conducted as follows:

1. To consider the findings of fact as submitted in the Investigating Officer's report.
2. To consider whether, in the light of the facts as found, the Member had failed to follow the Code.
3. If it was found that there had been a breach of the Code, to determine what, if any, penalty there should be.

At the end of stages 2 and 3, following consideration of the report and any other information supplied by the Member concerned and witnesses, the Committee would retire to consider its decision, which would then be announced.

Before presenting the Investigating Officer's report, the Standards Consultant asked Mr Rudling and the Committee to consider whether, bearing in mind the nature of the complaint and that it had initially been made in public, it was necessary to exclude the Press and public from the Hearing.

Mr. Rudling stated that he was happy for the matter to be conducted in public.

Findings of Fact and Reasons

The Standards Consultant then referred to the Investigating Officer's report in regard to findings of fact.

Evidence was considered in regard to the complaint as follows and Mr Rudling was afforded the opportunity to challenge the findings in the Investigating Officer's report and to call witnesses:

1. Relevant information from the Investigating Officer's report and supporting evidence was read out.
2. Mr. Rudling had issued an unreserved public apology.

Action By

3. The Eastern Daily Press reporter, Nick Heath, had asked that it be pointed out that the Investigating Officer's report was inaccurate in stating that the article which appeared in the local press was prepared by a different reporter to the one present at the meeting. He confirmed that he was the reporter who had spoken to Ms Newson following her presentation and that he had written the press report.
4. *Did Mr Rudling use the words "so 25 per cent of us are nutty?" as reported?* Mr Rudling replied that he had said "25% of us *in this room* are nutty then?" and that he was not referring to an individual but was referring to "us" as meaning the councillors present at the meeting.

Mr Rudling was asked if he thought the words breached the Code and whether there was anything else in the Investigating Officer's report he wished to comment on.

Mr Rudling replied that he did not think he had breached the Code and he stated he had since heard similar terms used by a presenter in a radio programme and in a national newspaper article. He stated he had read the Investigating Officer's report; the Investigating Officer had not interviewed him but he felt it was a fair report. He accepted the draft report and trusted it would be the end of the matter, as explained in his letter of 4th August. He had served the Council for 28 years. He wished to see the matter resolved so that he could get on with his life.

Mr Rudling was asked if he was saying that the report in the Eastern Daily Press was inaccurate.

Mr Rudling replied yes; he had been talking about Councillors as the people in the room, not about any individual in the wider sense. It had not been said with any malice. The person who was present at the meeting had not made the complaint. The complaint had been made months later by someone who had not been at the meeting. He presumed the complaint was based on the press report, which he felt was "media hype". He felt that the people in attendance at the meeting appreciated the context in which the comment had been made.

Mr Rudling indicated he had nothing further to add at this point but was happy to answer questions.

In answer to a question from a member, the Standards Consultant explained that it was not unusual for an Investigating Officer not to interview all persons nominated by the parties due to time constraints and to keep reports to a manageable length. However, if at any stage during consideration the Committee felt it needed more evidence or information, it would be possible to do so, either through an adjournment or arranging another meeting.

Mrs Seal spoke in support of Mr Rudling as an exceptional and hard working Ward Member for Watton, who had done a lot for the town.

Action By

Findings on whether any contravention of the Breckland Code of Conduct has occurred

Having accepted the findings of fact as set out in the Investigating Officer's report with Mr. Rudling's amendment, the Committee considered whether Mr Rudling had contravened any of the provisions of the Breckland Code of Conduct.

The Committee had regard to the fact that the meeting was public and that members had to have regard to the arena in which they were speaking and to the public perception. However, members recognised the context in which the comments were made.

The Committee's conclusion was that the use of the words by Mr Rudling, as admitted by him, was a marginal breach of paragraph 2(b) of the Code, in that he did not treat others with respect.

Findings on penalty, if any, for contravention of Code

The Standards Consultant explained that the options were to take no further action or to censure Mr Rudling in some way and that Mr Rudling would have the opportunity to address the Committee on the question of any sanction.

Mr Rudling indicated he was content to leave the matter to the Committee and he would abide by their decision.

The Committee concurred that a vote of censure was appropriate.

Decision

The Committee's decision was announced by the Chairman as follows:

RESOLVED that the Committee think that for a Chairman to use the word "nutty" in this forum and this context was wrong and ill-advised and we would hope that any person in that position would not use words which might be misconstrued by a particular group.

However, we recognise that Mr Rudling quickly apologised and that he has had a long and successful career as a member of Breckland Council.

The Committee would like to stress their belief that all training is important for all councillors.

45/07 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972, the Press and public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act.

Action By

46/07 COMPLAINT AGAINST THE EARL CATHCART, EX-COUNCILLOR OF BRECKLAND COUNCIL

The Standards Consultant presented the report of the Investigating Officer and explained that the regulations provided that where an Investigating Officer's report found no breach of the Code, the report had to be considered by the Committee in private in the first instance to determine whether or not they agreed with the finding.

If the Committee concurred that there was no breach, the member concerned had to be asked whether the decision could be released.

If the Committee disagreed with the Investigating Officer, a hearing had to be convened and the member concerned invited to attend.

Following consideration of the Investigating Officer's report, the Committee concurred with the finding that no breach of the Code of Conduct had occurred and accordingly

RESOLVED that no further action is taken on the matter.

47/07 SIXTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES (AGENDA ITEM 8)

Mrs Oechsle presented her report on the Assembly and explained that she had found it very interesting to see how other authorities' Standards Committees were constituted. She had formed the view that this Committee's membership would need to be enlarged to be able to deal with the forthcoming changes being introduced under the Local Government and Involvement in Health Bill to provide for investigations of alleged breaches of the Code of Conduct to be conducted locally.

The Standards Consultant confirmed that further regulations from the Government on the new arrangements were still awaited.

The Standards Consultant explained that from 1st April 2008, all complaints in Breckland would come to this Council and there would need to be arrangements put in place to enable each stage of an investigation, from initial consideration of an allegation to reviews of cases, to be dealt with by different sub-committees of the Standards Committee to ensure impartiality (i.e. that the same members or sub-committee did not determine more than one stage of an investigation). An example might be to have a three-member sub-committee to consider the initial complaint; a second three-member sub-committee to consider any referrals with a separate independent committee to conduct a hearing.

However, there would be other options; for example, by setting up joint arrangements with a neighbouring authority.

Indications were that standards committees would need an absolute minimum of six members but the Government recommendation was likely to require a minimum of nine members. It was made known at the Assembly that the current average size of standards committees was between eight and nine members.

Action By

The Council would need to determine the make-up of its Standards Committee by January to enable the necessary amendments to the Council's Constitution to be made before the new arrangements came into force in April.

It was noted that the new regulations could place considerable demand on resources for Standards Committees; from the experience of some pilot schemes, it appeared there were initially a lot more cases passed for investigation. Although this was an unknown quantity at present, for budget purposes a bid for an additional £20,000 had been made but it was expected that resources would need to be found from elsewhere.

In answer to a question, it was confirmed that the Council had a duty to deal with Parish Council complaints. However, the new regulations would give the Council more control in dealing with complaints.

Members noted the position and

RESOLVED that further consideration is given to the implications for Standards Committees under The Local Government and Public Involvement in Health Bill at the next meeting of the Committee.

48/07 NEXT MEETING

The arrangements for an additional meeting on 14 November 2007 had been made to consider two complaints referred to the Committee by the Standards Board for England were confirmed.

The next ordinary meeting of the Committee was scheduled for 11 December 2007.

The meeting closed at 4.37 pm

CHAIRMAN

BRECKLAND COUNCIL

At a Meeting of the

STANDARDS COMMITTEE

**Held on Wednesday, 14 November 2007 at 2.15 pm in
Norfolk Room, Conference Suite, Elizabeth House, Walpole Loke, Dereham**

PRESENT

Mr D.R. Williams JP (Chairman) Mrs J. Jenkins
Mr R.P. Childerhouse JP Mrs M. Oechsle JP

Also Present

Mr M.D. Eveling JP Mr M. Whittley
Mr J.P. Labouchere Mr K.S. Gilbert
Mr B.D Rayner

In Attendance

John Chinnery - Solicitor & Standards Consultant
Elaine Wilkes - Senior Committee Officer

Action By

49/07 NON-MEMBERS WISHING TO ADDRESS THE MEETING

The following members were present:

- Mr. K. Gilbert (as observer for items 5 and 6 and, if required, to answer any questions)
- Substitute Standards Committee Members (as observers for items 5 and 6, and for item 7):
 - Mr. J.P. Labouchere
 - Mr. M. Eveling
 - Mr. B. Rayner
 - Mr. M. Whittley

**50/07 COMPLAINT AGAINST COUNCILLOR J.P. MCCARTHY,
WATTON TOWN COUNCIL (AGENDA ITEM 5)**

The following persons were present for the hearing into this matter:

Member Concerned	Councillor J.P. McCarthy
Ethical Standards Officer's Representative	Natalie Birtle
Investigating Officer	Alex Oram
Legal Adviser to the Committee	John Chinnery, Solicitor & Standards Consultant

Action By

Attending Officer	Miss E. Wilkes, Committee Officer
Observers	<u>Watton Town Councillors:</u> Mrs. L. McCarthy Mr. J. Craigie Mr. K.S. Gilbert Mrs. J. Seal, Clerk to Watton Town Council <u>Substitute Members of Standards Committee:</u> Mr. J.P. Labouchere Mr. M. Eveling Mr. B. Rayner Mr. M. Whitley

Summary of the Allegation

That Councillor Paul McCarthy, a member of Watton Town Council, failed to declare a prejudicial interest and withdraw from the chamber during the consideration of a planning application on 30 January 2007. Further, that Councillor McCarthy voted against the planning application and then used his casting vote as chairman of the Watton Town Council's planning committee to ensure that the council objected to it.

Procedures for the Hearing

The Chairman introduced the Committee and attending Officers and the Legal Adviser to the Committee explained that the hearing would be conducted as follows:

1. To consider the findings of fact as submitted in the Ethical Standards Officer's (ESO) Report.
2. To consider whether, in the light of the facts as found, the Member had failed to follow the Code.
3. If it was found that there had been a breach of the Code, to determine what, if any, penalty there should be.

At the end of each stage, following consideration of the report and any other information supplied by the Member concerned and the ESO's Representative, the Committee would retire to consider its decision, which would then be announced.

Consideration was given to whether the appendices to the ESO's Report should remain exempt or be released into the public domain.

Councillor McCarthy expressed his concern that the report had been made public before the hearing had taken place. He felt this was unfair and prejudiced public opinion against him before the Committee had considered the facts. However, he had no objection

Action By

to the release of documents after the hearing.

The Legal Adviser explained that it was standard procedure to release as much as information as possible in the interests of transparency. The ESO's Representative raised no objection to the release of the documents and stated that the Standards Board for England supported the aim of transparency and that no rule was laid down about when documents should be released. Some Committees released reports early, while others did so either on the day or after a hearing. Either practice was acceptable. However, any prior press reports should be disregarded.

The Chairman indicated that the Council would review its procedures in the light of the concerns raised by Councillor McCarthy to ensure that respect for the individual was maintained.

RESOLVED that the appendices to the ESO's Report may be released into the public domain.

Findings of Fact and Reasons

Councillor McCarthy was asked whether he accepted the summary of findings of fact as set out in the ESO's report, to which he replied in the affirmative.

On that basis, Councillor McCarthy was asked whether he accepted the ESO's conclusion that the findings of fact led to his having a personal and prejudicial interest in the meeting concerned.

Councillor McCarthy replied that he did accept the ESO's conclusion but wished to explain his reasons for declaring a personal interest only.

Before presenting the report, the ESO's Representative referred to Councillor McCarthy's written submissions on the final report (Form A, appendices pages 1-2), and stated that she considered there was nothing in those submissions which altered the ESO's findings and accordingly accepted that the amendments in Form A be incorporated as findings of fact.

The Committee retired, and on their return, the Chairman indicated that the Committee had decided that the facts were as stated in the ESO's Report, as amended by Councillor McCarthy's comments in Appendix 1 (Form A).

Findings on whether any contravention of the Breckland Code of Conduct has occurred

The ESO's Representative then summarised the findings of fact as detailed in the report and the reasoning as to whether Councillor McCarthy had a personal and prejudicial interest in the matter concerned. From the facts, she believed that a personal interest existed on a number of counts and that there was a cumulative effect from the various counts of personal interest which led to the conclusion that a prejudicial interest also existed.

Action By

Councillor McCarthy was afforded the opportunity to respond and explained that he had been taking into account the concerns of two other site owners whose interests he felt needed protection, not just his own.

Answering a question from the Legal Adviser, Councillor McCarthy confirmed he accepted that he not only had personal interests for the reasons as explained but that those interests were also prejudicial.

Asked why, in agreeing on that point, if he was representing other interests as well, he had not declared such interest, Councillor McCarthy explained that he felt that there were other Councillors at the meeting who had opposing interests and that he considered that WECO's views would not have been considered fairly. In the circumstance, as the other Councillors remained in the meeting, he felt he could do so as well.

He confirmed he had not made that point at the meeting in question and that he had declared a personal interest but not a prejudicial interest.

The Committee retired to consider whether there had been a breach of the Code.

The Committee found the following:

- (a) Councillor McCarthy had a personal interest for the reasons set out in paragraph 7.9 of the ESO's Report.
- (b) The interest was clearly also prejudicial, for the reasons set out in paragraph 7.11 of the ESO's Report.
- (c) The Committee found that Councillor McCarthy had failed to comply with paragraph 10(a) of the Code of Conduct in that he did not withdraw from the meeting during consideration of the matter in question.

With regard to the question of whether Councillor McCarthy improperly influenced the decision about that matter in contravention of paragraph 10(b) of the Code of Conduct, the Committee concurred with the ESO's findings, as agreed by Councillor McCarthy, that Councillor McCarthy had clearly influenced the decision but invited Councillor McCarthy to respond further to the ESO's finding that he had improperly influenced the decision.

Following clarification of the definition of the term "improper" in this context, Councillor McCarthy accepted he had improperly influenced the decision in the matter.

The Committee accordingly found that Councillor McCarthy had breached paragraph 10(b) of the Code of Conduct.

Action By

Findings on penalty, if any, for contravention of Code

The possible penalties available to the Committee were outlined by the ESO's Representative.

In the view of the ESO's Representative, in mitigation, Councillor McCarthy appeared genuinely to have had concern about the participation of members of his committee and it was recognised that for many Councillors, the question of declaration of interests was a difficult issue. However, aggravating factors existed from the fact that Councillor McCarthy was the chairman of the committee responsible for the conduct of the meeting and from the fact that he used his casting vote, although Councillor McCarthy had since said he would behave differently in the future if faced with the same situation.

Councillor McCarthy explained that there appeared to be little clear and precise guidance on when and where a personal or prejudicial interest existed and that members could not know all the rules inside out. He understood that this had proved to be a good working experience for him and that training was needed. He felt there should be more training workshops for people in his position. He stated he had not been aware of all the facts regarding interests but would not plead ignorance and felt that it was something he would not normally have done.

The Committee then retired to determine its findings on penalty.

Decision

The Committee's decision was announced by the Chairman as follows:

RESOLVED that the Committee accept that Councillor McCarthy has learned his lesson but they believe that the use of his casting vote elevated the seriousness of the matter in that it changed the decision of the Watton Town Council Planning Committee. The Standards Committee decision is therefore that Councillor McCarthy should be suspended from being a member of Watton Town Council for three months commencing from the date of this meeting.

The Chairman concluded by saying that the Committee appreciated that in regard to training, this had been a learning curve for Councillor McCarthy and reiterated the importance for members to undertake training.

Copies of the decision summary were made available at the close of the hearing.

**Standards
Officer**

Action By

51/07 COMPLAINT AGAINST COUNCILLOR L. MCCARTHY, WATTON TOWN COUNCIL (AGENDA ITEM 6)

The following persons were present for the hearing into this matter:

Member Concerned	Councillor L. McCarthy
Ethical Standards Officer's Representative	Natalie Birtle
Investigating Officer	Alex Oram
Legal Adviser to the Committee	John Chinnery, Solicitor & Standards Consultant
Attending Officer	Miss E. Wilkes, Committee Officer
Observers	<u>Watton Town Councillors:</u> Mr. J.P. McCarthy Mr. J. Craigie Mr. K.S. Gilbert Mrs. J. Seal, Clerk to Watton Town Council <u>Substitute Members of Standards Committee:</u> Mr. J.P. Labouchere Mr. M. Eveling Mr. B. Rayner Mr. M. Whittley

Summary of the Allegation

That Councillor Lorraine McCarthy, a member of Watton Town Council, failed to declare a prejudicial interest and withdraw from the chamber during the consideration of a planning application on 30 January 2007. Further, that Councillor McCarthy voted against the planning application.

Procedures for the Hearing

The hearing would be conducted as follows:

4. To consider the findings of fact as submitted in the Ethical Standards Officer's (ESO) Report.
5. To consider whether, in the light of the facts as found, the Member had failed to follow the Code.
6. If it was found that there had been a breach of the Code, to determine what, if any, penalty there should be.

Action By

At the end of each stage, following consideration of the report and any other information supplied by the Member concerned and the ESO's Representative, the Committee would retire to consider its decision, which would then be announced.

Findings of Fact and Reasons

Councillor McCarthy was asked whether she accepted the summary of findings of fact as already stated relating to the same meeting considered in respect of Councillor J.P. McCarthy in the ESO's Report and if she was therefore happy to proceed on that basis, to which she replied she was.

The hearing accordingly commenced on the basis that the findings of fact were as stated in the ESO's Report.

Councillor McCarthy was invited to respond to the findings in regard to the nature of her interest in the matter concerned.

Councillor McCarthy replied that she had sought advice at the time and had been told that her interest was of a personal nature only. She had since attended training from which she had learned that she should have declared a prejudicial interest.

The ESO's Representative was asked if she had anything to add to the report and she asked that the submissions to the final report made by Councillor McCarthy (Form A, appendices pages 1-2) be incorporated as findings of fact. The Committee agreed to this.

It was confirmed by the Legal Adviser that Councillor McCarthy had attended a standards training session on 20 June 2007 as stated.

When asked if she accepted she had a prejudicial interest in the matter concerned, Councillor McCarthy stated that she had only learned about it afterwards and that from the information given to her when she became a Councillor she had understood that prejudicial interest meant a financial interest.

Councillor McCarthy confirmed she accepted the findings of the ESO that she had breached paragraphs 10(a) and 10(b) of the Code of Conduct.

Findings on whether any contravention of the Breckland Code of Conduct has occurred

The Committee accepted the finding of the ESO, as confirmed by Councillor McCarthy, that she had failed to comply with paragraph 10(a) of the Code of Conduct in that she did not withdraw from the meeting during consideration of the matter in question and that she had improperly influenced the decision about that matter in contravention of paragraph 10(b) of the Code.

Findings on penalty, if any, for contravention of Code

The possible penalties available to the Committee were as previously outlined.

Action By

In the view of the ESO's Representative, relying on the statements of facts as given earlier, although Councillor McCarthy was not the chairman of the meeting in question, an aggravating factor existed from the fact that if Councillor McCarthy had not participated in the meeting, the decision would have been reversed. In mitigation, Councillor McCarthy had not had training until after the event and it was accepted that she was genuinely trying to redress her lack of knowledge of the Code.

The Committee then retired to determine its findings on penalty.

Decision

The Committee's decision was announced by the Chairman as follows:

RESOLVED that the Committee accept that Mrs. McCarthy's position was not the same as Mr. McCarthy in that she was not so involved in events before the Watton Town Council planning committee meeting, she was less culpable than the Chairman and she has tried to rectify her understanding of the Code of Conduct by attending training sessions since the event.

Nevertheless, the Committee believe that Mrs. McCarthy should have realised that she had a prejudicial interest and therefore the Committee's decision is that she should be suspended from being a member of Watton Town Council for a period of six weeks from the date of this meeting.

Copies of the decision summary were made available at the close of the hearing.

52/07 THE LOCAL GOVERNMENT & PUBLIC INVOLVEMENT IN HEALTH BILL - NEW ARRANGEMENTS FOR STANDARDS COMMITTEES (AGENDA ITEM 7)

Consideration was given to the implications for Standards Committees under the recently enacted Local Government and Public Involvement in Health Act. New Regulations would require changes to the constitution of the Committee to enable complaints about alleged breaches of the Code of Conduct to be fully considered at the local level.

At present, although the Act came into force on 30 October 2007, no details were yet available on timescales and the Regulations regarding the provisions on the responsibilities and composition of Committees were awaited. It was expected that the new regulations would come into force from 1st April 2008.

Members were concerned to ensure that the Committee was in readiness by 1st April and that the Council would need to determine the make-up of its Standards Committee by January if the necessary amendments to the Council's Constitution were to be made in time.

**Standards
Officer**

Action By

It was agreed that the Chairman and Standards Consultant would seek to obtain further information to enable further consideration to be given at the next meeting.

RESOLVED that further information be obtained and a report be submitted to the next meeting of the Committee to enable the Committee to consider options and make recommendations to Council.

**Standards
Consultant**

The meeting closed at 5.12 pm

CHAIRMAN

BRECKLAND COUNCIL

STANDARDS COMMITTEE – 11TH DECEMBER, 2007

REPORT OF THE DEPUTY CHIEF EXECUTIVE
(Author: Susan Allen – Standards Officer)

APPLICATION FOR DISPENSATION – SCOULTON PARISH COUNCIL

Summary: The Committee is asked to consider an application for a dispensation from Scoulton Parish Council.

1. INTRODUCTION/BACKGROUND

- 1.1 Regulations came into force on 18th March, 2002 entitled The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 (S.I. 2002 No. 339).
- 1.2 These Regulations prescribe the circumstances in which the Standards Committee may grant dispensations to Breckland members and parish and town councillors in the Breckland area. If a member acts in accordance with the grant of such a dispensation, any participation in business prohibited by the mandatory provisions of the Model Codes of Conduct is not a failure to comply with the authority's Code. These Regulations refer to the circumstance where a member, or more usually a number of members, finds they are in a position where they have to declare a prejudicial interest under the Code of Conduct and leave the room. In the circumstances described in the Regulations, those members might be able to obtain a dispensation (i.e. permission) from a Standards Committee to stay in the meeting after declaring the interest and either just speak, or speak and vote according to any dispensation granted.
- 1.3 The Regulations state that the Standards Committee can only grant dispensations in two circumstances:
 - a) if more than half of the members entitled or required to participate in the business of the authority would not otherwise be able to, or
 - b) the authority would not be able to comply with political balance principles.

2. KEY DECISION

- 2.1 This is not a key decision.

3. COUNCIL PRIORITIES

- 3.1 The matter raised in this report falls within the following Council priorities:
 - A well planned place to live which encourages vibrant communities

4. APPLICATION FOR DISPENSATION

- 4.1 Scoulton Parish Council consists of seven councillors.
- 4.2 The Clerk to the Parish Council has sent an e-mail requesting a dispensation in respect of the Former Highway Surveyors Land.
- 4.3 The seven parish councillors, namely Ruaridh Beath, Mark Brown, Roy Potton, Zena

Rowland, Colin Spinks and Nigel Webster, are all trustees of the Former Highway Surveyors Land and as such would have to declare an interest.

- 4.4 As the councillors would be required to declare both a personal and prejudicial interest and leave the room when any matters concerning the Former Highway Surveyors Land were before the parish council, it is necessary for a dispensation to be requested.

5. OPTIONS AVAILABLE

- 5.1 To grant a dispensation to Scoulton Parish Council.
- 5.2 To refuse to grant a dispensation to Scoulton Parish Council.

6. REASONS FOR RECOMMENDATION(S)

- 6.1 To ensure the smooth running of Scoulton Parish Council in connection with the Former Highway Surveyors Land.

7. RECOMMENDATION(S)

- 7.1 It is recommended that the Committee grants a dispensation until the end of May 2011 to the named parish councillors of Scoulton Parish Council to allow them to speak and vote on any matters relating to the Former Highway Surveyors Land.

BRECKLAND COUNCIL

STANDARDS COMMITTEE – 11 DECEMBER 2007

REPORT OF THE DEPUTY CHIEF EXECUTIVE
(Author: John Chinnery, Standards Consultant)

STANDARDS COMMITTEE: COMPOSITION TO CARRY OUT NEW FUNCTIONS

Summary: The requirements of new, emerging legislation are referred to, with possible options for the make-up of Standards Committee for the future.

1. BACKGROUND

1.1 The Local Government and Public Involvement in Health Act 2007 has now become law, although the section relating to Standards complaints and Committees has not yet been brought into force.

1.2 The key changes to the framework are:

- Standards Committees will be responsible for receiving allegations and deciding whether any action needs to be taken (referred to as 'local assessment').
- Standards Committees must be chaired by an independent member.
- Standards Committees will report periodically to the Standards Board.
- Standards Committees will be allowed to enter into joint working arrangements with other Standards Committees.

Regulations need to be drafted to prescribe how some of these provisions will work in practice, not least local assessment and monitoring arrangements. Local assessment is on course to come into effect in April 2008 and the Standards Board is conscious of the need to have the legislation and guidance in place before then.

1.3 The present membership of the Committee is 4 members, including 2 Breckland Councillors, 1 Parish Councillor and 1 Independent Member (ie a non-councillor). There are 2 substitute Breckland Councillors, 2 Substitute Parish Councillors and 1 Substitute Independent.

2. STANDARDS COMMITTEE COMPOSITION

2.1 This Committee will need to have in place by 1 April 2008 (projected date, subject to regulations) the means to deal with:

- (1) the initial assessment of all Standards complaints from the Breckland District;
- (2) a Review sub-committee (where a complainant can ask for a review when complaints are not referred for investigation); and
- (3) a hearings (sub) committee.

These three functions cannot be carried out by the same Members.

Possible Systems

2.2 Three separate sub-committees of 3 or 4 Members each, needing total membership of 9 to 12 members.

- 2.3 Two sub-committees of 3 or 4 Members each, and joint arrangements with one or more other neighbouring authorities for one of the three functions to be carried out on behalf of Breckland: the 'Review' function would seem most appropriate for this.
- 2.4 A new system of joint arrangements with shared Standards Committees with one or more other authorities.

Comment

- 2.5 There will be new regulations and guidance from the Standards Board for England which set out the detail of how complaints will have to be dealt with and how any joint provision arrangements could work, but these are still awaited.
- 2.6 Under the new Act, the Chairman of Standards Committee will have to be an independent Member (that is, not a district or parish councillor). This may apply to sub-committees, but we do not know at present. Each sub-committee will have to have an independent Member, and a sub-committee dealing with a parish matter must have a parish member.
- 2.7 The absolute minimum number for a sub-committee is therefore 3 – it may be advisable to appoint 4 members, or at the very least to have sufficient substitute members to ensure that committees do not have to be cancelled at the last minute.

3. KEY DECISION

- 3.1 This is not a key decision.

4. COUNCIL PRIORITIES

- 4.1 This report falls within the following Council priorities:
- A well planned place to live which encourages vibrant communities.

5. OPTIONS

- 5.1 Do nothing until the new Regulations and Guidance are available. This has the disadvantage that without special procedures the changes to the Constitution might not be in place by 1 April 2008. The Monitoring Officer advises strongly against this option.
- 5.2 Recommend to Council that this committee is increased in size to either 6, 8 or 9 members (or more) with a suggested operative date in the future. This could include the change in Chairmanship and the appointment of the Substitute Independent Member and a Substitute Parish Member as full members of the committee.
- 5.3 As 5.2 but with effect as soon as possible – in practice this would be 28 February 2008.

6. RECOMMENDATION

- 6.1 To ensure the committee is ready to operate the new arrangements, options 5.2 or 5.3 are preferred.