

**STANDARDS COMMITTEE  
DETERMINATION HEARING 21  
OCTOBER 2009 –**

**REDACTED AGENDA PACK**

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**DETERMINATION OF COMPLAINT SC003/089 - COUNCILLOR OAKES**

THE ATTACHED DOCUMENTS ARE THE AGENDA FOR THE  
STANDARDS COMMITTEE – DETERMINATION HEARING PANEL OF 21  
OCTOBER 2009

THE AGENDA ATTACHED IS IN A REDACTED FORM FOR PUBLIC  
VIEWING AND IS PUBLISHED FOLLOWING THE DECISION OF THE  
DETERMINATION HEARING PANEL TO ALLOW THE EXEMPT  
DOCUMENTS MARKED TO BE RELEASED WITHIN THE PUBLIC DOMAIN  
SUBJECT TO THE REDACTION SHOWN IN THE AGENDA





## NOTICE OF MEETING

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# Standards Committee - Determination Hearing Panel

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WEDNESDAY, 21ST OCTOBER, 2009 at 10:00 HRS - CIVIC CENTRE, HIGH ROAD,  
WOOD GREEN, N22 8LE.

COUNCILLOR Councillors Dodds and Winskill  
MEMBERS:

INDEPENDENT Mr Batterham, Ms Chambers, Ms Sykes  
MEMBERS:

### AGENDA

1. APOLOGIES FOR ABSENCE (IF ANY)
2. ELECTION OF CHAIR OF THE DETERMINATION HEARING PANEL FOR THE DURATION OF THE PROCEEDINGS
3. DECLARATIONS OF INTEREST

A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

A member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest **and** if this interest affects their financial position or the financial position of a person or body as described in paragraph 8 of the Code of Conduct **and/or** if it relates to the determining of any approval, consent, licence, permission or registration in relation to them or any person or body described in paragraph 8 of the Code of Conduct.

**4. PROCEDURAL MATTERS**

- (i) Outline of Hearing process
- (ii) The Determination Hearing Panel will be recommended to exclude the Public and press in order to consider the lifting of the exempt classification on certain documents to be considered at this hearing e documents for this hearing, circulated as exempt documents.

Please note that the documents if released will be in a redacted form.

**5. EXCLUSION OF THE PUBLIC AND PRESS**

The following item is likely to be subject of a motion to exclude the press and public from the meeting as it contains exempt information as defined in Section 100a of the Local Government Act 1972; namely information relating to any individual, and information which is likely to reveal the identity of an individual; and also in accordance with the Standards Committee (England) Regulations 2008 (regulation 5), and Section 53 of the Local Government Act 2000.

**6. CONSIDERATION OF RELEASE OF EXEMPT INFORMATION WITHIN THE PUBLIC DOMAIN DURING THE PUBLIC PART OF THE PROCEEDINGS**

**7. RE-INCLUSION OF THE PUBLIC AND PRESS**

**8. DETERMINATION OF COMPLAINT SC003/089 - COUNCILLOR OAKES**

Documents for consideration

- (i) Report of the Monitoring Officer
- (ii) Pre-Hearing process summary
- (iii) Agenda contents list detailing summary of documentation
- (iv) Appendices 1 to 6

**9. CONSIDERATION OF ANY ADDITIONAL PROCEDURAL POINTS**

**10. DELIBERATIONS OF THE HEARING PANEL ON DISPUTED MATTERS OF FACT**

The Panel, having heard the representations of the parties concerned and considered the evidence, including any witnesses, will then deliberate.

All parties other than the Panel Members, Legal Adviser to the Panel, and Committee Manager will withdraw from the proceedings.

All parties will be invited back in to the proceedings. The Chair of the Determination Hearing will give the decision of the Panel.

**11. DELIBERATION OF THE HEARING PANEL AS TO WHETHER ON THE FACTS THERE HAS BEEN A FAILURE TO COMPLY WITH THE CODE OF CONDUCT**

The Panel, having heard the representations of the parties concerned and considered the evidence, including any witnesses, will then deliberate.

All parties other than the Panel Members, Legal Adviser to the Panel, and Committee Manager will withdraw from the proceedings.

All parties will be invited back in to the proceedings. The Chair of the Determination Hearing will give the decision of the Panel.

**12. DELIBERATIONS OF THE HEARING PANEL AS TO SANCTION TO BE IMPOSED IN THE EVENT THAT A FAILURE TO COMPLY IS FOUND**

The Panel, having considered Form C and heard the representations of the parties concerned will then deliberate.

All parties other than the Panel Members, Legal Adviser to the Panel, and Committee Manager will withdraw from the proceedings.

All parties will be invited back in to the proceedings. The Chair of the Determination Hearing will give the decision of the Panel.

**13. RECOMMENDATIONS TO THE COUNCIL**

The Panel will consider representations from the investigating officer and will decide whether to make any recommendations to the Council with a view to promoting a high standard of conduct.

**14. SUMMARY WRITTEN DECISION**

The Panel will provide a short summary decision in writing. A full written decision will be approved by all Panel Members as soon as practicable and will be communicated to the parties.

Ken Pryor  
Deputy Head of Local Democracy and Member  
Services  
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River Park House  
225 High Road  
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13 October 2009



Haringey Council

Agenda item:

**[No.]**
**DETERMINATION HEARING PANEL ON 21 OCTOBER 2009**

Report Title: **Local Determination Hearing into Complaint of Failure to Comply with the Members' Code of Conduct (Ref SC3/089)**

Report of: **The Head of Legal Services and Monitoring Officer**

Wards(s) affected: **All**

Report for: **Decision**

**1. Purpose and Recommendation**

1.1 The Panel is convened to hear and determine the complaint in accordance with the local procedure rules and guidance from the Standards Board

Report Authorised by: **John Suddaby, Head of Legal Services and Monitoring Officer**

Contact Officer: **John Suddaby, Head of Legal Services and Monitoring Officer**  
 Telephone: 020 8489 3974 email: john.suddaby@haringey.gov.uk

**2. Local Government (Access to Information) Act 1985**

2.1 This report is exempt from publication as it contains exempt information in the attachments under paragraphs 1 and 2 of Part 1 of Schedule 12 to the Local Government Act 1972 namely information revealing or likely to reveal the identity of individuals.

**3. Report**

3.1 This Hearing Panel was established to determine this complaint (ref SC3/089) at the special meeting of the Standards Committee on 9 September 2009.

3.2 The Pre-Hearing Process Summary attached to this report sets out the background, the pre-hearing process, the matters agreed, the matters in dispute and issues likely to arise including the extent to which the hearing should be held in public and the

exempt documents be made public.

3.3 The covering agenda summarises the steps in the hearing procedure. The full hearing procedure is the first document in Appendix 1.

#### **4. Comments of the Chief Financial Officer**

4.1 There are no direct financial implications.

#### **5. Comments of the Head of Legal Services**

5.1 This report is from the Head of Legal Services and Monitoring Officer

#### **6. Equalities Implications**

6.1 There are no specific implications

#### **7. Use of Appendices**

- 7.1 (i) The Pre-Hearing Process Summary
- (ii) The Agenda Contents List
- (iii) 6 Appendices – contents summarised in (ii)

NOT FOR PUBLICATION

Page 3

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

**PRE-HEARING PROCESS SUMMARY**

**COMPLAINT BY COUNCILLOR REITH AGAINST COUNCILLOR OAKES –  
LOCAL REFERENCE SC3/089**

LONDON BOROUGH OF HARINGEY – STANDARDS COMMITTEE  
HEARING PANEL

MEMBERS OF HEARING PANEL – CLRS DODDS AND WINSKILL AND  
MS. C. SYKES, MS. R. CHAMBERS AND MR J. BATTERHAM

MONITORING OFFICER – JOHN SUDDABY

CLERK TO STANDARDS COMMITTEE – CLIFFORD HART

DATE OF HEARING – WEDNESDAY 21 OCTOBER 2009

TIME OF HEARING – COMMENCING AT 9.30 A.M.

LOCATION OF HEARING – HARINGEY CIVIC CENTRE, HIGH ROAD,  
WOOD GREEN, N22

**1. THE COMPLAINT**

The complaint was made on 2 December 2008 by Cllr Reith. The facts of the complaint are that the Assistant Chief Executive-People and Organisational Development brought a copy of an email to the attention of Cllr Reith, then the Acting Leader of the Council. This email had been sent the previous day, 1 December at 13.21, by Cllr Oakes to a journalist, Tim Ross, who worked for the Evening Standard. The email had attached a copy of an exempt report relating to an employee who was in dispute with the Council at an Employment Tribunal. The email from Cllr Oakes identified the employee by name and by job title. The email made clear that Cllr Oakes was aware that the information in the report was confidential as he asked Tim Ross not to use his (Cllr Oake's) name or Ron's (Cllr Aitken) if discussing it with Haringey's press office. The email was copied by Cllr Oakes to Cllr Aitken at his Council Lib Dem address and to his home/yahoo address and for this reason Cllr Reith included Cllr Aitken in her complaint. Subsequently, it appeared that Cllr Aitken had supplied his copy of the exempt report to Cllr Oakes.

**2. THE INVESTIGATION REPORT**

The complaint was considered by an Assessment Sub-Committee meeting on 22 December and the Sub-Committee decided to refer it to the Monitoring Officer for investigation. The first officer appointed to investigate was Daniel Toohey who then left the Council in April 2009. The interviews with the subject Councillors and other witnesses and the drafting of the investigation report were undertaken by Evelyn Jarrett who left the Council at the end of September 2009. The investigation report concluded with a finding that both Cllr Oakes and Cllr Aitken had failed to comply with paragraph 4 of the Members Code of Conduct by disclosing confidential information to the press. The investigation report was considered by a special meeting of the Standards Committee on 4 August 2009. The Committee resolved that the complaint against both Cllrs Oakes and Aitken be referred to a local determination hearing. A subsequent special meeting of the Standards Committee on 9 September agreed that there should be separate hearings in relation to each Councillor with the hearing for Cllr Oakes to be held before that for Cllr Aitken. The date and membership of the Hearing Panel for Cllr Oakes' case is as set out above.

### 3. PRE-HEARING PROCESS

The outcome of the special meeting of the Committee on 4 August was communicated to Cllr Oakes the next day. On 14 August the Monitoring Officer wrote to Cllr Oakes sending the full investigation report and appendices, the Procedure Rules for local determination hearings and Forms A to E.

Cllr Oakes responded on 2 October with the completed Forms A, B, D and E which are in Appendix 5 to this report. Form C will be made available to the Panel only if there is a finding of non-compliance with the Code.

Cllr Oakes in his Form B wishes to introduce letters from (i) Cllr Gorrie, the Leader of the Opposition, Liberal Democrat Group on the Council and (ii) John Wellington, the Managing Editor of the Mail on Sunday newspaper. The investigating officer's representative has no objection but requests the Panel to permit him to ask Cllr Oakes questions on matters arising from these letters.

The investigating officer's representative, in an email dated 5 October, has responded to Cllr Oakes about the points contained in his Forms A to E. The

investigating officer's representative has notified Cllr Oakes of an intention to introduce an exempt report entitled "Lessons Learnt from Employment Termination" which was submitted by the Director of Corporate Resources to the General Purposes Committee on 25 June 2009. The purpose of introducing this report in evidence is to show that senior management did consider the broader implications arising from the shortcomings in handling the case of the particular employee in dispute, and that these implications and recommendations for improvement were reported to the General Purposes Committee as the Council's corporate employer body. These Documents from the investigating officer are in Appendix 6 to this report.

#### 4. BACKGROUND ON EXEMPT INFORMATION

The categories of "exempt information" are defined in Regulations (the Local Government [Access to Information] [Variation] Order 2006/88) and are set out at Appendix A to this report. If the exempt status of a report is in issue, then the Regulations require the application of a "public interest test" namely, whether in all the circumstances of the case the public interest in maintaining confidentiality outweighs the public interest in disclosure.

When a report contains exempt information (an "exempt report") the relevant Committee (or Cabinet) will generally resolve to exclude the public and press from the meeting. Exempt reports and other documents containing exempt information are generally not made available to the public. Exempt reports will normally be supplied only to Members who are appointed to the relevant Committee considering the report. The report will be headed with a warning that it is "Not for Publication" and the grounds for it being exempt are stated.

Members who can demonstrate a "need to know" will have a right to see all, or the relevant part(s), of an exempt report. The "need to know" derives from a particular role or responsibility that the individual has within the Council, for example, being a Cabinet Member for a specific portfolio.

Exempt information is treated as the "property" of the Committee/Cabinet having responsibility for the matter. This means

that the Committee, or its Chair, can agree to a wider circulation of an exempt report than would be normal or even for an exempt report to be put into the public domain and considered with public and press present.

Part 5A of the Local Government Act 1972 gives a special technical meaning to "confidential information" which is information restricted by Court Order or Central Government direction with the result that the Committee/Cabinet has no discretion to release it into the public domain. For the purposes of this hearing, the information in the report was "exempt" but the Members Code of Conduct uses the term "confidential" in a general non-technical way which overlaps with "exempt".

## 5. THE MEMBERS' CODE OF CONDUCT

Paragraph 4 of the Code is as follows:

### 4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

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

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

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

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

## 6. THE MATTERS AGREED

Cllr Aitken is a Member of the General Purposes Committee (GPC) which acts as the corporate "employer" body for the Council. GPC considered a report on the employee in dispute with the Council at its meeting on 4 November 2008. The report was described as exempt under category 1 (information relating to an individual) and category 5 (information subject to a claim of legal professional privilege). The exempt report recommended terms of settlement for the dispute with the employee. It contained comments on the employment dispute and on the strength of the Council's case.

At some later time in November Cllr Oakes asked Cllr Aitken for this exempt report and Cllr Aitken met this request by handing over his own copy. Cllr Oakes is not a Member of GPC. Cllr Oakes said that he had been approached by the Evening Standard about the matter of the employee in dispute since that newspaper already had some account of the story and was looking for confirmation.

The email sent by on 1 December at 13.21 was forwarded a number of times to Tim Ross. These emails were captured and "quarantined" by the Council's IT security device "Mimesweeper". The original 13.21 email was released accidentally to Tim Ross by a temporary IT employee. The same email and attachment were forwarded again on 3 December to another journalist, Martin Delgado, who worked for the Mail on Sunday. Apart from the original email to Tim Ross, the other emails remained "quarantined". After threats of legal action by the Council, assurances were received by the newspapers that the information from the Council exempt report would not be published without further notice and, in fact, no publication took place.

Cllr Oakes copied his first email on 1 December to Tim Ross to Cllr Aitken at his Council Lib Dem email address and at his home/yahoo address. The copy to yahoo was wrongly sent to "yahoo.co" not "yahoo.com" and so did not arrive.

## 7. THE MATTERS IN DISPUTE

The matters in dispute from the view point of Cllr Oakes are set out fully in the completed Form A (Appendix 5).

The Monitoring Officer has attempted to summarise the matters in dispute as follows:

- (a) Cllr Oakes considers that he "tried" to send the emails referred to above meaning that they were captured by the Council's IT security system. The investigating officer's view is that the first email at 13.21 on 1 December, the subject of the complaint, was

actually sent by Cllr Oakes and received by the journalist Tim Ross as a result of the email being accidentally released by a temporary member of the IT staff and, in all the circumstances, this amounts to a breach of the Code of Conduct;

- (b) whether Cllr Oakes has produced any or sufficient information to corroborate his public interest defence. Cllr Oakes points to a number of occasions when he or his colleagues raised the issue of the length of time that staff remain on suspension pending resolution of disciplinary cases. The position of the investigating officer is that this does not amount to a justification for public disclosure of the specific exempt report to GPC on 04/11/08 about the employee, having regard to the Standards Board guidance on disclosure which helps interpret paragraph 4 of the Code of Conduct;
- (c) there is a general disagreement about the interpretation and application of the public interest defence in paragraph 4 (a) (iv) of the Code of Conduct;
- (d) whether the "potential impact" of Cllr Oakes' action to disclose the exempt report has been identified or recognised. Cllr Oakes will address the Panel on this point. The position of the investigating officer is that this "potential impact" was summarised in the investigating officer's report especially at paragraph 9.12 which draws attention to the need for the Council to retain confidentiality in negotiating and settling employment disputes.
- (e) there is a general disagreement about the matters set out, and the conclusions reached in the investigating officer's report especially at paragraphs 9.10 and 9.11. Cllr Oakes disputes the allegation that he did not consider the extent of the information he was disclosing or the relevant rules and protocols. He denies that he was troubled in disclosing the information or that he did so in an underhand manner.

#### 8. HOLDING THE HEARING IN PUBLIC/PRIVATE

Guidance from the Standards Board states that hearings should be held in public where possible to make sure the hearing process is open and fair. The guidance does acknowledge that there may be circumstances where part of a hearing should be held in private.

Cllr Oakes has indicated in Form D that does not wish any part of the hearing to be held in private.

The representative of the investigating officer agrees that the hearing should be held in public but subject to the following points:

(i) the exempt report to the General Purposes Committee on 04/11/08 should continue to be treated as exempt/confidential from public disclosure because redaction of the information would not be practicable i.e. so large a part of the report would have to be redacted to protect the identity of the employee and sensitive personal information about her, that the redacted report would be meaningless.

(ii) the Panel and the parties should agree to conduct the oral hearing without express references to the individuals whose identities need to be protected. For example the employee in dispute could be referred to simply as "the employee".

(iii) the other documents set out in Appendices 2, 4, 5 & 6 to this report, which have hitherto been treated as exempt, could be made available publicly subject to the redaction of any details tending to identify the employee in dispute or other former officers.

## 9. WITNESSES

Cllr Oakes has indicated in his Form E that he wishes to call Evelyne Jarrett, the investigating officer, to answer questions about her report.

The representative of the investigating officer does not propose to call any witnesses and will rely upon the evidence of the investigation report so far not contradicted.

But in the event that Cllr Oakes were to dispute the accidental nature of the release of the email to Tim Ross, sent at 13.21 on 1 December, then the investigating officer's representative would ask the Panel's permission to call James Harding, the IT Security and Business Continuity Manager, or another of his staff, to give evidence about the event.

## 10. REPRESENTATION

Cllr Oakes is being represented by John Collis, Solicitors.

The investigating officer will be represented by Terence Mitchison, Principal Project Lawyer Corporate.

The Monitoring Officer will be represented by Rosemary Lansdowne, the Deputy Monitoring Officer, who will advise the Panel on law and procedure.

## 11. PROCEDURE SUMMARY

The full local procedure for local determination hearings is attached in Appendix 1 to this report.

There are three main stages to the procedure:

- (i) Making findings of fact about the matters in dispute between the investigating officer and the subject Member,
- (ii) Determination, on the facts found, whether the subject Member did fail to follow the Code of Conduct, and
- (iii) In the event of a finding that the subject Member failed to follow the Code, then the Panel will determine the appropriate penalty.

With the agreement of the Panel, the subject Member and the investigating officer's representative will be able to call the witnesses notified and to ask questions of the other party's witnesses. The subject Member and the investigating officer's representative will be able to make representations at appropriate points in the procedure.

Dated 9 October 2009

**LOCAL DETERMINATION HEARING – COMPLAINT AGAINST CLLR OAKES**

**CONTENTS LIST OF AGENDA PAPERS**

APPENDIX 1 – Procedural Documents - public

Haringey Procedure Rules for hearings (pages 15-18)

Code of Conduct – SBE guidance on disclosing confidential information (pages 19-22)

SBE guidance (2003) on excluding the public from hearings (pages 23-25)

SBE guidance on Standards Committee determinations (pages 26-60)

APPENDIX 2 - exempt

Investigating Officer's report 27 July 2009 (pages 61-86)

APPENDIX 3 - Investigating Officer's original appendices – exempt

Appendix A – schedule of evidence taken into account (pages 87-89)

Appendix D – chronology of events (pages 90-91)

Special General Purposes Committee exempt report 4 November 2008 (pages 92-100)

Complaint Form dated 2 December 2008 (pages 101-107)

Correspondence and emails in date order (pages 108-131)

Statements and evidence from IT security officers or about IT security (pages 132-145)

Interview recorded with Cllr Oakes and his comments (pages 146-164)

Interview recorded with Cllr Aitken and his comments (pages 165-184)

APPENDIX 4 - Investigating Officer's original appendices – public

Members Code of Conduct (pages 185-197)

Appendix B – meaning of confidential/exempt information (pages 198-199)

Appendix C – public interest test (pages 200-201)

Email Acceptable Usage Policy (pages 202-211)

Standards Committee Regulations 2008 (pages 212-232)

Training on Revised Code of Conduct 2007 (pages 233-257)

Miscellaneous Standing Orders - Part 4 Section C of Constitution (pages 258-264)

APPENDIX 5 – Cllr Oakes' documents – exempt

Form A – Response of Cllr Oakes to Investigation Report (pages 265-269)

Form B – Additional evidence from Cllr Oakes (pages 270-272)

Form D – Cllr Oakes's response on procedural matters (pages 273-275)

Form E – Cllr Oakes's witness request (pages 276-279)

Email dated 25 September 2009 from Cllr Robert Gorrie, Leader of Liberal Democrat Group, on the issue of staff suspended pending resolution of disciplinary cases (page 280)

Letter dated 10 September 2009 from the Managing Editor of the Mail on Sunday to Cllr Oakes (page 281-282)

APPENDIX 6 - Additional documents from the Investigating Officer – exempt

Initial Letter dated 14 August 2009 from Monitoring Officer to Cllr Oakes about hearing process (page 283-286)

Emails dated from 28 September to 6 October between Monitoring Officer/ Investigating Officer's Representative and Cllr Oakes on Cllr Oakes's responses to Initial Letter and additional evidence (page 287-289)

Exempt Report to General Purposes Committee on "Lessons Learnt  
from Employment Termination Case" 25 June 2009 (page 290-296)

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# APPENDIX 1

## **Procedure for hearing allegations of breach of the Members' Code of Conduct by the Standards Committee or a Hearing Sub-Committee**

### **Interpretation**

1. "Subject Member" means the member of the Council who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the subject member's nominated representative. Where the hearing involves a complaint against more than one member then this includes all the subject members.
2. "Investigator" means the Monitoring Officer (MO) who referred the investigator's report to the Committee, and includes the MO's nominated representative. In the case of matters that have been referred to the MO or the Committee by an Ethical Standards Officer (ESO), the "investigator" mean the ESO or other appointed investigating officer, and his/her nominated representative.
3. "Committee" means the Standards Committee and includes to a Hearing Sub-Committee of the Standards Committee. Action taken by the Chair shall be deemed to be authorised by the Committee unless the Committee by majority vote determines otherwise at any time. When it is necessary or desirable to amend or amplify this Procedure, the Committee will take into account representations from the parties and its legal advisor but the Committee will determine all questions relating to procedure and the admission of evidence.
4. "Legal advisor" means the officer responsible for providing legal advice to the Committee. This may be the Monitoring Officer, another legally qualified officer of the Council, or a lawyer appointed for this purpose from outside the Council.

### **Preliminary Matters**

#### **Date for Hearing**

5. The date and time for the hearing shall be determined by an officer appointed by the Head of Local Democracy and Member Services in consultation with the Committee members, the subject member and the investigator. In the event that agreement between these persons cannot be reached within a reasonable time, the officer shall determine the date and time in consultation with the Chair of the Committee.

#### **Attendance**

6. If the subject member or the investigator fails to attend the Committee at the date and time fixed for the hearing, the Committee shall decide whether to proceed in their absence or whether to adjourn to another date having regard to any representations made by, or on behalf of, the absent party and any party present and any advice from the legal advisor. There will be a presumption that the hearing should proceed in the absence of a party who has had reasonable prior written notice of the date and time unless there are exceptional circumstances.

#### **Representation**

7. The subject member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another non-legally-qualified person.

#### **Two or more Subject Members**

8. If there are two or more subject members, then the Committee will agree such modifications to this procedure as will allow each subject member to be separately represented, if he/she so wishes, and to be given a separate opportunity to make representations and ask questions of witnesses. Any representations and evidence specific to one/some subject members, but not other subject members, shall be properly and separately considered.

#### **Legal advice**

9. The Committee may take legal advice from its legal advisor 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**

10. After all the members of the Committee and everyone involved have been formally introduced, the Chair should explain how the Committee is going to run the hearing.

#### **Preliminary procedural issues**

11. 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**

12. After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

13. If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.

14. 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.

15. The subject member should then have the opportunity to make representations to support his/her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.

16. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the subject member.

17. 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.

18. If the subject member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he/she must give good reasons for not mentioning it before the hearing. After considering the subject member's explanation for not raising the issue at an earlier stage, the Committee may then:

- a) continue with the hearing, relying on the information in the investigator's report;
- b) allow the subject member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or
- c) postpone the hearing to arrange for appropriate witnesses to be present.

19. The Committee will usually move to another room to consider the representations and evidence in private.

20. On their return, the Chair will announce the Committee's findings of fact.

**Did the Subject Member fail to follow the Code?**

21. The Committee then needs to consider whether or not, based on the facts it has found, the subject member has failed to follow the Code of Conduct.

22. The subject member should be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.

23. The Committee should then consider any verbal or written representations from the investigator.

24. The Committee may, at any time, question anyone involved on any point they raise in their representations.

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

26. The Committee will then move to another room to consider the representations.

27. On their return, the Chair will announce the Committee's decision as to whether or not the subject member has failed to follow the Code of Conduct.

**If the Subject Member has not failed to follow the Code of Conduct**

28. If the Committee decides that the subject member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the Council.

**If the Subject Member has failed to follow the Code**

29. If the Committee decides that the subject member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the investigator and the subject member as to:

- a) whether or not the Committee should set a penalty; and
- b) what form any penalty should take.

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

31. The Committee will then move to another room to consider whether or not to impose a penalty on the subject member and, if so, what the penalty should be.

32. On their return, the Chair will announce the Committee's decision.

**Recommendations to the Council**

33. After considering any verbal or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the Council, with a view to promoting high standards of conduct among members.

**The written decision**

34. The Committee will announce its decision on the day of the hearing 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 as soon as practicable after the hearing before memories fade.

# THE CODE OF CONDUCT

**Guide for members**  
**May 2007**

You must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Code of Conduct.

However much you may be concerned about allegations that you or a fellow councillor failed to comply with the Code of Conduct, it is always wrong to bully, intimidate or attempt to intimidate any person involved in the investigation or hearing. Even though you may not have breached the Code of Conduct, you will have your say during any independent investigation or hearing, and you should let these processes follow their natural course.

If you intimidate a witness in an investigation about your conduct, for example, you may find yourself subject to another complaint that you breached this paragraph of the Code of Conduct.

## Compromising the impartiality of officers of the authority

### See Paragraph 3(2)(d)

You must not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the authority.

You should not approach or pressure anyone who works for, or on behalf of, the

authority to carry out their duties in a biased or partisan way. They must be neutral and should not be coerced or persuaded to act in a way that would undermine their neutrality. For example, you should not get officers to help you prepare party political material, or to help you with matters relating to your private business. You should not provide or offer any incentive or reward in return for acting in a particular way or reaching a particular decision.

Although you can robustly question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

## Disclosing confidential information

### See Paragraph 4(a)

You must not disclose confidential information, or information which you believe to be of a confidential nature, except in any of the following circumstances:

- You have the consent of the person authorised to give it.
- You are required by law to do so.

- The disclosure is made to a third party for the purposes of obtaining professional advice (for example, your lawyer or other professional adviser) provided that person agrees not to disclose the information to any other person.
  - The disclosure is in the public interest. This is only justified in limited circumstances, when all of the following four requirements are met:
    1. the disclosure must be reasonable
    2. the disclosure must be in the public interest
    3. the disclosure must be made in good faith
    4. the disclosure must be made in compliance with any reasonable requirements of your authority
- In relation to the disclosure of confidential information in the public interest, the four requirements to be met are outlined in more detail below.
1. The first requirement, that the disclosure must be reasonable, requires you to consider matters such as:
    - Whether you believe that the information disclosed, and any allegation contained in it, is substantially true. If you do not believe this, the disclosure is unlikely to be reasonable.
    - Whether you make the disclosure for personal gain. If you are paid to disclose the information, the disclosure is unlikely to be reasonable.
    - The identity of the person to whom the disclosure is made. It may be reasonable to disclose information to the police or to an appropriate regulator. It is less likely to be reasonable for you to disclose the information to the world at large through the media.
    - The extent of the information disclosed. The inclusion of unnecessary detail, and in particular, private matters such as addresses or telephone numbers, is likely to render the disclosure unreasonable.
    - The seriousness of the matter. The more serious the matter disclosed, the more likely it is that the disclosure will be reasonable.
    - The timing of the disclosure. If the matter to which the disclosure relates has already occurred, and is unlikely to occur again, the disclosure may be less likely to be reasonable than if the matter is continuing, or is likely to re-occur.
    - Whether the disclosure involves your authority failing in a duty of confidence owed to another person.

2. The second requirement, that the disclosure must be in the public interest, needs to involve one or more of the following matters or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the future:
  - (a) A criminal offence is committed.
  - (b) Your authority or some other person fails to comply with any legal obligation to which they are subject.
  - (c) A miscarriage of justice occurs.
  - (d) The health or safety of any individual is in danger.
  - (e) The environment is likely to be damaged.
  - (f) That information tending to show any matter falling within (a) to (e) is deliberately concealed.
3. The third requirement, that the disclosure is made in good faith, will not be met if you act with an ulterior motive, for example, to achieve a party political advantage or to settle a score with a political opponent.

4. The fourth requirement, that you comply with the reasonable requirements of your authority, means that before making the disclosure you must comply with your authority's policies or protocols on matters such as whistle-blowing and confidential information. You must first raise your concerns through the appropriate channels set out in such policies or protocols.

In summary, to decide whether the disclosure is reasonable and in the public interest, you may need to conduct a balancing exercise weighing up the public interest in maintaining confidentiality against any countervailing public interest favouring disclosure. This will require a careful focus on how confidential the information is, on any potentially harmful consequences of its disclosure, and on any factors which may justify its disclosure despite these potential consequences.

In some situations, it is extremely unlikely that a disclosure can be justified in the public interest. These will include where the disclosure amounts to a criminal offence, or where the information disclosed is protected by legal professional privilege.

## APPENDIX 4

### Excluding the public from hearings

The Standards Board for England recommends that hearings should be held in public where possible to make sure that the hearing process is open and fair. However, there may be some circumstances where parts of the hearing should be held in private.

- 1 At the hearing, the committee will consider whether or not the public should be excluded from any part of the hearing, in line with Part VA of the *Local Government Act 1972* (as modified in relation to local determinations by Standards Committees). If the committee considers that 'confidential information' is likely to be revealed during the hearing, the committee must exclude the public by law. 'Confidential information' is defined for these purposes to mean information that has been provided by a Government department under the condition that it must not be revealed, and information that the law or a court order says cannot be revealed.
  - 2 The committee also has the power to exclude the public if it considers that 'exempt information' is likely to be revealed during the hearing. The categories of 'exempt information' are listed in Appendix 3. The committee should act in line with Article 6 of the *European Convention on Human Rights*, which gives people the right to a fair trial and public hearing by an independent and unbiased tribunal. The committee also has a duty to act fairly and in line with the rules of natural justice.
  - 3 Article 6 says that the public may be excluded from all or part of the hearing if it is in the interests of:
    - a morals;
    - b public order;
    - c justice;
    - d national security in a democratic society; or
    - e protecting young people under 18 and the private lives of anyone involved.
-

## **Standards Committee determinations**

Guidance for monitoring officers and Standards Committees

- 4 There should be a public hearing unless the committee decides that there is good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
  - 5 The committee must also act in line with Article 10 of the *European Convention on Human Rights*, which sets out the right for people to ‘receive and impart information and ideas without interference by public authority’. Any restrictions on this right must be ‘prescribed by law and...necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary’.
  - 6 Conflicting rights often have to be balanced against each other. The committee must act in line with Article 8 of the *European Convention on Human Rights*. Article 8 says that everyone has the right to respect for their private and family life, home and correspondence. It says that no public authority (such as the committee) may interfere with this right unless it is:
    - a in line with the law; and
    - b necessary in a democratic society in the interests of:
      - i national security;
      - ii public safety;
      - iii the economic wellbeing of the country;
      - iv preventing crime or disorder;
      - v protecting people’s health and morals (which would include protecting standards of behaviour in public life); or
      - vi protecting people’s rights and freedoms.
-

There is a clear public interest in promoting the probity (integrity and honesty) of public authorities and public confidence in them. For these reasons the hearing should be held in public unless the committee decides that protecting the privacy of anyone involved is more important than the need for a public hearing.

- 7 In relation to people's rights under both Articles 8 and 10 of the *European Convention on Human Rights*, it should be remembered that any interference with or restriction of those rights must be 'necessary in a democratic society'. A measure will only be 'necessary' if it meets 'a pressing social need', and any restriction on people's rights must be 'proportionate'.
  - 8 The Standards Board for England recommends that a Standards Committee should move to a private room when considering its decisions. We do not consider that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.
-

# STANDARDS COMMITTEE DETERMINATIONS

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# introduction

This guidance is designed to help members and officers in relevant authorities who are involved in the determination of complaints that a member may have breached the Code of Conduct. It reflects the Standards Committee (England) Regulations 2008 (the regulations). These regulations are mandatory and this guidance must be taken into account by your authority.

It details each stage of the determination of complaints process and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required. The guide is aimed primarily at members of standards committees and monitoring officers, but will also provide a useful reference tool for all members and officers involved in the determination of complaints.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Each authority must develop effective procedures to fulfil its legislative requirements. Members and officers involved in the determination of complaints must take this guidance into account when doing so.

Any reference in this guidance to a standards committee includes a reference to sub-committees established to consider a monitoring officer's investigation report and to consider determination hearings. Any reference to the "subject member" is a reference to the member who is the subject of the complaint that the Code of Conduct may have been breached.

You can contact the Standards Board for England on **0845 078 8181** or email **[enquiries@standardsboard.gov.uk](mailto:enquiries@standardsboard.gov.uk)**

# introduction

## Regulations

The Standards Board for England has issued this guidance to reflect the Standards Committee (England) Regulations 2008 (the regulations) in respect of holding determination hearings. These regulations derive from the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

The regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Under the regulations, standards committees must take this guidance into account.

The regulations do not cover joint working between authorities. The government plans to issue further regulations to provide a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints of misconduct by their members.

## Background

The main purpose of the standards committee's determination hearing is to decide whether a member has breached the Code of Conduct and, if so, to decide if a sanction should be applied and what form the sanction should take. All complaints that a member may have breached the Code are assessed by the relevant authority's standards committee.

The standards committee must establish a sub-committee (the assessment

sub-committee) which is responsible for assessing complaints that a member may have breached the Code. A complainant may make a request for a review of the standards committee's decision where it decides to take no further action on a complaint. The standards committee must establish a review sub-committee which is responsible for carrying out these reviews.

The standards committee should appoint a sub-committee (the consideration and hearing sub-committee) to consider a monitoring officer's investigation report and to hold determination hearings. This sub-committee must be chaired by an independent member of the standards committee.

On completion of an investigation the monitoring officer must make one of the following findings:

- There has been a failure to comply with the Code.
- There has not been a failure to comply with the Code.

They must write an investigation report and send a copy of it to the subject member. Alternatively, where a Standards Board ethical standards officer has completed an investigation and decided that a complaint should be determined by the standards committee, they will refer their report to the monitoring officer.

The monitoring officer must refer the report to the standards committee. A consideration and hearing sub-committee should be appointed to receive and consider such reports.

# consideration meetings

If the investigator, in their report, finds no failure to comply with the Code of Conduct, the standards committee must decide whether to accept that recommendation. The standards committee must also decide whether it or the Adjudication Panel for England should hear the case. This preliminary decision must be formally made and recorded.

A meeting of the standards committee to consider the monitoring officer's investigation report must be convened under Regulation 17 of the regulations. Regulation 8(6) allows the consideration of any information presented for that purpose to be considered as exempt information.

As with all exempt information decisions, the standards committee must decide whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. When advising on this matter the monitoring officer should consider the effect of Regulation 17(4). This regulation allows the subject member to prohibit the publication of a notice, stating that the standards committee has found that there has been no failure to comply with the Code.

Despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a meeting. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the meeting. In most cases, the public interest

in transparent decision-making by the standards committee will outweigh the subject member's interest in limiting publication of an unproven allegation that has not yet been determined.

A member of the standards committee who considers and overturns a monitoring officer's finding that there has been no failure to comply with the Code may participate in a subsequent hearing.

This meeting to consider the monitoring officer's investigation report provides a useful opportunity for the standards committee to consider the potential issues which might arise during the pre-hearing process.

This consideration meeting is separate to the meeting at which the hearing is conducted. If the investigation report finds that there has been a failure to comply with the Code a hearing must take place – unless the standards committee decides that the matter should be referred to the Adjudication Panel for England for determination.

# hearings

## Timing of the standards committee hearing

Under Regulation 18 of the regulations, a standards committee must hear a complaint within three months of the date on which the monitoring officer's report was completed. If the investigation was carried out by an ethical standards officer, the standards committee must hear the complaint within three months of the date that the monitoring officer received the ethical standards officer's report.

As with a meeting to consider a monitoring officer or ethical standards officer's report, when the standards committee is convened for a hearing under Regulation 18 it is also subject to Regulation 8(6).

When assessing whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information, monitoring officers similarly need to consider the effect of Regulation 20(2). This allows the subject member to prohibit normal publication of the committee's notice of the finding of no failure to comply with the Code of Conduct.

As before, despite the ability of the subject member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a hearing. It also does not always have to result in excluding details of the complaint from the report sent out in advance of the hearing. In most cases, the public interest in transparent decision-making by the standards committee will outweigh the subject member's interest in

limiting publication of an unproven allegation that has not yet been determined.

In most cases all parties will agree that the hearing should take place in public. It is sensible to seek the views of the relevant parties as early as possible to allow for legal advice to be sought if required.

If the standards committee decides that a hearing is appropriate they should give a copy of the report to:

- the subject member
- the clerk of any relevant town or parish council
- the standards committees of any other authorities concerned

The hearing must take place at least 14 days after the subject member receives a copy of the report from the monitoring officer. However, the hearing can be held sooner than 14 days after the member receives a copy of the report if the subject member agrees.

The standards committee may consider the report in the subject member's absence if the subject member does not go to the hearing. If the standards committee is satisfied with the subject member's reasons for not being able to come to the hearing, it should arrange for the hearing to be held on another date.

If the standards committee does not hear the matter within three months of receiving the completed report, it must ensure that the matter is heard as soon as possible after that.

# hearings

## Scheduling a hearing

Except in the most complicated cases, standards committees should aim to complete a hearing in one sitting or in consecutive sittings of no more than one working day in total.

When scheduling hearings, standards committees should bear in mind that late-night and very lengthy hearings are not ideal for effective decision-making. Equally, having long gaps between sittings can lead to important matters being forgotten.

## The pre-hearing process

The purpose of the pre-hearing process is to allow matters at the hearing to be dealt with more fairly and economically. This is because it quickly alerts parties to possible areas of difficulty and, if possible, allows them to be resolved before the hearing itself.

Other than in very straightforward cases, authorities should use a pre-hearing process to:

- identify whether the subject member disagrees with any of the findings of fact in the investigation report
- identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide
- identify whether evidence about those disagreements will need to be heard during the hearing

- decide whether there are any parts of the hearing that are likely to be held in private
- decide whether any parts of the investigation report or other documents should be withheld from the public prior to the hearing, on the grounds that they contain 'exempt' material

The pre-hearing process should usually be carried out in writing. However, occasionally a meeting between the standards committee, the relevant parties and their representatives may be necessary. It is important for the monitoring officer advising the standards committee to consider pre-hearing matters carefully.

Some matters in the pre-hearing process may be decided only by the standards committee or consideration and hearing sub-committee (if one is appointed). Therefore, if it is necessary for the standards committee to meet, they will have to do so formally as with any other council committee meeting. However, it is usually more appropriate for the majority of the pre-hearing process to be dealt with by the monitoring officer or other suitable officer.

## Key points for the pre-hearing process

The officer providing administrative support to the standards committee should write to the subject member proposing a date for the hearing, and they should do this in consultation with the chair of the standards committee.

# hearings

They should also outline the hearing procedure, the member's rights and they should additionally ask for a written response from the subject member within a set time. This is to find out whether the subject member:

- wants to be represented at the hearing by a solicitor, barrister or any other person
- disagrees with any of the findings of fact in the investigation report, including reasons for any of these disagreements
- wants to give evidence to the standards committee, either verbally or in writing
- wants to call relevant witnesses to give evidence to the standards committee
- wants any part of the hearing to be held in private
- wants any part of the investigation report or other relevant documents to be withheld from the public
- can attend the hearing

It is important for standards committee members involved in the pre-hearing process to bear in mind the distinction between the essential facts of the case and any inferences based on those facts. A critical part of the pre-hearing process should be an attempt to focus the relevant parties' attention on isolating all relevant disputes of facts between them.

This is because attention to the factual issues will save valuable time later on in the determination process.

The standards committee should start this process by requesting that the subject member makes clear precisely what findings of fact in the report it disagrees with and why.

It should invite the monitoring officer or ethical standards officer to comment on the subject member's response within a set time period. This is to ensure that all parties are clear about the remaining factual disputes and can prepare to deal with those issues on the appointed day.

The standards committee should also ask the relevant parties to provide outlines or statements of the evidence their witnesses intend to give. This will allow the standards committee to decide how many witnesses may reasonably be needed and to identify the issues they will be dealing with at the hearing.

It should only allow the relevant parties to raise new disagreements over factual matters in the investigation report at the hearing in exceptional circumstances, such as new evidence becoming available that the parties could not have produced before. The standards committee should make clear to the subject member that unless they comply with the above procedure, it may rule that it will not allow the new evidence to be presented at the hearing.

# hearings

Members of the standards committee should consider the evidence provided to them before the hearing to identify any potential conflicts of interest.

In addition they should consider the evidence to identify any connection with the people involved or any other doubts they have over the integrity of the hearing. If they have such concerns, they should seek advice from the monitoring officer as soon as possible. For example, they may know a witness who will be giving controversial evidence or they may have an interest in an important element of the case.

The determinations toolkit features model forms that can help the member respond to the standards committee. It includes a form to identify any findings of fact that the member disagrees with – **Form A**. It also includes a form to outline any further evidence for the standards committee – **Form B**.

The standards committee may also arrange for any other witnesses to be present who they feel may help in determining the case. This may include the complainant. However, the standards committee cannot order witnesses to appear or give evidence.

## Pre-hearing process summary

The standards committee's clerk should consult with the committee's legal adviser and send a pre-hearing process summary to everyone involved in the complaint at least two weeks before the hearing. This should be done after the standards

committee has received responses from the subject member and from the investigating officer. The pre-hearing process summary should:

- set the date, time and place for the hearing
- summarise the allegation
- outline the main facts of the case that are agreed
- outline the main facts which are not agreed
- note whether the subject member or investigating officer will go to the hearing or be represented at the hearing
- list those witnesses, if any, who will be asked to give evidence, subject to the power of the standards committee to make a ruling on this at the hearing
- outline the proposed procedure for the hearing

You can find a checklist for this pre-hearing process summary document in the toolkit – **Form F**.

## The hearing

Members should bear in mind that a standards committee hearing is a formal meeting of the authority and is not a court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities.

# hearings

The standards committee should work at all times in a demonstrably fair, independent and politically impartial way. This helps to ensure that members of the public, and members of the authority, have confidence in its procedures and findings.

The standards committee should bear in mind the need to maintain public confidence in the council's ethical standards. This requires that the standards committee's decisions should be seen as open, unprejudiced and unbiased. All concerned should treat the hearing process with respect and with regard to the potential seriousness of the outcome, for the subject member, the council and the public. For the subject member, an adverse decision by the committee can result in censure or in suspension for up to six months.

## Representatives

The subject member may choose to be represented by counsel, a solicitor, or by any other person they wish. If the subject member concerned wants to have a non-legal representative, the subject member must obtain the consent of the standards committee.

The standards committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing. However, an appropriate warning will usually be enough to prevent more disruptions and should normally be given before permission is withdrawn.

## Evidence

The standards committee controls the procedure and evidence presented at a hearing, including the number of witnesses and the way witnesses are questioned.

In many cases, the standards committee may not need to consider any evidence other than the investigation report or the ethical standards officer's report, and any other supporting documents. However, the standards committee may need to hear from witnesses if more evidence is needed, or if people do not agree with certain findings of fact in the report.

The standards committee can allow witnesses to be questioned and cross-examined by the subject member, the monitoring officer, the ethical standards officer or their representative. Alternatively, the standards committee can ask that these questions be directed through the chair. The standards committee can also question witnesses directly.

## Witnesses

Generally, the subject member is entitled to present their case as they see fit, which includes calling the witnesses they may want and which are relevant to the matters to be heard. The subject member must make their own arrangements to ensure that their witnesses (and witnesses they would like to question) will attend the hearing.

# hearings

The standards committee has the right to govern its own procedures as long as it acts fairly. For this reason, the standards committee may limit the number of witnesses if the number is unreasonable.

The standards committee will normally take a decision on whether to hear any particular evidence or witness only after having heard submissions from both parties on the issue.

Witnesses of facts that are disputed would normally attend the hearing and should be prepared to be cross-examined. Witnesses as to the character of the subject member, if required, regularly present their evidence in writing and may or may not actually attend the hearing.

Witnesses, especially members of the public, often play an important part in the process and should be treated with courtesy and respect. Authorities may wish to consider developing a witness care scheme. At the very least, witnesses should be kept promptly informed of the relevant dates, times and location of the hearing.

Standards committees should recognise that subject members also need to be kept fully apprised of the process and any changes to it. Some authorities appoint an officer as a point of contact with the subject member for the duration of the process.

## Sanctions

If the standards committee finds that a subject member has failed to follow the Code of Conduct and that they should be sanctioned, it may impose any one or a combination of the following:

- censure of that member
- restriction for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions meet **both** the following requirements:
  - i) They are reasonable and proportionate to the nature of the breach.
  - ii) They do not unduly restrict the person's ability to perform the functions of a member.
- partial suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008)
- suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008)
- that the member submits a written apology in a form specified by the standards committee
- that the member undertakes such training as the standards committee specifies
- that the member participates in such conciliation as the standards committee specifies

# hearings

- partial suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) or until such time as the member has met **either** of the following restrictions:

- i) They have submitted a written apology in a form specified by the standards committee.
- ii) They have undertaken such training or has participated in such conciliation as the standards committee specifies.

- suspension of that member for a period not exceeding six months (three months for complaints received by the Standards Board before 8 May 2008) or until such time as the member has met **either** of the following restrictions:

- i) They have submitted a written apology in a form specified by the standards committee.
- ii) They have undertaken such training or has participated in such conciliation as the standards committee specifies.

Suspension or partial suspension will normally start immediately after the standards committee has made its decision. However, if the standards committee chooses, the sanction may start at any time up to six months following its decision. This may be appropriate if the sanction would otherwise have little effect on the subject member. For example, in the case of a suspension or partial suspension where there are no authority or committee meetings which the subject member would normally go to in the period

after the hearing has finished. The standards committee should also confirm the consequences, if any, for any allowances the subject member may be receiving.

Periods of suspension or partial suspension set by a standards committee do not count towards the six-month limit for absences from authority meetings, after which a member would normally be removed from office under section 85 of the Local Government Act 1972.

## Considering the sanction

When deciding on a sanction, the standards committee should ensure that it is reasonable and proportionate to the subject member's behaviour. Before deciding what sanction to issue, the standards committee should consider the following questions, along with any other relevant circumstances:

- What was the subject member's intention? Did the subject member know that they were failing to follow the Code of Conduct?
- Did the subject member get advice from officers before the incident? Was that advice acted on or ignored in good faith?
- Has there been a breach of trust?
- Has there been financial impropriety, for example improper expense claims or procedural irregularities?

# hearings

- What was the result of failing to follow the Code of Conduct?
- What were the potential results of the failure to follow the Code of Conduct?
- How serious was the incident?
- Does the subject member accept they were at fault?
- Did the subject member apologise to the relevant people?
- Has the subject member previously been warned or reprimanded for similar misconduct?
- Has the subject member failed to follow the Code of Conduct before?
- Is the subject member likely to do the same thing again?
- How will the sanction be carried out? For example, who will provide the training or mediation?
- Are there any resource or funding implications? For example, if a subject member has repeatedly or blatantly misused the authority's information technology resources, the standards committee may consider withdrawing those resources from the subject member.

Suspension may be appropriate for more serious cases, such as those involving:

- trying to gain an advantage or disadvantage for themselves or others
- dishonesty or breaches of trust
- bullying

Sanctions involving restricting access to an authority's premises or equipment should not unnecessarily restrict the subject member's ability to carry out their responsibilities as an elected representative or co-opted member.

The following is an extract from useful guidance published by the Adjudication Panel for England on aggravating and mitigating factors they take into account when assessing an appropriate sanction:



**Examples, but not an exhaustive list, of mitigating factors are:**

- An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- A member's previous record of good service.
- Substantiated evidence that the member's actions have been affected by ill-health.

# hearings

- Recognition that there has been a failure to follow the Code; co-operation in rectifying the effects of that failure; an apology to affected persons where that is appropriate, self-reporting of the breach by the member.
- Compliance with the Code since the events giving rise to the determination.
- Some actions, which may have involved a breach of the Code, may nevertheless have had some beneficial effect for the public.

“**Examples, but again not an exhaustive list, of aggravating factors are:**

- Dishonesty.
- Continuing to deny the facts despite clear contrary evidence.
- Seeking unfairly to blame other people
- Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

The Adjudication Panel for England also advises the following:

“ In deciding what action to take, the Case Tribunal should bear in mind an aim of upholding and improving the standard of conduct expected of members of the various bodies to which the Codes of Conduct apply, as part of the process of fostering public confidence in local democracy. Thus, the action taken by the Case Tribunal should be designed both to discourage or prevent the particular Respondent from any future non-compliance and also to discourage similar action by others.

Case Tribunals should take account of the actual consequences which have followed as a result of the member's actions while at the same time bearing in mind what the possible consequences may have been even if they did not come about.

This guidance does not include a firm tariff from which to calculate what length of disqualification or suspension should be applied to particular breaches of the Code. Any such tariff would in any event need to have regard to the need to make adjustments toward the lower end of the spectrum if there are mitigating factors and towards the upper end if there are aggravating factors.

# findings

## Notice of the standards committee's findings

The standards committee should announce its decision at the end of the hearing. It is good practice to make a short written decision available on the day of the hearing, and to prepare the full written decision in draft on that day, before people's memories fade. The officer providing administrative support to the standards committee will normally also draft minutes of the meeting.

The standards committee must give its full written decision to the relevant parties as soon as possible after the hearing. In most cases this should be within two weeks of the hearing.

The relevant parties are:

- the subject member
- the complainant
- the standards committees of any other authorities concerned
- any parish or town councils concerned
- the Standards Board for England

## Making the findings public

The standards committee must arrange for a summary of the decision and reasons for it to be published in at least one newspaper that is independent of the authorities concerned. The newspapers where the decision and reasons are published should be circulated in the area of the authorities involved. A summary of the decision may also be published on the website of any authorities concerned, and

in any other publication if the standards committee considers it appropriate.

If the standards committee finds that the subject member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding. In such cases, the subject member is also entitled to decide that no summary of the decision should be passed to local newspapers.

If the standards committee finds that the subject member failed to follow the Code but that no action is needed, the public summary must:

- say that the member failed to follow the Code, but that no action needs to be taken
- outline what happened
- give reasons for the standards committee's decision not to take any action
- state that the member may appeal against that finding

If the standards committee finds that a member failed to follow the Code and it imposed a sanction, the public summary must:

- say that the member failed to follow the Code
- outline what happened

# findings

- explain what sanction has been imposed
- give reasons for the decision made by the standards committee
- state that the member may appeal against that finding

The standards committee's reports and minutes should be available for public inspection for six years after the hearing. However, sections of documents relating to parts of the hearing that were held in private will not have to be made available for public inspection.

## Written decision format

For consistency and thoroughness, standards committees should use the following format for their full written decisions.

The front cover of the standards committee's full written decision should include the name of the:

- authority
- subject member
- complainant
- standards committee member who chaired the hearing
- standards committee members who took part in the hearing
- monitoring officer
- ethical standards officer who referred the matter (if applicable)
- local investigator who investigated the matter (if applicable)
- clerk of the hearing or other administrative officer

It should also include:

- case reference numbers from the principal authority and from the Standards Board for England, (if applicable)
- the date of the hearing
- the date of the report

The standards committee's full written decision should include:

- a summary of the complaint
- the relevant section or sections of the Code of Conduct
- a summary of the evidence considered and representations made
- the findings of fact, including the reasons for them
- the finding as to whether the member failed to follow the Code, including the reasons for that finding
- the sanctions imposed, if any, including the reasons for any sanctions
- the right to appeal

# suspensions

The Local Government Act 2000 enables the Adjudication Panel for England and standards committees to suspend and partially suspend members found to be in breach of the Code of Conduct. But, it does not specify exactly what members can and cannot do in their official capacity during the term of suspension.

This has led to confusion in some authorities as to what representative roles, if any, a suspended member can perform. It has also led to confusion over what council facilities they are allowed to use and what entitlements they can continue to receive as a suspended member. This section clarifies what representative roles, if any, a suspended member can perform.

## Full suspensions

Members under full suspension should not:

### 1) Take part in any formal business of the authority

A member who is fully suspended may not exercise any of the functions or responsibilities of membership of the authority. Section 83(9) of the Local Government Act 2000 further provides that a suspended member should not participate in any committee or sub-committee of the authority.

### 2) Have access to council facilities

Suspended members should not use or have access to council facilities. As the member is under suspension and

unable to conduct council business, it follows that any use of council facilities by a suspended member would not be conducive to the discharge of the functions of the authority. This is because the member would not be performing council business while suspended.

### 3) Receive their council allowance

Under Regulation 4(3) of the Local Authorities (Members Allowances) Regulations 2003, councils may specify in their member allowance schemes that:

“Where a member is suspended or partially suspended from his responsibilities or duties as a member of an authority in accordance with part III of the Local Government Act 2000 or regulations made under that Part, the part of basic allowance payable to him in respect of the period for which he is suspended or partially suspended may be withheld by the authority.”

It is recommended that members should not receive their allowance while under suspension because they are not performing their role as a member. But, the decision to withhold a member's allowance is ultimately at the discretion of the individual authority.

# suspensions

Members under suspension, should:

## 1) Make their suspended status clear

While suspended members remain councillors, they should put 'suspended' after their name when referring to themselves in writing as members. They should also notify constituents of this when contacted by them on constituency business. This is to ensure that all concerned are aware that the member is under suspension and unable to perform council duties.

## 2) Make arrangements for another member to handle their constituency work

With help from their council officers, suspended members can arrange for other ward members to handle their constituency work. Or, in the case of a single-member ward, suspended members can arrange for neighbouring ward members to take over their constituency work for the duration of the suspension. This ensures that constituents continue to be democratically represented.

### What responsibilities remain for suspended members?

The Code of Conduct does not apply to a person who has been suspended in respect of a relevant function of office for a relevant period of time, so long as the member makes it clear that they have been suspended and does not purport to act as a representative of their authority.

However, when amendments to section 52 of the Local Government Act 2000 come into effect, three paragraphs under the Code of Conduct will apply, "at any other time, where that conduct constitutes a criminal offence". As such, these paragraphs will still apply to members who are suspended. These paragraphs will be:

- paragraph 3(2)(c) – intimidation of certain persons in relation to an allegation under the Code of Conduct
- paragraph 5 – disrepute
- paragraph 6(a) – improperly conferring or securing an advantage or disadvantage

### Partial suspensions

Members can be partially suspended under sections 83(9) and (10) of the Local Government Act 2000. While members who are fully suspended cannot take part in any formal business of the authority during the period of suspension, members who are partially suspended are restricted only from certain activities or business.

The terms of a partial suspension must be set by the standards committee during sentencing. It will often involve suspension from certain committees, or restricted access to certain areas or individuals.

A partial suspension enables the committee to tailor a sanction to the particular breach, while still allowing the member to carry out other functions. For instance, a member who failed to uphold

# suspensions

the Code of Conduct at a planning committee could be suspended from taking part in planning committee meetings for a certain period. Or a member who bullied licensing officers about an application might be barred from contact with officers of the licensing department for a certain period. Again we recommend that members should not receive allowances relating to areas in which they are suspended from for the duration of their suspension.

Officers and members of the authority should be informed of a member's suspension and advised of the suspended member's rights and obligations, as detailed earlier. The council should also help the member make arrangements for another member, either from their ward or a neighbouring ward, to take over constituency work.

It may also notify the public in the authority's area that the member is suspended and unable to perform official council duties until the end of the suspension. Once the suspension has ended, the member is free to resume their duties in full as a member of the authority.

# appeals

## Appeals to the Adjudication Panel for England

A member subject to a standards committee finding may apply in writing to the President of the Adjudication Panel for England for permission to appeal against that finding.

The President must receive the member's written application within 21 days of the member receiving notice of the standards committee's decision. In this application, the member (appellant) must outline the reasons for the proposed appeal and apply for any sanction imposed to be suspended, if appropriate. They must also indicate whether they want the appeal carried out in writing or in person.

When deciding whether to grant permission to appeal, the President will consider if there is a reasonable chance of the appeal being successful, either in whole or in part. The President will give the appellant concerned their written decision within 21 days of receiving the application. The President will also give their written decision to:

- the Standards Board for England
- the standards committee of any authority concerned
- any parish or town councils concerned
- the complainant

If the President refuses to give permission, they will explain the reasons for that decision.

## Appeal tribunals

If permission is granted, the President of the Adjudication Panel for England will arrange for a tribunal to deal with the appellant's appeal. The tribunal will be made up of at least three members appointed by the President. It may also include the President.

Any member of the Adjudication Panel for England with an interest in the matter may not be a member of the appeal tribunal. Likewise, any member of the Adjudication Panel for England who has been a member or officer of the authority concerned within the last five years cannot take part.

If the appellant does not agree to have the appeal carried out in writing, the appeal tribunal will hold a hearing. The tribunal must give the member notice of the hearing at least 21 days in advance. The appellant can be represented at the appeal hearing by counsel, a solicitor or any other person they choose. If the appellant wants to have a non-legal representative, the appellant must get permission from the tribunal beforehand. However, the tribunal may prevent that person acting as a representative if they are directly involved in the case.

The appeal tribunal can decide its own procedures. However, it is likely that both the standards committee and the monitoring officer or ethical standards officer will be given the opportunity to make representations in relation to the appeal. Additionally, in appropriate cases,

# appeals

they can attend or be represented at the appeal hearing.

If the appellant agrees to have the appeal carried out in writing, the tribunal may still decide to hold a hearing at which the appellant can attend in person and be represented as outlined above. However, the tribunal may choose to carry out the appeal entirely through written representations.

If, after being given reasonable notice, the appellant fails to go to an appeal hearing or be represented at it, the tribunal may determine the matter in the appellant's absence. However, if the tribunal is satisfied that there is a good reason for the appellant's absence, it will postpone the hearing to another date.

## Outcome of the appeal

The appeal tribunal will consider whether to uphold or dismiss the finding or part of the finding made by the standards committee.

If the tribunal upholds the standards committee's finding, or part of the finding, it may:

- confirm any sanction imposed by the standards committee
- vary any sanction by substituting any other sanction that was available to the standards committee

If the tribunal dismisses the finding of the standards committee, the decision and any

resulting sanction will no longer apply from the date of the rejection. The standards committee must act on any directions given by the appeal tribunal.

## Notice of the appeal tribunal's decision

The appeal tribunal will give written notice of its decision to:

- the appellant
- the Standards Board for England
- the standards committee of any authority concerned
- any parish or town councils concerned
- the complainant

The tribunal will also publish a summary of its decision in one or more of the newspapers circulating in the area of the authorities concerned.

# costs

Members are responsible for meeting the cost of any representation at a standards committee hearing or appeal tribunal.

Local authorities are able to take out insurance to cover this.

However, most insurance schemes will only cover the costs incurred by members who are found not to be in breach of the Code. Therefore members are advised to refer to the terms of their own insurance scheme.

# role of the monitoring officer

Monitoring officers need to be aware of the potential conflicts involved in advising the standards committee and advising members.

It is important that standards committees receive high quality, independent advice. For this reason a monitoring officer should be the main adviser to the standards committee, unless they have an interest in the matter that would prevent them from performing this role independently. If this situation arises, a monitoring officer should arrange for another appropriately qualified officer to advise the standards committee.

The monitoring officer or other legal adviser's role in advising the standards committee is to:

- make sure that members of the standards committee understand their powers and procedures
- make sure that the determination procedure is fair and will allow the complaint to be dealt with as efficiently and effectively as possible
- make sure that the subject member understands the procedures the standards committee will follow
- provide advice to the standards committee during the hearing and their deliberations
- help the standards committee produce a written decision and a summary of that decision

Monitoring officers play an important role in advising their members on a day-to-day basis. When performing this role, monitoring officers need to be aware of the potential conflicts of interest that can arise, as these conflicts could prevent them from advising the standards committee at a later stage.

However, conflicts of interest are not likely to arise simply from informal discussions between members and monitoring officers. Monitoring officers consider options for reducing the likelihood of such conflicts, including:

- arranging for another officer to advise members
- continuing to advise members, while identifying possible scenarios that may lead to future conflicts. They should also ensure that if their advice could be relevant to an investigation, they have another appropriately experienced officer who is prepared to support the standards committee in its hearings and deliberations.

Smaller authorities in particular may find it useful to make arrangements with neighbouring authorities to make sure that when a conflict arises, an appropriately experienced officer is available to advise the standards committee.

# appendix 1

## Model documentation for the pre-hearing process

Authorities should use a pre-hearing process to:

- Identify whether the subject member disagrees with any findings of fact in the investigation report.
- Decide whether those disagreements are significant to the hearing.
- Decide whether to hear evidence about those disagreements during the hearing.
- Decide whether there are any parts of the hearings that should be held in private.
- Decide whether any parts of the investigation report or other documents should be withheld from the public, prior to the hearing on the grounds that they contain 'exempt' material.

Below is a checklist for authorities to use before the hearing. At the end of Appendix 1 is model documentation to support it. The documentation is intended to give authorities a consistent approach to help them decide what the relevant issues are before the hearing itself. It is not compulsory.

## Pre-hearing process checklist for authorities

The monitoring officer must give a copy of the investigation report to the subject member.

The officer providing administrative support to the committee, in consultation with the chair of the committee, should:

- provide a copy of the standards committee's pre-hearing and hearing procedures to the subject member
- outline the subject member's rights and responsibilities
- propose a date for the hearing
- ask for a written response from the subject member by a set time to find out whether they:
  - i) disagree with any of the findings of fact in the investigation report, including the reasons for disagreement
  - ii) want to be represented at the hearing by a solicitor, barrister or any other person. This should be done while noting that the standards committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined

# appendix 1

- iii) want to give evidence to the standards committee, either verbally or in writing
    - iv) want to call relevant witnesses to give evidence to the standards committee
    - v) can attend the hearing on the proposed date
    - vi) want any part of the hearing to be held in private
    - vii) want any part of the investigation report or other relevant documents to be withheld from the public
  - send a copy of the subject member's response to the monitoring officer or ethical standards officer and invite the monitoring officer or ethical standards officer to say by a set time whether they want:
    - i) to be represented at the hearing
    - ii) to call relevant witnesses to give evidence to the standards committee
    - iii) any part of the hearing to be held in private
    - iv) any part of the investigation report or other relevant documents to be withheld from the public
    - v) to invite any other witnesses the committee feels are appropriate
- The chair of the committee, in consultation with the legal adviser to the committee, should then:
- confirm a date, time and place for the hearing
  - confirm the main facts of the case that are agreed
  - confirm the main facts which are not agreed
  - confirm which witnesses will give evidence
  - outline the proposed procedure for the hearing
  - provide this information to everyone involved in the hearing at least two weeks before the proposed date of the hearing

# appendix 1

## Checklist for members

The officer providing administrative support to the committee, in consultation with the chair of the committee, should make sure that the subject member is aware of the following points.

### Pre-hearing process

The subject member has the right to:

- go to the hearing and present their case
- call a reasonable number of witnesses to give relevant evidence to the standards committee
- be represented at the hearing by a solicitor, barrister or any other person.  
**Note** – the committee will normally give permission for members to be represented by people who are not lawyers, but may refuse permission if the representative is directly involved in the matter being determined

Any disagreements with the finding of facts in the investigation report must be raised during the pre-hearing process. The standards committee will not consider any new disagreements about the report's findings of fact at the hearing itself, unless there are good reasons why these have not been raised beforehand.

The subject member does not have to go to the hearing or be represented. If the subject member chooses not to go to the hearing, the committee may make a determination in their absence.

The hearing will be held in public and the relevant papers will be available for public inspection unless the standards committee is persuaded that there is a good reason to exclude the public. This is in line with the relevant access to information and human rights legislation.

### Hearing process

After considering the written and verbal presentations, the standards committee will reach and announce its findings of fact, whether the subject member has failed to follow the Code of Conduct and whether a sanction should be applied. As well as announcing its decision at the hearing and providing a short written decision on the day of the hearing, the standards committee will give the member concerned its full written decision within two weeks of the end of the hearing.

If the standards committee decides that the member has failed to follow the Code and that the member should be sanctioned, it may do any one or a combination of the following:

- Censure the member. This is the only sanction available when dealing with a person who is no longer a member of the authority.
- Restrict the member's access to the resources of the relevant authority for up to six months, which could include limiting their access to the premises of the relevant authority.

# appendix 1

- Suspend or partly suspend the member for up to six months.
- Suspend or partly suspend the member for up to six months on the condition that the suspension or partial suspension will end if the member apologises in writing, receives any training, or takes part in any conciliation that the standards committee orders them to. Conciliation involves an independent person helping the relevant people to try to reach an agreement on the matter set out by the standards committee.

Sanctions may start immediately or up to six months after the hearing, if the standards committee wishes.

The standards committee will also arrange to publish a summary of its findings and any sanction applied in one or more newspapers that are independent of the authorities concerned and circulating in the area of those authorities. If the standards committee finds that the member has not broken the Code, the member can ask the standards committee not to have this information published.

The member who is the subject of a standards committee finding has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal against that finding.

## Checklist for the pre-hearing process summary

After the standards committee has received responses from the subject member and the monitoring officer or ethical standards officer, it should prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:

- the name of the authority
- the name of the subject member
- the name of the complainant (unless there are good reasons to keep their identity confidential)
- case reference numbers of the principal authority or the Standards Board for England
- the name of the standards committee member who will chair the hearing
- the name of the monitoring officer
- the name of the ethical standards officer who referred the matter (if applicable)
- the name of the clerk of the hearing or other administrative officer
- the date the pre-hearing process summary was produced
- the date, time and place of the hearing

# appendix 1

- a summary of the complaint
- the relevant section or sections of the Code of Conduct
- the findings of fact in the investigation report that are agreed
- the findings of fact in the investigation report that are not agreed
- whether the subject member or the monitoring officer or ethical standards officer will attend or be represented
- the names of any witnesses who will be asked to give evidence
- an outline of the proposed procedure for the hearing

## Pre-hearing process forms

These forms are a guide only and can be found in the **Standards committee determinations toolkit**. Authorities should prepare their own forms as appropriate.

**Form A** provides an example table to help the subject member identify any disagreements about the findings of fact in the investigation report.

**Form B** helps the subject member set out any other evidence that is relevant to the complaint made about them.

**Form C** helps the subject member set out any representations the standards committee should take account of if the subject member is found to have broken the Code of Conduct.

**Forms D and E** cover details of the hearing and the witnesses who will give evidence.

Also included is **Form F** which is a checklist of details for the pre-hearing process summary.

# 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.

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## 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.

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- 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.

# appendix 3

Categories of exempt information under Schedule 12A of the Local Government Act 1972 (as modified in relation to local determinations by standards committees) are:

- 1) Information relating to any individual.
- 2) Information which is likely to reveal the identity of an individual.
- 3) Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4) Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a minister of the Crown and employees of, or office holders under, the authority.
- 5) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6) Information which reveals that the authority proposes:
  - to give under any enactment a notice under or by virtue of which requirements are imposed on a person
  - to make an order or direction under any enactment
- 7) Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
  - 7A) Information which is subject to any obligation of confidentiality.
  - 7B) Information which relates in any way to matters concerning national security.
  - 7C) Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.

**Source:** Appendix 3 is an extract from the Local Government Act 1972 (as modified in relation to local determination by standards committee).

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NOT FOR PUBLICATION

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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## APPENDIX 2

**Private & Confidential : London Borough of Haringey**

### **FINAL REPORT**

**Case Reference : SC3LR 14821**

**Report of an investigation under Section 59 of the Local Government Act 2000  
into an allegation concerning Councillor John Oakes and Councillor Ron Aitken,  
Members of Haringey Borough Council.**

**Dated: 27 July 2009**

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1. Executive Summary
  2. Councillors John Oakes and Ron Aitken's official details
  3. Relevant legislation and protocols
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  5. Summary of the material facts
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  7. Councillor Oakes and Councillor Aitken's additional submissions
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  9. Reasoning and Conclusion
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  10. Findings
- Appendix A Schedule of Evidence taken into account and list of unused material
- Appendix B Meaning of Confidentiality Information
- Appendix C Public Interest Test
- Appendix D Chronology of Events

**FINAL REPORT OF AN INVESTIGATION**

Case Reference: SC3LR 14821

COUNCILLOR JOHN OAKES  
COUNCILLOR RON AITKEN***HARINGEY BOROUGH COUNCIL*****1. Executive Summary**

- 1.1 Councillor John Oakes and Councillor Ron Aitken are members of Haringey Borough Council (the Council).
- 1.2 On 1 December 2008 at 13.21pm, 13.46pm and 13.47pm respectively, Councillor Oakes sent emails to the Evening Standard containing a report on a Council employee which had been discussed by the Council as "exempt" and "confidential" at a meeting of the Council's Special General Purposes Committee (the Committee) on 4 November 2008. The report had been marked "Not for publication as it contains information classified as exempt under Schedule 12A to the Local Government Act 1972 in that it contains information relating to an individual and information from which a claim of legal professional privilege could be maintained in legal proceedings". These emails were quarantined by the Council's email filtering system MIMESweeper for manual review as they contained J-peg files.
- 1.3 Councillor Oakes is not a member of the Committee. The report was the copy of a report that had been given to Councillor Aitken who is a member of the Committee. It bore Councillor Aitken's name and office address on the front. Councillor Oakes had also copied Councillor Aitken into the first email that he sent to the Evening Standard on the 1<sup>st</sup> December 2008, using Councillor Aitken's work and personal yahoo email addresses.
- 1.4 On 2 December 2008 a complaint was made by Councillor Lorna Reith the then Acting Leader and Cabinet Member for Community Cohesion and Involvement to John Suddaby the Council's Monitoring Officer alleging that Councillors Oakes and Aitken had failed to comply with Haringey Council's Code of Conduct (the Code) in that they had disclosed information of a confidential nature that had been provided in confidence to the Evening Standard Newspaper.
- 1.5 On 3 December 2008, Councillor Oakes forwarded the emails sent to the Evening Standard to Martin Delgado, a journalist with the Mail on Sunday. These emails were quarantined by MIMESweeper.

1.6 On 22 December 2008 the Council's Standards Assessment sub-committee considered the complaint. In accordance with Section 57A of the Local Government Act 2000 the Standards Assessment sub-committee decided to refer the complaint to the Monitoring Officer, Mr John Suddaby for investigation. In turn, the Monitoring Officer exercising powers under section 113 of the Local Government Act 2003 delegated conduct of the investigation to the Council's Legal Services Principal Lawyer Mr Daniel Toohey. On the departure of Mr Toohey from the Council's employment in March 2009, Mr Suddaby appointed the Council's Interim Deputy Head of Legal Services, Ms Evelyn Jarrett to take over conduct of the investigation.

1.7 In the course of the investigation I obtained both oral and documentary evidence. As a result of my investigation, I consider that Councillors Oakes and Councillor Aitken have failed to comply with the Code of Conduct of Haringey Borough Council by disclosing confidential information to the Press in breach of Paragraph 4 of the Code.

## 2. Councillors John Oakes and Ron Aitken's Official Details

### Councillor Oakes Official Details

2.1 Councillor John Oakes was elected to office on 4<sup>th</sup> May 2006 for a term of four years.

2.2 Councillor Oakes currently serves on the following committees: Alexandra Palace and Park Board; Alexandra Palace and Park Consultative Committee; Alexandra Palace Joint Consultative Forum; Haringey Admissions and School Organisation Forum (HASOF) and Wood Green Area Assembly.

2.3 On 8 May 2006 Councillor Oakes signed the Declaration of acceptance of office and gave a written undertaking to observe the Code of Conduct.

2.4 Councillor Oakes has received the following training on the Code of Conduct and on Data Protection:

23 May 2006 – Ethical Governance Training covering the Code Of Conduct provided to Members by the then Head of Legal Services Davina Fiore and her then Deputy, John Suddaby the current Head of Legal Services and the Monitoring officer.

30 May 2006- Members Enquiries and Data Protection Training provided to Members by Mr Stephen Cornell the Council's IT Security Manager and Mr James Harding the Council's Security and Data Manager.

04 July 2007 – Ethical Governance briefing on Changes to the Code of Conduct including the new provisions regarding confidentiality provided for the Liberal Democrat group.

#### **Councillor Aitken's official details**

2.5 Councillor Ron Aitken has been a councillor since 2 May 2002. He was a Councillor from 05 May 1988 to 05 May 1994 and from 02 May 2002 to 3rd May 2006. His current term of office started on 4 May 2006.

2.6 Councillor Aitken currently serves on the following committees: Constitution Review Working Group; Council and Employee Joint Consultative Committee; Crouch End, Hornsey and Stroud Green Area Assembly; General Purposes Committee; Overview and Scrutiny Committee; Scrutiny Review- Animal Welfare; Scrutiny Review – Mental alth. He is the Chair of the Proposed Acute Services Reconfiguration.

2.7 On 8 May 2006 Councillor Aitken signed the declaration of acceptance of office and gave a written undertaking to observe the Code of Conduct..

2.8 Councillor Aitken has received the following training on the Code of Conduct and on Data Protection:

23 May 2006 – Ethical Governance Training covering the Code of Conduct provided to Members by Davina Fiore the then Head of Legal Services and her then Deputy, John Suddaby the current Head of Legal Services and Monitoring officer.

30 May 2006 - Members Enquiries and Data Protection Training Provided to Members by the IT Security Manager and the Security and Data Manager.

04 July 2007 – Ethical Governance briefing on Changes to the Code of Conduct including the new provisions regarding confidentiality provided for the Liberal Democrat group.

### **3. The Relevant Legislation and protocols**

3.1 In May 2007 the Council adopted a code of conduct in which the following paragraph is included:

*Disclosure of Confidential Information*

- 3.2 Paragraph 4 of the Code of Conduct states: - You must not
- (a) Disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is –
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) Prevent another person from gaining access to information to which that person is entitled by law.
- 3.3 The Case Review 2007 published by the Standards Board for England states that information can only be confidential if all of the following apply:

*"It has the necessary 'quality of confidence' about it (trivial information will not be confidential but information that you would expect people to want to be private would be) It was divulged in circumstances importing an obligation of confidence (information in the public domain will not be confidential) Disclosure of it would be detrimental to the party wishing to keep it confidential."*

4. Evidence gathered

*The Investigation*

- 4.1 In the course of my investigation I interviewed:-

1. Councillor John Oakes
2. Councillor Ron Aitken
3. Mr Rod Murray - the Council's IT Operations Manager
4. Mr James Harding- the Council's IT Security and Business Continuity Manager
5. Mr Stuart Young – the Council's Assistant Chief Executive People and Organisational Development
6. Mr Elias Demetriou – IT Services Member and Executive Support Officer

## 7. Ms Anita Hunt - the Council's Data Protection Officer

4.2 The interviews with Councillors Oakes and Aitken were tape-recorded. I have taken account of oral and documentary evidence from Councillors Oakes and Aitken, Rod Murray, James Harding, Stuart Young, Anita Hunt and Elias Demetriou.

4.3 Copies of the documentary evidence are annexed to this report and listed in a Schedule of evidence in the Appendices.

## 5. Summary of the material facts

*Background to the Complaint*

5.1 On 4 November 2008 the Council's Special General Purposes Committee held a meeting at which a report on a senior Council employee relating to employment dispute was discussed. The report contained legally privileged material. A copy of the report was attached to the agenda and it was marked:

"NOT FOR PUBLICATION AS IT CONTAINS INFORMATION CLASSIFIED AS EXEMPT UNDER SCHEDULE 12A TO THE LOCAL GOVERNMENT ACT 1972 IN THAT IT CONTAINS INFORMATION RELATING TO AN INDIVIDUAL AND INFORMATION FROM WHICH A CLAIM OF LEGAL PROFESSIONAL PRIVILEGE COULD BE MAINTAINED IN LEGAL PROCEEDINGS"

5.2 Councillor Aitken attended the committee meeting on 4 November 2008 and was aware that the item relating to the report and the report itself were confidential in nature.

5.3 The Council's IT Services administers an email filtering tool called MIMESweeper. This tool is configured to quarantine potentially malicious or harmful external emails or those emails that may breach the Council's Email Acceptable Usage policy for manual review. The quarantined emails are checked by the Council's IT Services desk between 8am and 6pm each working day and are normally processed within one hour of being quarantined. Any emails quarantined shortly before 6pm or after 6pm would normally be reviewed and released, deleted or passed for further investigation as appropriate at 8am the next working day.

5.4 At 13.21pm on 1 December 2008, using his official work email address, Councillor Oakes sent an email to a Tim Ross a journalist with the Evening Standard at Tim Ross' Evening standard work email address. The email contained as an attachment the exempt and confidential report of the Special General Purposes Committee meeting held on 4 November 2008. Councillor Oakes headed the email with the first name

of the senior council employee and their job title. The report had Councillor Ron Aitken's name and council work address on its front. Councillor Oakes had also copied Councillor Aitken into the email to Tim Ross using Councillor Aitken's personal yahoo address soasron@yahoo.co (but omitting the letter "m" from "yahoo.com" at the end of the address) and Councillor Aitken's Haringey email address ron.aitken@haringeylibdems.org. Councillor Oakes also copied the email to himself at his private email address catslondon@hotmail.com. This email was quarantined by Mime sweeper as it contained jpeg attachments.

- 5.5 The Council's IT records further show that at 13.46pm and 13.47pm respectively on the same day, Councillor Oakes forwarded his 13.21 pm email to Tim Ross, using Tim Ross' hotmail address.. These two emails were also quarantined by Mime sweeper.
- 5.6 An IT service desk analyst was checking the quarantined emails within Mime sweeper when he saw the first two emails from Councillor Oakes which had been sent at 13.21pm and 13.47pm. Upon reading the content he decided to refer the emails to Rod Murray the Council's IT Operations Manager. The evidence obtained shows that in the course of checking the emails, the employee accidentally released the first email. The email was delivered to all the addresses listed by Councillor Oakes save for Councillor Aitken's soasron@yahoo.co address as this address had been typed in inaccurately. Councillor Oakes subsequently received a non-delivery message at 13.47pm informing him of the non-delivery of his 13.21pm email to Councillor Aitken's yahoo address.
- 5.7 Rod Murray contacted his manager Stephen Cornell (IT Service Delivery Manager) who subsequently notified James Harding (IT Security and Business Continuity Manager) and Stuart Young (Assistant Chief Executive People and Organisational Development) of the three emails and the report. Stuart Young contacted Councillor Lorna Reith to notify her of what had taken place.
- 5.8 In his cover email to Tim Ross at 13.21pm, Councillor Oakes acknowledged the confidential nature of the report. His email read as follows "All this is highly confidential – all on Yellow Paper, press and public excluded, so please don't use my name or Ron's if you are discussing it with Haringey's press office". Councillor Oakes then goes on to identify the employee concerned and to give further details as follows: It is numbered 1-9 (i.e. name of employee )1-9 with the first two being merely introductory sheets. Haringey has a habit of making big sacking/departure payouts - a few years ago the Standard carried my story of the departure of [REDACTED] because he fell out with Council Finance Chief Charles [REDACTED]

Adje.....that cost Haringey about [REDACTED] You could do a rag out....."

- 5.9 On 2 December 2008 Councillor Lorna Reith lodged a formal complaint against Councillors Oakes and Aitken alleging that they had contravened the Code of Conduct by disclosing information relating to a member of staff which had been discussed by the Special Purposes Committee as "Exempt and Not for publication" to the journalist Tim Ross and that Councillor Oakes had revealed the identity of a member of staff from the report. Councillor Reith included Councillor Aitken in the complaint as he had been copied into one of the emails by Councillor Oakes and the copy of the report sent to the Press was the copy provided to Councillor Aitken in his position as a member of the General Purposes Committee.
- 5.10 On 3 December 2008 at 14.29pm and 15.41pm, Councillor Oakes forwarded the two emails sent by him at 13.21pm and 13.46pm on 1 December 2008 to Tim Ross to another journalist a Martin Delgado who worked for the Mail on Sunday. These emails were quarantined by Mime sweeper.
- 5.11 Councillor Oakes' 14.29pm email to Martin read as follows:
- "Hi, thanks for your call. Everything in the memo to Tim below applies, of course".
- He concluded his email by asking Martin to call him on his mobile telephone number (included in the email) if he needed to.
- Councillor Oakes second email sent at 15.41pm to Martin Delgado was as follows:
- "Hi, HOPE THIS REACHES YOU. I think the case never got to the Employment Tribunal because HARINGY (sic) DID'NT WANT TO RISK THE embarrassment of the Councillor Charles Adje revelation - for which [REDACTED] should have been taken to a disciplinary tribunal, arguably - not rewarded".
- 5.12 At this point Councillor Oakes had not yet been informed that his emails had been quarantined. That same day, Elias Demetriou (IT Services Member and Executive Support officer) received a phone call from Councillor Oakes saying that he believed that one or more of his emails had been quarantined and asking if they could be released. He was subsequently informed by Elias Demetriou that the emails had been quarantined and that he could not release them.
- 5.13 At 10.04am on 4 December 2008 the Council's Assistant Chief

Executive, Stuart Young sent a letter by email to Paul Dacre, Peter Wright and Veronica Wadley of Associated Newspapers Press pointing out the unauthorised and unlawful disclosure of the report and requesting its return. That same day Martin Delgado of the Mail on Sunday informed a Council press officer that he had passed the matter to his news editor and that he would let the press officer know whether or not the Mail on Sunday would publish the confidential information. On 5 December at 10.31am the Council's Legal Services sent a second letter to Paul Dacre, Peter Wright and Veronica Wadley informing them that unless an undertaking not to publish the information was received that same day the Council would apply to Court for an injunction to restrain publication.

- 5.14 Following further telephone calls and another email, a response was received from Associated Newspapers on 5 December 2008 as follows:

*"You have told us that the report to Haringey's council's General Purposes Committee - apparently emailed to xxxxx- is private and confidential and is an exempt report under the Local Government Act 1995 (sic). In the very limited time available to me to investigate this matter I can neither agree nor disagree with what you say. However, on the basis of the information you have given, I confirm on behalf of the Daily Mail, the Mail on Sunday and the Evening Standard that we shall not, without giving you reasonable notice, publish any information contained in the report to which you refer which we have not obtained from other sources".*

- 5.15 On Tuesday, 22 December 2008 the Council's Standards Committee Assessment Sub-Committee considered Councillor Lorna Reith's complaint against Councillors Oakes and Aitken and referred the complaint to the Monitoring Officer for investigation.

- 5.16 The Evening Standard, the Daily Mail and the Mail on Sunday have not published any of the information contained in the report.

## 6 Interview summaries : Councillor Oakes and Councillor Aitken

### Councillor Oakes:

- 6.1 Councillor Oakes was interviewed by the investigator on 15 May 2009. The interview was tape-recorded and a transcript is attached in Appendix A.
- 6.2 As noted above, Councillor Oakes sent the emails to Tim Ross and Martin Delgado of the Evening Standard newspaper and the Mail on Sunday newspaper on the 1<sup>st</sup> and 3<sup>rd</sup> December 2008 respectively.

Councillor Oakes admitted that he had disclosed the confidential information to the Press on the 1st and 3rd December 2008 and that he stood by his disclosure of the information. When asked about the circumstances of his reporting the issue to the Newspapers, he replied that he was initially contacted by Tim Ross of the Evening Standard a few days before his email of 1 December, Tim Ross had informed him that he had heard something about that particular employee and had asked him to confirm the story about the employee. Councillor Oakes says that he then contacted Councillor Aitken who he knew was a member of the General Purposes committee for information. He said that he had known Councillor Aitken since 1980, they had a close political understanding and share information hence his decision to ask him for the report. He further said that on 3 December 2008 he had received a telephone call from Martin Delgado of the Mail on Sunday a few hours asking him about the same employee and asking him to confirm the story about the employee.

- 6.3 Councillor Oakes said that he was aware of the report's status at the time that he requested it from Councillor Aitken. He further said that at the time that he requested the report from Councillor he did not tell Councillor Aitken about his intention to leak the report to the Press. When asked why he had copied Councillor Aitken into the report, he said that he had copied Councillor Aitken in retrospectively so that Councillor Aitken would know what he had done with the report. When asked why he had copied Councillor Aitken into the email using his (ie Councillor Aitken's personal and Libdem Haringey email addresses) he said that he wanted to make sure that Councillor Aitken received the email. Councillor Oakes could not explain why he felt he had to keep Councillor Aitken informed. He was also unable to recall whether he discussed receipt of the email subsequently with Councillor Aitken. He said that he was sure that they must have discussed it and that it is highly likely that Councillor Aitken said something like "Oh I see you sent it to the Standard..."
- 6.4 When asked why he had told the Evening standard not to use his name or Councillor Ron Aitken's name when raising the matter with Haringey's press office, Councillor Oakes said that he did not personally want to be identified with it in print. When asked why he sent the emails via the Council's email address if he did not want to be identified as the sender, he said that he was not aware that he could be identified via the Council's email facility.
- 6.5 In his interview, Councillor Oakes was asked on what grounds he justified his actions in sending the confidential report to the Press. Councillor Oakes responded that he was justified in discussing the story with the media as in his view, his disclosure of the information was in the

public interest. Councillor Oakes said that he did not receive any personal gain in financial terms from the disclosure and that he was merely providing the Press with information confirming what the Press told him was already in the public domain. He also said that the Council have a habit of giving people extended gardening leave and failing to determine their situations properly. He said that he believed that there was an overriding public interest – what he saw to be irresponsible waste of public money – which deserved to be known so that it could be rectified and also there was a secondary matter of interest involving the possible improper involvement of an elected member. He declined to give further details on this secondary matter. When asked why he did not discuss the matter with the Monitoring officer he said he did not consider discussing the matter with anyone else as he was satisfied that he had not acted inappropriately.

#### Councillor Aitken

- 6.6 The investigator interviewed Councillor Aitken on 20 May 2009. The interview was tape recorded and a transcript is included in Appendix A.

Councillor Aitken admitted that he handed over his copy of the exempt and confidential report to Councillor Oakes. When asked why he had done so he said that it was common practice amongst Councillors to exchange reports on meetings that they had attended with other Councillors and that he had initially felt that he should communicate the contents of the report to Councillor Oakes as he believed that paragraphs 6.1, 6.2 and 6.10 of the report referred to matters which come under Councillor Oakes community involvement portfolio hence he viewed it as normal to share the report with a colleague whose portfolio included aspects of the report. He denied approaching Councillor Oakes with the report, saying that he gave Councillor Oakes the report at Councillor Oakes request. In the course of the interview, he contradicted himself by subsequently professing ignorance of the details of Councillor Oakes portfolio saying it was not up to him to decide which parts of the report were relevant to Councillor Oakes' portfolio.

- 6.7 Councillor Aitken denied that he was in the habit of disclosing confidential reports to other councillors and said that he only did so if he felt that it was something they should know about. He admitted that he had disclosed confidential reports to other councillors in the past but said that this was the first time that he had disclosed a confidential report to Councillor Oakes and that he was aware of the report's status when he was passing it on and that Councillor Oakes had received the report on terms of confidentiality. As far as he was aware, there was nothing in the exempt and confidential information rules which

prevented him from giving a copy of the exempt report to Councillor Oakes provided the confidentiality rules were observed.

- 6.8 Councillor Aitken said that he never expected Councillor Oakes to send the report to the media which he termed an "idiotic" thing to do. When asked what he would have done if Councillor Oakes had told him of his intention to leak the report to the media, Councillor Aitken said that he would have sought the advice of his Chief Whip and of Stuart Young the Assistant Chief Executive People and Organisational development.
- 6.9 When asked why he did not seek the advice of his Chief Whip and the Assistant Chief Executive when Councillor Oakes copied him into his email of 1 December 2008 to Tim Ross, Councillor Aitken replied that he never received Councillor Oakes email of 1 December 2008 at any of his email addresses. He could not give an explanation for his non receipt of the email.
- 6.10 When asked whether he knew the journalists Tim Ross or Martin Delgado, Councillor Aitken said that he did not know Martin Delgado but that he had spoken to Tim Ross on a policing matter in 2008 or early 2009 as he held the policing spokesperson portfolio. He was asked whether he had had any involvement in passing on information to Councillor Oakes (then a journalist) in the former Chief Executive's case several years ago referred to by Councillor Oakes in his email of 1 December 2008 to Tim Ross. Councillor Aitken denied passing on any information to Councillor Oakes in that case saying that another councillor and himself were interviewed by the Monitoring officer at that time and that the Monitoring officer had concluded that the source of that leak was a Labour councillor.
- 6.11 The investigator asked Councillor Aitken whether he would be prepared to provide the council access to his personal email address for a limited period from 1<sup>st</sup> to 6<sup>th</sup> December 2008 to check whether he had received any emails on this matter during that period. Councillor Aitken refused to allow access.
- 6.12 At the end of the interview, Councillor Aitken explained his reluctance to allow access by saying that he had had problems with data being released from his email in the past. He did not elaborate on this but said that he had previously raised it with his Chief Whip and party leader.
7. Councillor Oakes and Councillor Aitken's additional submissions
- 7.1 With regard to my draft report issued on 18 June 2009, I have received written responses from the following persons:

Councillor John Oakes  
Councillor Ron Aitken

I have considered Councillor Oakes and Councillor Aitken's comments with care and taken them into account in formulating my final report.

Councillor Oakes comments (*investigator's comments in italics*)

- 1) Comments on Format & 3) Errors in transcripts : Councillor Oakes states that the normal court procedure in the UK is for transcripts to omit any mention of words such as "coughing", "pause" etc as they can be misconstrued. He also refers to some typographical errors in his interview transcript.

*Whilst I do not necessarily agree with his comments on the normal court procedure, I have taken them on board. I have amended the interview transcripts of Councillors Oakes and Aitken and have deleted those references. I have also corrected the typographical errors in the transcript and will send the revised transcripts to Councillors Oakes and Aitken with a request that they be signed and returned. The amendments are very minor. The tapes of the interviews are available for reference.*

- 2) Comment on Timing: Councillor Oakes says that he was only allowed two weeks to comment on a wealth of material which the Council had spent months gathering. He says that he asked for a further two-week extension of which the Investigator allowed only one week and that it has not been possible for him to access the proper legal advice within that time frame.

*Councillor Oakes was given 18 days to comment on the draft report. He was informed that he was only required to give his comments at this stage and that he would be given adequate opportunity to prepare his case should the matter be referred to a determination hearing.*

Draft Report

- 1) Comment: Evidence gathered: I notice that almost no steps have been taken to verify any evidence or statements relating to the actions of the newspapers concerned. It follows that judgements of their role/intentions in this Draft are entirely subjective; which must cast doubt on your conclusion which I challenge vigorously (see below).  
I also note that there has been no attempt to question any of the Labour Councillors known to have been connected with this issue, and can only guess why this should be.

*I do not see the relevance of this comment. At the investigator's meeting with Councillor Oakes he explained his role and actions and the actions of the newspapers concerned. The investigator has also been provided with email correspondence between the Council and Associated Newspapers which set out their position on this matter. Councillor Oakes has not specified the names of the Labour councillors that he is referring to and why he thinks that their evidence might be relevant.*

- 2) Comment: one reason why I did not want to be identified was that this was not being done for personal or political gain, but to underline a situation (Haringey's granting of unduly prolonged gardening leave) which I judged should be rectified – see "unauthorised use of public funds", page 4, where the situation is dealt with in Haringey's Whistle blowing protocol, 06/08.

Significantly, this protocol also says, Para 8 page 6, "The council will seek to protect an individual's identity when they raise a concern and do not want their name to be disclosed". This has an obvious bearing on my case. It also says whistleblowers will be "afforded protection under the Public Interest Disclosure Act" even if they are mistaken; and that, Page 8, "if whistleblowers fear that their employer will bring retribution, they can make a wider disclosure to...the media..." This also has a bearing on my case. Haringey appears to have no equivalent protocol for Councillors.

*At the investigator's meeting with Councillor Oakes he admitted that he had received training on the Code of Conduct and was familiar with the disclosure rules in paragraph 4 of the Code. Councillor Oakes training would have included training on the rules relating to his office, the disclosure rules in the Code, the council's reasonable requirements (set out in Appendices b and c of this report) and the council's guidelines for reporting concerns. And in particular Para 9 part (4) Section C of Haringey's Miscellaneous Standing Orders which provides that:*  
*"In the event of a member having concerns about seriously improper, fraudulent or unlawful conduct by an officer the member should raise the matter confidentially with the Chief Executive under the Council's "Whistleblowing Policy"*

- 3) Comment: Cllr Aitken's interview: I confirm that Cllr Aitken did not know what I was going to do with the report, because I did not tell him. Any apparent contradiction can be explained by the order in which things happened.

*Cllr Oakes has not clarified the discrepancies*

- 4) Comment: Page 11, Para 9.3, second sub-para: (a) this appears to be

contradicted by your para 5.1 which seems to say that emails are quarantined because of content.

- b) Para 9.3, third sub-para, "I do not find any evidence..." there is abundant evidence, but it has not been sought. Further, I believe that you cannot, by definition, disclose something which is already in the public domain. The fact that there was an Employment Tribunal case means that information would inevitably be in the public domain already.

There is an assumption throughout this report that my disclosure of information would have led to the identification and harming of a council employee. But that information was already substantially in the public domain in one form or another and known to the Press.

What the Evening Standard and Mail on Sunday needed were documents proving what they had been told by others, since investigative journalists go to any length to validate their sources to ensure accuracy. All I did was to provide solid evidence that their previous verbal information was in fact correct.

The justification for doing so was to bring to light a practice (granting extended gardening leave) that had been common in Haringey at least since 1979, when I started as a local journalist, and which I thought residents ought to be rid of.

The matter had been raised in the Council Chamber, but with only partial success. This newspaper request gave an opportunity to bring the spotlight of public disapproval to bear – a solution sanctioned on page 8 of the Council's Whistleblowers' protocol.

New Councillors (which is what I am) are encouraged to employ a wide range of tactics to improve local government, and this is what I thought I was doing here.

I repeat my intention was not to harm a council employee: the story could easily have been run without identifying the individual in print. The newspapers merely needed the assurance that the facts were true to be able to draw attention to the waste of public money on a large scale. But newspapers have not been approached for this side of the story.

I am not saying I would take this course of action again. But I am saying it was perfectly understandable in the circumstances, done entirely in the public interest and would not have had the damaging results which your draft assumes.

- a) Para 5.1 (now para 5.3) has been amended. MIMESweeper is an email filtering tool. Configured to quarantine potentially malicious or harmful external emails or emails that may breach the Council's Acceptable Email Usage policy.
- b) The matters that Councillor Oakes is raising have been addressed in the report. The fact that there was an Employment Tribunal case does not mean that the specific information that Councillor Oakes sought to disclose was already in the public domain. Councillor Oakes has not produced any information to substantiate his allegation that the information he sought to disclose was already in the public domain nor to corroborate his public interest defence. He also does not appear to realize the potential impact of his actions. When interviewed by the investigator, Councillor Oakes made it clear that he believes his duty to inform the public overrides both his duty to not disclose exempt information and his duty to comply with the Code. He was adamant that he had done the right thing. He now appears to be saying that he might not take the same course of action in similar circumstances in the future.

- 1) Comment: Page 13, Para 9.9: you state "There is an overriding public interest..."

Surely the overriding public interest is that the residents of Haringey shall receive the services they pay for in an efficient and economic manner, which I claim they were not in this instance.

*This is addressed in the report.*

- 2) Comment: Page 14, Para 9.15: Cllr Aitken did not know I was going to give the report to the Press. I thought that he, as a former Whip, would advise me against it. He was copied in merely to advise him of what had been done.

*This is addressed in the report.*

**Councillor Aitken:**

- 1) Comment: There is no evidence that I was aware that Cllr Oakes intended to communicate the Exempt Report to the press, indeed it is

clear that the e-mail supposedly copied to me never arrived. There is also no evidence of any e-mail traffic between myself and Cllr Oakes regarding this matter or between myself and the media.

*This is addressed in the report. Councillor Oakes copied Councillor Aitken into the email of 1 December 2008 to the Evening Standard using Councillor Aitken's official work and yahoo personal email addresses. A non-delivery message was received only in relation to the email sent to his yahoo email address as the address was inaccurate. There is no evidence that he did not receive the email sent to his work address. At the interview with the Investigator, Councillor Aitken refused to allow the Investigator access to his computer for a limited period to check for the existence of any email traffic between himself and Cllr Oakes or between himself and the media on this matter.*

- 2) Comment: My providing Cllr Oakes with a copy of the Report was made in good faith and in compliance with the reasonable grounds of the Authority. Indeed a Council officer later mistakenly released the e-mail in question.

*This is already addressed in the report.*

- 3) Comment: a) No conversation took place in the first week of December with Cllr Oakes because I was in Edinburgh recuperating from pneumonia – and I did state this in my interview with you.

b) Your assertion that "on the balance of probabilities it appears to me to be more likely than not that Cllr Aitken was aware of Cllr Oakes' intention to disclose the report to the media" is conjecture and not supported with evidence.

- a) *This is not in the recording of the interview.*  
b) *This is addressed in the report.*

- 4) Comment: The fact that a meeting has taken place with the Office of the Information Commissioner at which discussions took place as to whether Haringey was prepared, in light of recent media publicity, to act as Complainant against myself indicates that the findings of your report have been pre-judged by the Council.

*I have been addressing the issue as to whether this complaint is or is not a breach of the Code of Conduct. This is totally separate from any inquiry being carried out by the Information Commissioner.*

- 5) Comment: With regard to the record of the interview, I would like it to be recorded that you refused to allow my representative to advise me

during the interview, and that consequently when I refused my consent to your accessing my personal e-mail account I was unable to state that I would consider this in the light of legal advice. Your assertion that I contradicted myself over whether the report was relevant to Cllr Oakes portfolio is also unjustified by the facts.

*At the start of Councillor Aitken's interview, the Investigator asked Councillor Aitken's representative not to answer questions on Councillor Aitken's behalf. This was because Councillor Aitken's representative had previously attempted to answer questions on Councillor Oakes behalf when acting as Councillor Oakes representative at Councillor Oakes interview with the investigator on 14 May 2009. The recording and the transcript in Appendix a show these allegations to be factually incorrect.*

## 8. Public Interest Test

8.1 The Guidance provided by the Standards Board for England provides that disclosure of confidential information in the public interest is only justified in very limited circumstances and when all four of the following requirements are met:

- A. The disclosure is reasonable.
- B. The disclosure is in the public interest (i.e. the public interest outweighs the need for confidentiality)
- C. The disclosure is made in good faith
- D. The disclosure complies with the reasonable requirements of the Council.

## 9. Reasoning & Conclusion

### Councillor John Oakes

9.1 In reaching a finding as to whether Councillor Oakes has failed to comply with the Code I considered the following two issues: (i) whether he disclosed confidential information or information believed to be confidential and (ii) whether he fell within the requirements of the public interest test (cited in Section 8 above).

The Case Review 2007 published by the Standards Board for England states that information can only be confidential if all of the following apply:

it has the necessary 'quality of confidence' about it (trivial information

will not be confidential but information that you would expect people to want to be private would be) It was divulged in circumstances importing an obligation of confidence (information in the public domain will not be confidential) Disclosure of it would be detrimental to the party wishing to keep it confidential.

- 9.2 The report of the General Purposes committee meeting on 4 November contained confidential information protected as "exempt" under Part 12A of the Local Government Act 1972 as amended. Where confidential information is made available to members, such reports will be on yellow paper and considered in private, and the duty of confidence will be obvious or implicit.
- 9.3 It is not disputed that the information disclosed by Councillor Oakes was confidential. The fact that following representations from the Council the Evening Standard and the Mail on Sunday decided not to publish the contents of the report is evidence of their recognition of the status of the report. Councillor Oakes did not gain the consent of a person authorised to give it before disclosing the information and nor was he required by law to disclose the information.
- 9.4 The first email sent at 13.21pm by Councillor Oakes was initially quarantined as it was a Jpeg file. The email was quarantined for a technical reason and not because it contained confidential information. The fact that this email was then subsequently released by a Council operative does not detract from the fact that Councillor Oakes intended to disclose confidential information and did disclose the information. By emailing the documents to the Evening Standard and to the Mail on Sunday with the intention that the journalists would read the confidential information contained in it, Councillor Oakes has disclosed the confidential information; the fact that the emails were intercepted and one subsequently released does not mean the breach did not occur. Councillor Oakes does not dispute that he disclosed the information and he justifies the disclosure as being in the public interest.
- 9.5 Contrary to Councillor Oakes assertion, I did not find any evidence to show that the information concerning the named employee was already in the public domain. Even if it was a fact that genuinely confidential information had previously been disclosed to the Press, this does not excuse a subsequent disclosure by a Councillor. Councillor Oakes showed an error of judgment in disclosing confidential information relating to an employee with the Press. It is not part of Councillor Oakes responsibility to comment on personal information relating to an employee of the Council.
- 9.6 Turning to the particular facts of Councillor Oakes case to determine if

his actions could be judged to have been in the public interest, it is clear from Councillor Oakes' journalistic career that he has taken a personal and consistent interest in the use of public funds.

- 9.7 However, it is important to recognise that there may be many competing public interests as there may be an overriding public interest in maintaining confidence and preventing the disclosure of confidential information. The information in the report was confidential and comprised information relating to an individual, information relating to the financial affairs of that individual, information relating to negotiations in connection with the employment of a member of staff, and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. Councillor Oakes was clearly aware of this.
- 9.8 It is important to conduct a "balancing exercise", with the "public interest in maintaining confidence" weighed against "a countervailing public interest favouring disclosure". In his first email of 1 December 2008 and in his interview, Councillor Oakes had also admitted sending a story on a previous Haringey council compromise agreement to the Evening Standard when he was a journalist on a local paper in Haringey.
- 9.9 To determine whether the disclosure had been in the public interest, I have taken the full range of facts into consideration, applying the balancing act that I have earlier described. I find the following facts to be in favour of permitting the public interest:
- Councillor Oakes has the right to freedom of expression under Article 10(1) of the European Convention on Human Rights
- Councillor Oakes is a journalistic source – section 12(4) of the Human Rights Act 1998 states that the Court must have particular regard to the importance of freedom of expression in matters of journalism
  - it is essential to maintain a free press and protect the media's watchdog role, particularly on matters of public concern the public have an interest in the way public finances are spent.

9.10 I have weighed those points against the following facts:

- it is necessary for Councillors to comply with the statutory declaration of office – and consequently the Code of Conduct – in order to be able to receive confidential information
- The matter was the subject of legal proceedings
- the disclosure may have resulted in the council being placed in breach of contract, or subject to liability under the Data Protection

Act or may have given rise to an actionable claim for breach of confidence and breach of Article 8 (right to privacy) of the European Convention of Human Rights (ECHR) by the named employee.

- there was a risk that disclosure would have hindered the compromise settlement or that active steps in the compromise settlement process would have been revealed.
- Councillor Oakes knew the report was confidential and the reason for confidentiality.
- the disclosure involved details of names and identifiable individuals.
- he showed a disregard for the confidentiality rules and the council's reasonable requirements on disclosure.
- the disproportionate nature of the disclosure – he disclosed the information to the Media without seeking advice from the appropriate channels such as the Monitoring Officer.
- he could have considered the Council's protocol on Member/officer relations, the relevant freedom of information and whistle blowing protocols, the protocol on the use of IT equipment and the Data Protection Act.
- He failed to consider whether the information should be disclosed and if it should how much of the information should be disclosed.
- Councillor Oakes showed a "disregard" for the rules and procedures of his office.
- Councillor Oakes was troubled in disclosing the information and wanted to conceal the source of the leak. His motives in this respect are self serving.

9.11 In his initial response Councillor Oakes indicated that he felt that he was acting in the public interest. However, he could have sought advice from the Standards Board for England (SBE) or the Monitoring Officer as to what material he could disclose. He did not do so. He chose to disclose the material in a deliberately selective manner, as to the person to whom disclosure was made and the papers he chose to show and he did so in an underhand rather than an open manner. The deliberate disclosure of confidential information in an underhand manner casts considerable doubt on his motives.

9.12 There is an overriding public interest for the Council to retain confidentiality in the negotiation and settlement of employment disputes regarding its staff, including the process by which a valid compromise agreement can be achieved. This interest reflects not only the circumstances of any particular case and the personal data involved, but also the future ability of the Council and staff to have confidence that

these processes will be effective. This public interest outweighs in this case the public interest cited by Councillor Oakes regarding the potential misuse of public funds.

- 9.13 In conclusion I am of the view that the overriding public interest was in assisting the compromise agreement, rather than in exposing the Council's "waste of public funds".

#### Councillor Ron Aitken

- 9.14 Councillor Aitken admits that he handed his copy of the "exempt" report to Councillor Oakes and says that he expected Councillor Oakes to observe the confidentiality provisions when he handed him the report. He professes not to have been aware of Councillor Oakes intentions when he gave him the report and claims not to have received a copy of Councillor Oakes email of 1 December 2008 to the Evening Standard even though he was copied into the email at his two email addresses by Councillor Oakes. He refused to give the investigator access to his email addresses to verify his assertions.
- 9.15 There is a discrepancy over the circumstances of the handover of the report. When interviewed, Councillor Aitken originally agreed that he had decided to disclose it to Councillor Oakes as he felt the contents of the report were relevant to Councillor Oakes work as the Shadow member for the Community services portfolio. He subsequently said that Councillor Oakes approached him first with a request for his copy of the report. In the course of the interview he contradicted himself by professing ignorance of the details of Councillor Oakes portfolio.
- 9.16 Councillor Aitken was unable to give a convincing explanation of why Councillor Oakes copied him into his email to the Evening Standard. His initial response was that Councillor Oakes copied him in because he had got his copy of the report from him. He subsequently claimed not to know the reason why he was copied in. He also said that he does not recollect discussing the emails of 1 December 2008 with Councillor Oakes and that he only became aware of the matter when he was so informed by the Monitoring Officer in December 2008. Councillor Oakes on the other hand professes not to recollect whether he discussed his email to the Evening Standard with Councillor Aitken but says it is very likely that he did and that it is very likely that Councillor Aitken acknowledged receipt of the email.
- 9.17 There are discrepancies in some of the evidence given by Councillors Oakes and Aitken. It is clear from the non-delivery report that Councillor Aitken did not receive the email of 1 December 2008 sent by Councillor Oakes to his yahoo email address. However, he has failed to

give any explanation as to why he may have failed to receive the copy email that was sent to his Libdem Haringey address at the same time. He has also failed to give a convincing explanation of whether he was aware of the intended disclosure by Councillor Oakes and why he was copied into Councillor Oakes email to the Press.

- 9.18 Whilst there is evidence to support Councillor Aitken's assertion that confidential reports are shared amongst Councillors of the main parties irrespective of whether the councillors have a "need to know", on the balance of probabilities it appears to me more likely than not that Councillor Aitken was aware of Councillor Oakes' intention to disclose the report to the media. This is supported by the fact that Councillor Oakes copied him into his email of 1 December 2008 to the Evening Standard, Councillor Oakes asked Tim Ross in his email not to disclose his name or Councillor Aitken's name when discussing the report with Haringey Press office and by Councillor Aitken's refusal to give the investigator access to his email account for a limited period to verify his claims that he did not correspond with Councillor Oakes on this matter.
- 9.19 In the circumstances I conclude that it is highly likely that Councillor Aitken was aware of Councillor Oakes intention to disclose the report to the Press and that he cooperated with Councillor Oakes in the disclosure of confidential information.

## 10 Finding

The public must have faith in the integrity and honesty of their Councillors.

- 10.1 In order to operate effectively and maintain the respect of the public, a local authority must be able to deal with confidential matters without these matters being disclosed to the press or public. Members of the public would have less Confidence in a Council and in councillors that cannot maintain the confidentiality of confidential information.
- 10.2 Under regulation 14 (8) (a) of the Standards Committee (England) Regulations 2008, my finding is that Councillor John Oakes and Councillor Ron Aitken have failed to comply with the code of conduct by disclosing confidential information to the Press in breach of paragraph 4 of the Code of Conduct.
- 10.3 Under regulation 14 (8) (c) and (d) I am sending a copy of this report to Councillors John Oakes and Ron Aitken, to the complainant Councillor Lorna Reith and referring my report to the Monitoring Officer of Haringey Borough Council.

NOT FOR PUBLICATION

**Evelyne Jarrett**  
**27.07.09**  
**Nominated person**

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NOT FOR PUBLICATION

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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APPENDIX 3

**APPENDIX A**  
**SCHEDULE OF EVIDENCE TAKEN INTO ACCOUNT**

Case Reference : SC3LR 14821

**Core Documents**

Doc No.	Description	Pages
1.	Email from Cllr Oakes to Tim Ross of 1 December 2008 (13:21)	1
2.	Attachment to Email of 1 December 2008 (13:21) – Special General Purposes Committee report (for meeting 4 November 2008)	2 – 10
3.	Email from Cllr Oakes to Tim Ross of 1 December 2008 (resenting at 13:46 & 13:47)	11 – 12
4.	Non-delivery notice (to Councillor Aitken's yahoo email address) of email of 1 December 2008 at 13:21	13 – 14
5.	Email from Cllr Oakes to <a href="mailto:News@mailonsunday.co.uk">News@mailonsunday.co.uk</a> of 3 December 2008 (14:29), 13:21 and 13:46 to Tim Ross	15
6.	Email from Cllr Lorna Reith to John Suddaby – initial complaint – of 2 December 2008	16
7.	Email from Cllr Oakes to Martin <a href="mailto:Delgado@mailonsunday.co.uk">Delgado@mailonsunday.co.uk</a> of 3 December 2008 (15:41)	17
8.	Declaration of Undertaking by Cllr Oakes	18
9.	Declaration of Undertaking by Cllr Aitken	19
10.	Letter to Associated Newspapers from Stuart Young dated 5 December 2008	20
11.	Email from Stuart Young to Daniel Toohey dated 2 March 2009 forwarding an email from David Burn to Associated Newspapers regarding unauthorised Disclosure of Confidential Haringey Council Report dated 5 December 2008	21 – 22
12.	Email from John Suddaby to Cllr Reith dated 9 December 2009 in reply to Cllr Reith's email of complaint dated 2 December	23 – 24

	2008	
13.	Complaint Form : Code of Conduct for Members – Cllr Reith, dated 2 December 2008	25 – 31
14.	Letter from Roger Lovegrove to Cllr Lorna Reith dated 23 December 2008 detailing the decision of the Standards Assessment Sub-Committee of her complaint	32 – 33
15.	Email from John Suddaby to Cllr Oakes dated 20 January 2009 attaching the decision of the Standards Assessment Sub-Committee	34
16.	Email from John Suddaby to Cllr Aitken dated 20 January 2009 attaching the decision of the Standards Assessment Sub-Committee	35
17.	Letter from Daniel Toohey to Cllr Oakes, informing Cllr Oakes of investigation into complaint, dated 5 March 2009	36 – 38
18.	Email Daniel Toohey to Evelyne Jarrett dated 22 April 2009 forwarding email from Cllr Aitken dated 23 March 2009	39
19.	Letter dated 13 April 2009 from Cllr Oakes to Daniel Toohey in response to Daniel Toohey's letter of 5 March 2009.	40
20.	Transcript of interview with Cllr Oakes dated 14 May 2009 (amended)	41 – 55
21.	Comments of Cllr Oakes on draft report dated 6 June 2009	56 – 59
22.	Transcript of interview with Cllr Aitken dated 20 May 2009 (amended)	60 – 77
23.	Comments of Cllr Aitken on draft report dated 28 June 2009	78 – 79
24.	Email from Rod Murray (I.T. Operations Manager) to Evelyne Jarrett dated 4 June 2009	80 – 81
25.	Email from Evelyne Jarrett to Rod Murray dated 8 June in response to his of same date regarding quarantined emails from Cllr Oakes	82 – 85
26.	London Borough of Haringey's Members Code of Conduct – Part Five, Section A	86 – 88
27.	London Borough of Haringey's Email Acceptable Usage policy	99 -

		108
28.	The Standards Committee (England) Regulations 2008	109 – 130
29.	London Borough of Haringey's Revised Model Code of Conduct	131 – 155
30.	London Borough of Haringey: Miscellaneous Standing Order Part 4 Section C	156 – 161
31.	Notes of Interview with James Harding – IT Security & Business Continuity Manager of 30 April 2009	162 – 163
32.	Copy email from Elias Demetriou to Cllr Oakes dated 3 December 2008 confirming quarantine of emails	164
33.	Email from Elias Demetriou to Kyrsti Dalgleish and Evelyne Jarrett with slight amendments to notes of a conversation regarding the quarantine of emails dated 5 May 2009	165 – 167
34.	Notes of interview with Rod Murray – IT Operations Manager of 14 May 2009	168 – 169
35.	Email from Martine Neufville to Cllr Aitken dated 5 March 2009 enclosing letter from Daniel Toohey of investigation of complaint and enclosures	170 – 173
37.	Ethical Governance briefing handout dated 23 May 2006 as attended by Cllrs Oakes and Aitken	174 – 209
38.	Data Protection Act 1998 – Presentation for Councillors handout dated 30 May 2006 as attended by Cllrs Oakes and Aitken	210 – 244

**APPENDIX D**  
**CHRONOLOGY OF EVENTS**

1. 04.11.08 Meeting of the Council's Special General Purposes Committee to discuss exempt and confidential report ("report") relating to council employee. Councillor Aitkens attended the meeting.
2. 01.12.08 (13.21pm) Email from Councillor Oakes to Tim Ross a journalist at the Evening Standard. Email contained as attachment copy of exempt and confidential report of 4 November 2008 provided to Councillor Aitken as member of General Purposes sub-committee. Councillor Aitken copied into email at personal yahoo and official work email addresses. Email quarantined by Haringey Council's email filtering system MIMESweeper. Email subsequently released by council operative. Notice of non-delivery of email to Councillor Aitken's yahoo email address received.
3. 01.12.08 (13.46pm & 13.47pm). Email of 13.21pm forwarded by Councillor Oakes to Tim Ross at 13.46pm and 13.47pm respectively. Emails contained report as attachment. Emails quarantined by MIMESweeper and subject to manual review. Stuart Young (Asst Chief Executive) notified of emails and report.
4. 02.12.08 Complaint lodged by Councillor Lorna Reith against Councillors Oakes and Aitken alleging disclosure of confidential information contrary to Paragraph 4 of the Council's Code of Conduct.
5. 03.12.08 (14.29 & 15.41pm) Emails from Councillor Oakes to Martin Delgado a journalist at the Mail on Sunday. Emails contained as attachment copy of exempt and confidential report of meeting of 4 November 2008. Emails quarantined by MIMESweeper.
6. 04.12.08 Letter from Stuart Young (Assistant Chief Executive) to Associated Newspapers Press referring to the unauthorised and unlawful disclosure of the report.
7. 05.12.08 letter from Haringey Legal Services to Associated Newspapers Press requesting undertaking not to publish report or legal proceedings will be commenced.
8. 05.12.08 Undertaking received from Associated Newspapers Press confirming that report will not be published without reasonable notice to Haringey Council.
9. 22.12.08 Meeting of the Council's Standards Committee Assessment Sub-Committee. Complaint referred to the Monitoring Officer for investigation.

10. 13.01.09 Daniel Toohey (Principal Lawyer) appointed as Investigating Officer.
11. 05.03.09 Letters from D Toohey to Councillors Oakes and Aitken notifying his appointment as Investigator and requesting additional information and possible interview dates?
12. 18.03.09 Departure of D Toohey from Haringey Council.
13. 23.03.09 Letter from Councillor Aitken to D Toohey
14. 25.03.09 Evelyne Jarrett (Interim DHOLs) appointed as Investigating Officer.
15. 15.04.09 Letter from Councillor Oakes to D Toohey
16. 24.04.09 Emails from Evelyne Jarrett to Councillors Oakes and Aitkens notifying of appointment and requesting possible interview dates.
17. 30.04.09 Interview with James Harding (IT Security and Business Continuity Manager)
18. 04.05.09 Telephone discussion and emails to and from Ellas Demetriou (IT Services Member and Executive Support Officer)
19. 11.05.09 Interview with Stuart Young (Asst Chief Executive – People and Organisational / Development)
20. 12.05.09 Interview with Anita Hunt ( Data Protection Officer)
21. 14.05.09 Interview with Rod Murray (IT Operations Manager)
22. 14.05.09 Interview with Councillor Oakes
23. 20.05.09 Interview with Councillor Aitken
24. 18.06.09 Issuing of Draft report
25. 28.06.09 Receipt of comments on draft report from Councillor Aitken
26. 06.07.09 Receipt of comments on draft report from Councillor Oakes
27. 27.07.09 Final Report



Form 2

## COMPLAINT FORM : CODE OF CONDUCT FOR MEMBERS

(Please read the 'INFORMATION FOR POTENTIAL COMPLAINANTS' before completing this Form).

**To The Chairman,  
Assessment Sub-Committee of Haringey Standards Committee**

### A. Your details

1. Please provide us with your name and contact details. Anonymous complaints will only be considered if there is independent evidence to substantiate the complaint.

<b>Title:</b>	Councillor
<b>First name:</b>	Lorna
<b>Last name:</b>	Reith
<b>Address:</b>	
<b>Contact telephone:</b>	0208 489 2966
<b>Email address:</b>	Lorna.reith@haringey.gov.uk
<b>Signature:</b>	
<b>Date of complaint:</b>	02.12.08

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

The following people will see this form:

- Members of the Assessment Sub-Committee
- Monitoring Officer of Haringey Council

A brief summary of your complaint may also be shared, by the relevant Sub-Committee with the Member(s) you are complaining against. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete Section C of this Form and also discuss your reasons or concerns with the Council's Monitoring Officer.

Form 2

2. Please tell us which complainant type best describes you:

- ☐ A member of the public  
☒ An elected or co-opted Member of the Council  
☐ An independent member of a Standards Committee  
☐ A Member of Parliament  
☐ A Monitoring Officer  
☐ Other council employee, contractor or agent of the Council  
☐ Other ( )

3. Equality Monitoring Form - please fill in the attached form.

#### B. Making your complaint

The sanctions available to a Standards Committee are governed by law and more serious sanctions are only available to the Adjudication Panel for England. For a brief summary of sanctions available, please see information at the end of this Form.

4. Please provide us with the name of the member(s) you believe have breached the Council's Code of Conduct:

Title	First name	Last name
Cllr	John	Oakes
Cllr	Ron	Aitken

5. Please explain in this section (or on separate sheet(s)) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done, with dates / witnesses to substantiate the alleged breach.

Form 2

It is also important that you provide all the evidence you wish to have taken into account by the Standards Committee when it decides whether to take any action on your complaint or not. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If the allegation(s) being made occurred over 28 days after the alleged behaviour or conduct, clearly explain why the complaint was not made during that period of time.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

I wish to log a formal complaint about Cllr Oakes and Cllr Aitken. An Officer of the Council, Stuart Young, has brought to my attention a copy of an email sent by Cllr Oakes to the Evening Standard, and copied to Cllr Aitken. The email contains the exempt and confidential papers of a Special General Purposes Committee of 4<sup>th</sup> November. Although the papers refer to a member of staff only by the initials [REDACTED], Cllr Oakes reveals the identity of that member of staff as his covering note uses her first name, [REDACTED]. Together with the details contained in the exempt report it would not be difficult for a journalist to obtain the full name of this employee. In his covering note Cllr Oakes makes it clear that he is well aware that the information is confidential. I have included Cllr Aitken in my complaint as he is copied into the email and Cllr Oakes comments appear to imply he is aware of the exchange. I will give you a copy of the email tomorrow.

I regard this as an extremely serious breach of the code of conduct and I assume also of the Data Protection Act. Given the current level of press interest in the Council, I am very worried that Cllr Oakes action may have undermined the interests of the Council. I believe that urgent action needs to be taken to deal with this matter and ensure that no further breaches occur.

Form 2

**C. Confidentiality of complainant and the complaint details**

Only complete this next section if you are requesting that your identity is kept confidential

6. In the interests of fairness and in compliance with the rules of natural justice, we believe members who are complained about have a right to know who has made the complaint and the substance of the allegation(s) made against him / her. We are, therefore, unlikely to withhold your personal details or the details of your complaint unless you have good reasons to believe that you have justifiable grounds, for example:-
- to believe you may be victimised or harassed by the Member(s) against whom you are submitting a written complaint (or by a person associated with the same); or
  - may receive less favourable treatment from the Council because of the seniority of the Member against whom you are submitting a written complaint in terms of any existing Council service provision or any tender / contract that you may have or are about to submit to the Council.

Please note that requests for confidentiality or requests for suppression of the personal and complaint details will not automatically be granted. The Assessment Sub-Committee will consider the request alongside the substance of your complaint and the Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the opportunity, if you so wish, of withdrawing your complaint.

However, it is important to understand that - in exceptional circumstances, where the matter complained about is very serious - we may proceed with an investigation (or other action) and may have no choice but to disclose your personal and complaint details, because of the allegation(s) made, even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Form 2

(Continue on separate sheet(s), as necessary)

---

**D. Remedy sought**

---

7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

(Continue on separate sheet(s), as necessary)

---

**E. Additional Information**

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8. Complaints must be submitted in writing. This includes fax and electronic submissions. Frivolous, vexatious and politically motivated tit-for-tat complaints are likely to be rejected.
9. In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
10. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

---

**F. Process from here**

---

Form 2

11. Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer, it will be presented to a meeting of the Assessment Sub-Committee of the Standards Committee for consideration / determination. You and the member against whom the complaint has been made will not be allowed to attend the deliberations of the Sub-Committee as the matter will be considered in private.

12. The Sub-Committee may resolve to:

- (a) dismiss your complaint, with reasons;
- (b) ask you for additional information, with reasons;
- (c) refer your complaint to the Monitoring Officer for investigation (or other action); or
- (d) refer your complaint to the Standards Board for England if the complaint does not fall within the jurisdiction of the Standards Committee.

13. You will be notified after the meeting and given information on any further stage(s) in the process at that time.

John Suddaby,  
Monitoring Officer,  
Haringey Council,  
Riverpark House

Tel:

Fax:

E-mail: [john.suddaby@haringey.gov.uk](mailto:john.suddaby@haringey.gov.uk)

Form 2

**Haringey Council**  
- Information for monitoring purposes only -

**Ethnic Origin**

Choose one section from (A) to (E) then tick the appropriate box to indicate your cultural background. These are based on the 2001 Census with additional categories included.

**A White**

- |                                  |   |                                 |
|----------------------------------|---|---------------------------------|
| <input type="checkbox"/> British | <input type="checkbox"/> Albanian/Kosovan | <input type="checkbox"/> Romany |
| <input type="checkbox"/> Irish   | <input type="checkbox"/> Bosnian          |                                 |

Any other White background please write here :

**B Mixed**

- |  |  |
|--|--|
| <input type="checkbox"/> White and Black - Caribbean | <input type="checkbox"/> Asian and Black |
| <input type="checkbox"/> White and Black - African   | <input type="checkbox"/> White and Asian |

Any other Mixed background please write here :

**C Asian or Asian British**

- |                                    |                                      |
|------------------------------------|--------------------------------------|
| <input type="checkbox"/> Indian    | <input type="checkbox"/> Kashmiri    |
| <input type="checkbox"/> Pakistani | <input type="checkbox"/> Bangladeshi |

Other Asian background please write here :

**D Black or Black British**

- |                                    |                                  |
|------------------------------------|----------------------------------|
| <input type="checkbox"/> Caribbean | <input type="checkbox"/> African |
|------------------------------------|----------------------------------|

Any other Black background please write here :

**E Chinese or other ethnic group**

- |                                     |                                  |                                 |
|-------------------------------------|----------------------------------|---------------------------------|
| <input type="checkbox"/> Chinese    | <input type="checkbox"/> Arab    | <input type="checkbox"/> Afghan |
| <input type="checkbox"/> Vietnamese | <input type="checkbox"/> Kurdish |                                 |

Any other please write here :

**Harding James**

**From:** Cllr Oakes John  
**Sent:** 01 December 2008 13:21  
**To:** 'tim.ross@standard.co.uk'  
**Cc:** 'soasron@yahoo.co.uk'; 'ron.aitken@haringeylibdems.org'; 'catslondon@hotmail.com'  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

Hi Tim

All this is highly confidential -all on Yellow Paper, press and public excluded, so please don't use my name or Ron's if you are discussing it with Haringey's press office/

It is numbered [REDACTED] with the first two being merely introductory sheets. Haringey has a habit of making big sacking/departure payouts - a few years ago the Standard carried my story of the departure of [REDACTED] because he fell out with Council Finance Chief Charles Adje.....that cost Haringey [REDACTED] You could do a rag out.....

Cheers John Oakes

NOT FOR PUBLICATION

**Timothy Daniel**

**From:** Cllr Oakes John  
**Sent:** 03 December 2008 14:29  
**To:** news@mailonsunday.co.uk  
**Subject:** FW: [REDACTED]  
**Attachments:** [REDACTED]

Aln Martin Delgado:

Hi: thanks for your call. Everything in the memo to Tim below applies, of course.

Cheers, get me on 07973 223150 if you need to

John Oakes

**From:** Cllr Oakes John  
**Sent:** Mon 01/12/2008 13:46  
**To:** 'tim.ross@hotmail.co.uk'  
**Subject:** FW: [REDACTED]

**From:** Cllr Oakes John  
**Sent:** 01 December 2008 13:21  
**To:** 'tim.ross@standard.co.uk'  
**Cc:** 'soaron@yahoo.co'; 'ron.aitken@haringeylibdems.org'; 'catslondon@hotmail.com'  
**Subject:** [REDACTED]

Hi Tim

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It is numbered [REDACTED] with the first two being merely introductory sheets. Haringey has a habit of making big sacking/departure payouts - a few years ago the Standard carried my story of the departure of [REDACTED] because he fell out with Council Finance Chief Charles Adje.....that cost Haringey [REDACTED] You could do a rag out.....

Cheers John Oakes

02/03/2009

**Harding James**

**From:** Cllr Oakes John  
**Sent:** 01 December 2008 13:47  
**To:** 'tim.ross@hotmail.co.uk'  
**Subject:** FW: [REDACTED]  
**Attachments:** [REDACTED]

**From:** Cllr Oakes John  
**Sent:** 01 December 2008 13:21  
**To:** 'tim.ross@standard.co.uk'  
**Cc:** 'soasron@yahoo.co.uk'; 'ron.aitken@haringeylibdems.org'; 'catslondon@hotmail.com'  
**Subject:** [REDACTED]

Hi Tim

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It is numbered [REDACTED], with the first two being merely introductory sheets. Haringey has a habit of making big sacking/departure payouts - a few years ago the Standard carried my story of the departure of [REDACTED] because he fell out with Council Finance Chief Charles Adje.....that cost Haringey [REDACTED] You could do a rag out.....

Cheers John Oakes

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NOT FOR PUBLICATION

failure notice (2).txt  
 From: MAILER-DAEMON@messagelabs.com  
 Sent: 01 December 2008 13:48  
 To: Cllr Oakes John  
 Subject: failure notice

This is the mail delivery agent at messagelabs.com.  
 I was not able to deliver your message to the following addresses.

<soasron@yahoo.co>:  
 Sorry, I couldn't find any host named yahoo.co. (#5.1.2)

--- Below this line is a copy of the message.

Return-Path: <John.Oakes@haringey.gov.uk>  
 X-VirusChecked: checked  
 X-Env-Sender: John.Oakes@haringey.gov.uk  
 X-Msg-Ref: server-13.tower-175.messagelabs.com!1228139236!16847014!1  
 X-StarScan-Version: 5.5.12.14.2; banners=haringey.gov.uk,-,-  
 X-Originating-IP: [213.48.201.4]  
 Received: (gmail 2212 invoked from network); 1 Dec 2008 13:47:16 -0000  
 Received: from unknown (HELO rph-msp-001.dmz.local) (213.48.201.4)  
 by server-13.tower-175.messagelabs.com with SMTP; 1 Dec 2008 13:47:16 -0000  
 Received: from TPK-EXB-001.lboh.local (unverified) by rph-msp-001.dmz.local  
 (Clearswift SMTPRS 5.2.5) with ESMTSP id  
 <T8affled68bc0a8ce541750@rph-msp-001.dmz.local>;  
 Mon, 1 Dec 2008 13:21:37 +0000  
 Received: from TPK-EXM-004.lboh.local ([10.16.6.10]) by TPK-EXB-001.lboh.local  
 with Microsoft SMTPSVC(6.0.3790.1830);  
 Mon, 1 Dec 2008 13:21:30 +0000  
 X-MimeOLE: Produced By Microsoft Exchange V6.5  
 Content-Class: urn:content-classes:message  
 MIME-Version: 1.0  
 Content-Type: multipart/mixed;  
 boundary="-----=\_NextPart\_001\_01c953b7.B65821dc"  
 Subject: [REDACTED]  
 Date: Mon, 1 Dec 2008 13:21:26 -0000  
 Message-ID: <323DA2403CA8514C98F0973443EE190010F7FE@TPK-EXM-004.lboh.local>  
 X-MS-Has-Attach: yes  
 X-MS-TNEF-Correlator:  
 Thread-Topic: [REDACTED]  
 Thread-Index: AC1Tt7Tg6xau4PsJQpCG6pAkShzk3g==  
 From: "Cllr Oakes John" <John.Oakes@haringey.gov.uk>  
 To: <tim.ross@standard.co.uk>  
 Cc: <soasron@yahoo.co>,  
 <ron.aitken@haringeylibdems.org>,  
 <catslondon@hotmail.com>  
 Return-Path: John.Oakes@haringey.gov.uk  
 X-OriginalArrivalTime: 01 Dec 2008 13:21:30.0024 (UTC)  
 FILETIME=[B8BC5280:01c953b7]

This is a multi-part message in MIME format.

-----=\_NextPart\_001\_01c953b7.B65821dc  
 Content-Type: multipart/alternative;  
 boundary="-----=\_NextPart\_002\_01c953b7.B65821dc"

-----=\_NextPart\_002\_01c953b7.B65821dc  
 Content-Type: text/plain;  
 charset="iso-8859-1"  
 Content-Transfer-Encoding: quoted-printable

Hi=20=20Tim

All=20=20this=20=20is=20=20highly=20=20confidential=20=20-all=20on=20=20=  
 =20yellow=20Paper,=20=20press=20and=20=20public=20=20=20excluded,=20=20=20=  
 so=20=20please=20=20don't=20=20use=20=20my=20=20name=20=20or=20=20Ron's=20=  
 =20=20if=20=20you=20=20=20are=20=20discussing=20=20it=20=20with=20=20Harin=

Page 1

failure notice (2).txt  
 gey's=20=20press=20=20office.

=20

It=20=20is=20=20numbered=20=20Lydia=20=20=201-9,=20=20=20=20with=20=20the=20=  
 =20first=20=20=20two=20=20being=20=20merely=20int=20roductory=20=20sheets.=20=  
 =20=20Haringey=20=20has=20=20a=20=20habit=20=20of=20=20making=20=20big=20=20=  
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 =20a=20=20rag=20=20out.....

=20

cheers=20=20=20=20=20John=20=20=20akes

This=20email=20and=20any=20files=20transmitted=20with=20it=20are=20confide=  
 ntial,=20may=20be=20subject=20to=20legal=20privilege=20and=20are=20intende=  
 d=20only=20for=20the=20person(s)=20or=20organisation(s)=20to=20whom=20this=  
 =20email=20is=20addressed.=20Any=20unauthorised=20use,=20retention,=20dist=  
 ribution,=20copying=20or=20disclosure=20is=20strictly=20prohibited.=20If=20=  
 you=20have=20received=20this=20email=20in=20error,=20please=20notify=20the=  
 =20system=20administrator=20at=20Haringey=20Council=20immediately=20and=20=  
 delete=20this=20e-mail=20from=20your=20system.=20Although=20this=20e-mail=20=  
 and=20any=20attachments=20are=20believed=20to=20be=20free=20of=20any=20vir=  
 us=20or=20other=20defect=20which=20might=20affect=20any=20computer=20or=20=  
 system=20into=20which=20they=20are=20received=20and=20opened,=20it=20is=20=  
 the=20responsibility=20of=20the=20recipient=20to=20ensure=20they=20are=20v=  
 irus=20free=20and=20no=20responsibility=20is=20accepted=20for=20any=20loss=  
 =20or=20damage=20from=20receipt=20or=20use=20thereof.=20All=20communica=  
 ns=20sent=20to=20or=20from=20external=20party=20organisations=20ma=  
 y=20be=20subject=20to=20recording=20and/or=20monitoring=20in=20accordance=20=  
 with=20relevant=20legislation.

This=20email=20has=20been=20scanned=20by=20the=20MessageLabs=20Email=20Sec=  
 urity=20System.  
 For=20more=20information=20please=20visit=20http://www.messageLabs.com/ema=  
 il=20

-----\_NextPart\_002\_01C953B7.B65B21DC

Content-Type: text/html;

charset="iso-8859-1"

Content-Transfer-Encoding: quoted-printable

<html=20xmlns:o=3D"urn:schemas-microsoft-com:office:office"=20xmlns:w=3D"u=  
 rn:schemas-microsoft-com:office:word"=20xmlns:stl=3D"urn:schemas-microsoft=  
 -com:office:smartsTags"=20xmlns=3D"http://www.w3.org/TR/REC-html40">

<head>

<meta=20http-equiv=3DContent-Type=20content=3D"text/html";=20charset=3Diso==  
 8859-1">

<meta=20name=3DGenerator=20content=3D"Microsoft=20Word=2011=20(filtered=20=  
 medium)">

<o:SmartTagTyp

--Message Truncated--

This email has been scanned by the MessageLabs Email Security System.  
 For more information please visit <http://www.messageLabs.com/email>

**Harding James**

**From:** Cllr Oakes John  
**Sent:** 03 December 2008 14:29  
**To:** news@mailonsunday.co.uk  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

Atn Martin Delgado:

Hi: thanks for your call. Everything in the memo to Tim below applies, of course.

Cheers , get me on 07973 223150 if you need to

John Oakes

**From:** Cllr Oakes John  
**Sent:** Mon 01/12/2008 13:46  
**To:** 'tim.ross@hotmail.co.uk'  
**Subject:** FW: [REDACTED]

**From:** Cllr Oakes John  
**Sent:** 01 December 2008 13:21  
**To:** 'tim.ross@standard.co.uk'  
**Cc:** 'soasron@yahoo.co.uk'; 'ron.sitken@haringeylibdems.org'; 'catslondon@hotmail.com'  
**Subject:** [REDACTED]

Hi Tim

All this is highly confidential -all on Yellow Paper, press and public excluded, so please don't use my name or Ron's if you are discussing it with Haringey's press office.

It is numbered [REDACTED], with the first two being merely introductory sheets. Haringey has a habit of making big sacking/departure payouts - a few years ago the Standard carried my story of the departure of [REDACTED] because he fell out with Council Finance Chief Charles Adje.....that cost Haringey [REDACTED] You could do a rag out.....

Cheers John Oakes

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29/04/2009

StHilaire Dianna

**From:** Cllr Reith Lorna  
**Sent:** 02 December 2008 23:35  
**To:** Suddaby John  
**Cc:** Young Stuart  
**Subject:** Referral to monitoring officer - URGENT and confidential  
**Importance:** High

Dear John

I am writing to you in your capacity as standards officer. I wish to lodge a formal complaint about Cllrs Oakes and Aitken. An officer of the Council, Stuart Young, has brought to my attention a copy of an email sent by Cllr Oakes to the Evening Standard, and copied to Cllr Aitken. The email contains the exempt and confidential papers of a Special General Purposes Committee of 4<sup>th</sup> November. Although the papers refer to a member of staff only by the initials [REDACTED], Cllr Oakes reveals the identity of that member of staff as his covering note uses her first name [REDACTED]. Together with the details contained in the exempt report it would not be difficult for a journalist to obtain the full name of this employee. In his covering note Cllr Oakes makes it clear that he is well aware that the information is confidential. I have included Cllr Aitken in my complaint as he is copied into the email and Cllr Oakes comments appear to imply he is aware of the exchange. I will give you a copy of the email tomorrow.

I regard this as an extremely serious breach of the code of conduct and I assume also of the Data Protection Act. Given the current level of press interest in the Council, I am very worried that Cllr Oakes action may have undermined the interests of the Council. I believe that urgent action needs to be taken to deal with this matter and ensure that no further breaches occur.

With best wishes  
Lorna

Councillor Lorna Reith (Labour)  
Acting Leader and Cabinet member for Community Cohesion and Involvement

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05/12/2008

NOT FOR PUBLICATION

Page 115

**Harding James**

**From:** Cllr Oakes John  
**Sent:** 03 December 2008 15:41  
**To:** martin.delgado@mailonsunday.co.uk  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

HI, HOPE THIS REACHES YOU. I think the case never got to the Employment Tribunal because HARINGY DIDN'T WANT TO RISK THE embarrassment of the Cllr Charles Adje revelation- for which [REDACTED] should have been taken to a disciplinary tribunal, arguably -not rewarded.

Cheers John

**From:** Cllr Oakes John  
**Sent:** Mon 01/12/2008 13:46  
**To:** 'tim.ross@hotmail.co.uk'  
**Subject:** FW: [REDACTED]

**From:** Cllr Oakes John  
**Sent:** 01 December 2008 13:21  
**To:** 'tim.ross@standard.co.uk'  
**Cc:** 'soasron@yahoo.co'; 'ron.aiken@haringeylibdems.org'; 'catslondon@hotmail.com'  
**Subject:** [REDACTED]

Hi Martin

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Cheers John Oakes

17

29/04/2009

5<sup>th</sup> Floor, River Park House, 225 High Road, Wood Green, London N22 8HQ  
 Tel: 020 8489 3174 Fax: 020 8489 3815  
[www.haringey.gov.uk](http://www.haringey.gov.uk)



Assistant Chief Executive (People and Organisational Development) Stuart Young

**Haringey**

By email to:

Paul Dacre, Daily Mail, [paul.dacre@dailymail.co.uk](mailto:paul.dacre@dailymail.co.uk)

Peter Wright, Mail on Sunday, [peter.wright@mailonsunday.co.uk](mailto:peter.wright@mailonsunday.co.uk)

Veronica Wadley, Evening Standard, [veronica.wadley@standard.co.uk](mailto:veronica.wadley@standard.co.uk)

Associated Newspapers  
 Northcliffe House  
 2 Derry Street  
 Kensington, London W8 5TT

5<sup>th</sup> December 2008

Dear Sir/Madam,

I refer to my letter to you of 4 December 2008, which has still not yet received a response. I must make it clear that the Council regards this matter as a very serious one. In the circumstances I must inform you that, unless I receive an undertaking from you that you will not publish, publicise, disseminate or use in any form the information disclosed to you and which you have no right to use by 11am today, the Council will apply to the Court for an injunction without further reference to you. Although the Council may make an application on notice we will not bind ourselves to do so.

Yours sincerely,

Stuart Young  
 Assistant Chief Executive  
 People & OD

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2005-2008  
 Getting Closer to Communities



INVESTOR IN PEOPLE

**Toohy Daniel**

**From:** Young Stuart  
**Sent:** 02 March 2009 15:38  
**To:** Toohy Daniel  
**Subject:** FW: Unauthorised Disclosure of Confidential Haringey Council Report

Stuart Young  
 Assistant Chief Executive  
 People & OD  
 London Borough of Haringey  
 020 8489 3174

**From:** Burn David  
**Sent:** 05 December 2008 12:40  
**To:** Young Stuart; Suddaby John; Fakir Amrina  
**Subject:** FW: Unauthorised Disclosure of Confidential Haringey Council Report

FYI

David Burn  
 Senior Lawyer  
 Employment/Education/Corporate Team  
 Tel: 020 8489 3844  
 Fax: 020 8489 3963  
 E-mail: david.burn@haringey.gov.uk

**From:** Burn David  
**Sent:** 05 December 2008 12:39  
**To:** 'hilary.patterson@assocnews.co.uk'  
**Subject:** Unauthorised Disclosure of Confidential Haringey Council Report

Dear Sir/Madam

I write to confirm the following points:

1. At 13.21 on 1 December 2008 an exempt confidential report to Haringey Council's General Purposes Committee was e-mailed to Tim Ross of the Evening Standard. The report contained material that was confidential, and included both personal data and legally privileged material.
2. At 10.04 on 4 December 2008 a letter was sent by e-mail from the Assistant Chief Executive of Haringey Council to Paul Dacre, Peter Wright and Veronica Wadley pointing to the unauthorised and unlawful disclosure of the report and requiring its return.
3. On 4 December 2008 Martin Delgado of the Mail on Sunday informed a press officer within the Council's Press Office that he had passed this matter to his news editor and would let the press officer know today whether or not the Mail on Sunday would publish this confidential material.
4. At 10.31 on 5 December 2008 a second letter was sent by e-mail to Paul Dacre, Peter Wright and Veronica Wadley informing them that unless an undertaking not to publish this material was received by 11.30 on 5 December 2008, the Council would make an application to the Court for an injunction to restrain publication.
5. No response to any of the communications made by Council Officers had been received by 11.55 on 5 December 2008 at which point I telephoned the In-House Legal Service at Associated Newspapers. I

02/03/2009

22/21

I outlined the issues set out above and was informed that someone from the service would contact me today. I responded that I required an urgent contact in view of the circumstances.

6. At the time of sending this e-mail to you I have not received any telephone call. I intend to telephone again between 12.45 and 13.00. I must make it clear that if no substantive response or a negative response is made to the request made by the Council, then an application for an injunction will be made without further recourse to you.

Yours faithfully

David Burn  
Senior Lawyer  
Employment/Education/Corporate Team  
Tel: 020 8489 3844  
Fax: 020 8489 3963  
E-mail: david.burn@haringey.gov.uk

02/03/2009

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NOT FOR PUBLICATION

**StHilaire Dianna**

**From:** StHilaire Dianna on behalf of Suddaby John  
**Sent:** 09 December 2008 12:35  
**To:** Cllr Reith Lorna  
**Cc:** Suddaby John  
**Subject:** Standards Committee - SC3LR  
**Importance:** High  
**Sensitivity:** Confidential  
**Attachments:** Info\_for\_complainants Form 1.doc; COMPLAINT\_FORM SC3LR 9.12.08.doc; Exhibit A. SC3LR.PDF

Dear Councillor Reith,  
 Arrangements have been made for an Assessment Sub-Committee to take place on Monday 22 December to consider your complaint. Please would you fill in the attached form so that we have a record of your complaint consistent with others that we have received.  
 Thanks,  
 regards,

John Suddaby  
 Head of Legal & Monitoring Officer  
 River Park House  
 225 High Road  
 Wood Green  
 London N22 8HQ  
 DX 35851 Wood Green 1  
 Telephone 020 8489 5934  
 e-mail: [john.suddaby@haringe.gov.uk](mailto:john.suddaby@haringe.gov.uk)

---

**From:** Cllr Reith Lorna  
**Sent:** 02 December 2008 23:35  
**To:** Suddaby John  
**Cc:** Young Stuart  
**Subject:** Referral to monitoring officer - URGENT and confidential  
**Importance:** High

Dear John

I am writing to you in your capacity as standards officer. I wish to lodge a formal complaint about Cllrs Oakes and Aitken. An officer of the Council, Stuart Young, has brought to my attention a copy of an email sent by Cllr Oakes to the Evening Standard, and copied to Cllr Aitken. The email contains the exempt and confidential papers of a Special General Purposes Committee of 4<sup>th</sup> November. Although the papers refer to a member of staff only by the initials [REDACTED], Cllr Oakes reveals the identity of that member of staff as his covering note uses her first name, [REDACTED]. Together with the details contained in the exempt report it would not be difficult for a journalist to obtain the full name of this employee. In his covering note Cllr Oakes makes it clear that he is well aware that the information is confidential. I have included Cllr Aitken in my complaint as he is copied into the email and Cllr Oakes comments appear to imply he is aware of the exchange. I will give you a copy of the email tomorrow.

I regard this as an extremely serious breach of the code of conduct and I assume also of the Data Protection Act. Given the current level of press interest in the Council, I am very

09/12/2008

23

worried that Cllr Oakes action may have undermined the interests of the Council.  
I believe that urgent action needs to be taken to deal with this matter and ensure that no further breaches occur.

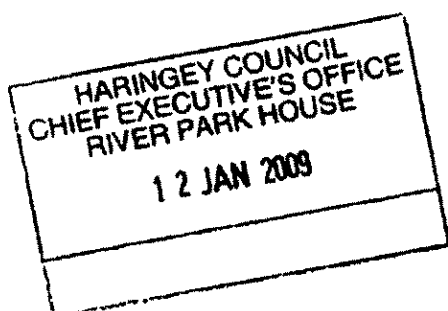
With best wishes

Lorna

Councillor Lorna Reith (Labour)

Acting Leader and Cabinet member for Community Cohesion and Involvement

NOT FOR PUBLICATION



Haringey

Your ref:

Date: 23 December 2008

Our ref: MOVDSH/Comp/ASC3

Direct dial: 020 8489 3874

Email: john.suddaby@haringey.gov.uk

Dear Councillor Lorna Reith,

**Re: Notification of decision of Standards Committee Assessment**  
**Sub - Committee 22 December 2008**

**Complaint**

On Tuesday 22 December 2008, the Standards Assessment Sub-Committee considered a complaint from Councillor Lorna Reith concerning the alleged conduct of Councillor John Oakes and Councillor Ron Aitken, members of Haringey Council.

The complainant, Councillor Reith, the Deputy Leader and Cabinet Member of London Borough of Haringey had made a complaint to the Monitoring Officer on 2 December 2008 against Councillor Oakes, alleging that he had sent an email to the Evening Standard which contained the exempt and confidential papers of a Special General Purposes Committee of the 4 November 2008. Cllr Oakes revealed the identity of a member of staff from the report. Cllr Aitken was included in the complaint as he was copied into the email and the copy of the report sent was the copy provided to Councillor Aitken as a member of the General Purposes Committee.

**Decision**

The ASC decided that the complaint presented to us could amount to a breach of the following paragraph of the Code of Conduct:

- 4. (a) *Disclosure of information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where -*

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 Practice Management Standard  
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32 1

- I. You have the consent of a person authorised to give it;
- II. You are required by law to do so;
- III. The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- IV. The disclosure is –
  - (aa) reasonable and in the public interest; and
  - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled.

The ASC has therefore decided that the complaint should be referred for investigation.

The ASC considered whether this complaint should be referred to the Standards Board for England on the basis of the leadership position of the complainant, but has decided that this is an investigation which can be conducted at a local level with any decision about referral being made subsequently by the Standards Committee.

The ASC has therefore decided to refer the complaint under section 57A(2)(a) of the Local Government Act 2000 to the Monitoring Officer to investigate.

Signed  .....

Dated 9/01/2009 .....

Roger Lovegrove  
Chair of the Standards Committee Assessment Sub-Committee

**StHilaire Dianna**

**From:** StHilaire Dianna on behalf of Suddaby John  
**Sent:** 20 January 2009 11:59  
**To:** Cllr Oakes John  
**Cc:** Suddaby John  
**Subject:** Confidential: SC3LR Complaint  
**Sensitivity:** Confidential  
**Attachments:** img-120115624-0001.pdf

Dear Cllr Oakes,

Please see attached notification of the decision of the Standards Assessment Sub-Committee meeting held on 22 December 2008.

Kind Regards,

**Dianna St Hilaire**

PA to John Suddaby  
Head of Legal & Monitoring Officer  
Haringey Council  
River Park House  
225 High Road  
Wood Green  
N22 8HQ  
Tel: 020 8489 5934  
Email: [dianna.sthilaire@haringey.gov.uk](mailto:dianna.sthilaire@haringey.gov.uk)

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20/01/2009

**StHilaire Dianna**

**From:** StHilaire Dianna on behalf of Suddaby John  
**Sent:** 20 January 2009 11:59  
**To:** Cllr Aitken Ronald  
**Cc:** Suddaby John  
**Subject:** Confidential: SC3LR Complaint  
**Sensitivity:** Confidential  
**Attachments:** img-120115428-0001.pdf

Dear Cllr Aitken,

Please see attached notification of the decision of the Standards Assessment Sub-Committee meeting held on 22 December 2008.

Kind Regards,

**Dianna St Hilaire**

PA to John Suddaby  
Head of Legal & Monitoring Officer  
Haringey Council  
River Park House  
225 High Road  
Wood Green  
N22 8HQ  
Tel: 020 8489 5934  
Email: [dianna.sthilaire@haringey.gov.uk](mailto:dianna.sthilaire@haringey.gov.uk)

B9 35

NOT FOR PUBLICATION

**Neufville Martine**

---

**From:** Neufville Martine  
**Sent:** 05 March 2009 18:35  
**To:** Cllr Aitken Ronald  
**Cc:** Suddaby John; Toohey Daniel  
**Subject:** Confidential - SC3LR Complaint

**Importance:** High  
**Sensitivity:** Confidential

**Attachments:** Lette001.PDF



Lette001.PDF (2 MB)

Dear Cllr Aitken

Please find attached letter dated 5 March 2009 and enclosures from Daniel Toohey. Please note that hard copies will follow.

Kind regards

Martine Neufville  
PA/Legal Secretary to Daniel Toohey  
Interim Principal Lawyer  
Partnership & Regeneration  
Corporate Legal Services  
L9 Alex House  
0208 489 3773  
e-mail: martine.neufville@haringey.gov.uk

cc John Suddaby

3th Floor, Alexandra House, 10 Station Road, Wood Green, London N22 7TR  
 TX 35851, Wood Green T  
 Tel: 020 9489 5929 Fax: 020 8489 3835  
 www.haringey.gov.uk



Head of Legal Services John Suddaby

**Haringey**

Your ref:

Date: 5 March 2009

Our ref: LEG/P&R/FEB.1909/MN

Direct dial: 020 8489 5929

E-mail: daniel.toohay@haringey.gov.uk

**PRIVATE AND CONFIDENTIAL**

Councillor Ron Aitken  
 London Borough of Haringey  
 Civic Centre  
 London  
 N22 8LE

(By cover e-mail)

Dear Councillor Aitken

Ref: 14821/DXT

Re : Confidential : SC3LR Complaint

I write further to John Suddaby's e-mail to you dated 20 January 2009 enclosing the decision of the Standards Assessment Sub-Committee meeting held on 22 December 2008 and Councillor Lorna Reith's allegation that you have or may have failed to comply with Haringey Council's Code of Conduct.

I have been appointed by John Suddaby to investigate the allegations which have been made about your conduct. I would like to assure you that although the Standards Committee has referred the allegation for investigation, the Standards Committee has formed no view on the matters set out in the allegation. The investigation will enable the Standards Committee to reach a conclusion on whether there has been any failure to comply with Haringey Council's Code of Conduct. Part of the investigation will include seeking information and documentation from you and other people, where relevant.

I enclose a copy of the documents which make up the allegation made against you. Sections of text contain personal data and information which is protected under the provisions of the Data Protection Act 1998, but which is relevant to the allegation made against you. You may disclose these documents to your Solicitor or other legal representative, should you choose to appoint one, for the purposes of seeking advice in relation to this investigation. You should obtain a written assurance from your Solicitor or other legal representative that they will maintain confidentiality in respect of these documents and the investigation itself before disclosing these documents to them. The documents should not be disclosed to anyone else.

Copies of the following documents are enclosed:

1. Copy of e-mail dated 1 December 2008 from Cllr John Oakes to Tim Ross.
2. Notice of meeting and exempt report in respect of General Purposes Committee dated 4 November 2008.

**Lexcel**  
 Practice Management Standard  
 Law Society Accredited

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2005-2008  
 Getting Closer to Communities



INVESTOR IN PEOPLE

NOT FOR PUBLICATION

I would be grateful if you would please provide the following information in writing by Friday, 20 March 2009, in order that I can progress the investigation:

- Correspondence relating to your provision of copy papers of the Special General Purposes Committee dated 4 November 2008 to Councillor John Oakes.
- Correspondence relating to the e-mail dated 1 December 2008 enclosing copy papers of the Special General Purposes Committee dated 4 November 2008.
- Correspondence or other documentation relating to any action you took following receipt of the e-mail dated 1 December 2008 enclosing copy papers of the Special General Purposes Committee dated 4 November 2008.
- Any further information or documentation which may be relevant to the investigation.

You are welcome to provide me with your initial response to the allegation should you wish to do so at this point.

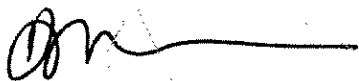
I hope to complete the investigation within 8 (eight) weeks. In order to assist in the progress of the investigation could you please let me know of any periods of time, such as holidays, when you will not be available?

I want to keep you informed of the progress of the investigation. However, I am aware that some people would prefer to be contacted only when there are substantive developments, while others will want to be updated more regularly. If you would prefer to be updated on progress at monthly intervals please contact me to confirm this and I will endeavour to accommodate your wishes.

Please note that the existence of this investigation and all related documentation is a confidential matter and you are required to maintain confidentiality and not disclose this matter and related documentation to any person, with the exception of your Solicitor or other legal representative should you choose to appoint one.

If you have any queries I can be contacted directly on 020 8489 5929 or by e-mailing [daniel.toohey@haringey.gov.uk](mailto:daniel.toohey@haringey.gov.uk). Please quote the reference number on all correspondence.

Yours sincerely



Daniel Toohey  
Interim Principal Lawyer

for the Head of Legal Services

cc John Suddaby, Head of Legal Services, Monitoring Officer  
encs

**Jarrett Evelyne**

**From:** Jarrett Evelyne on behalf of Toohey Daniel  
**Sent:** 22 April 2009 18:20  
**To:** Jarrett Evelyne  
**Subject:** FW: Ref 14821/DXT

**Evelyne Jarrett**  
Interim Deputy Head of Legal Services and Deputy Monitoring Officer  
Haringey Council  
9th Floor  
Alexandra House  
10 Station Road  
Wood Green  
London. N22 7TR

**Tel:** 020 8489 5937  
**Fax:** 020 8489 3835

**Email:** Evelyne.Jarrett@haringey.gov.uk

---

**From:** ron aitken [mailto:soasron@yahoo.com]  
**Sent:** 23 March 2009 19:37  
**To:** Toohey Daniel  
**Subject:** Ref 14821/DXT

Dear Mr Toohey,

I am acknowledging receipt of your letter and enclosure of 5 March 2009.

I had conversations with several Councillors about the content of the report for General Purposes Committee and provided Cllr Oakes with my copy as there were aspects of the report that pertained to his Shadow Community Involvement Portfolio. There was no correspondence regarding this report and the first I knew of the e-mail from Cllr Oakes to Tim Ross (copied to me) was when Mr Suddaby contacted me in mid-December.

I did not solicit this e-mail and indeed did not open it, nor did I enter into correspondence regarding the content of it. On being informed of the situation I discussed it with my Group Whip in order to take advice.

Please keep me informed of the progress of the investigation and I am of course willing to answer any further questions you may have.

Sincerely,

Cllr Ron Aitken.

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This email has been scanned by the MessageLabs Email Security System.

22/04/2009

NOT FOR PUBLICATION

8th Floor, Alexandra House, 10 Station Road, Wood Green, London N22 7TR  
 Tel: 020 8489 5929 Fax: 020 8489 3335  
 www.haringey.gov.uk



Head of Legal Services: John Suddaby **Haringey**

Your ref:

Date: 5 March 2009

Our ref: LEG/P&P/FEB.2009/MN

Direct dial: 020 8489 5929

E-mail: daniel.toohay@haringey.gov.uk

**PRIVATE AND CONFIDENTIAL**

Councillor John Oakes  
 London Borough of Haringey  
 Civic Centre  
 London  
 N22 8LE

(By cover e-mail)

Dear Councillor Oakes

Ref: 14821/DXT

**Re: Confidential: SC3LR Complaint**

I write further to John Suddaby's e-mail to you dated 20 January 2009 enclosing the decision of the Standards Assessment Sub-Committee meeting held on 22 December 2008 and Councillor Lorna Reith's allegation that you have or may have failed to comply with Haringey Council's Code of Conduct.

I have been appointed by John Suddaby to investigate the allegations which have been made about your conduct. I would like to assure you that although the Standards Committee has referred the allegation for investigation, the Standards Committee has formed no view on the matters set out in the allegation. The investigation will enable the Standards Committee to reach a conclusion on whether there has been any failure to comply with Haringey Council's Code of Conduct. Part of the investigation will include seeking information and documentation from you and other people, where relevant.

I enclose a copy of the documents which make up the allegation made against you. Sections of the text contain personal data and information which is protected under the provisions of the Data Protection Act 1998, but which is relevant to the allegation made against you. You may disclose these documents to your Solicitor or other legal representative, should you choose to appoint one, for the purposes of seeking advice in relation to this investigation. You should obtain a written assurance from your Solicitor or other legal representative that they will maintain confidentiality in respect of these documents and the investigation itself before disclosing these documents to them. The documents should not be disclosed to anyone else.

Copies of the following documents are enclosed:

1. Copy of e-mail dated 1 December 2008 from Cllr John Oakes to Jim Rons.
2. Notice of meeting and exempt report in respect of General Purposes Committee dated 4 November 2008.

I would be grateful if you would please provide the following information in writing by Friday, 20 March 2009, in order that I can progress the investigation:

- Correspondence relating to your receipt of copy papers of the Special General Purposes Committee dated 4 November 2008 from Councillor Ron Aitken.
- Correspondence relating to the e-mail dated 1 December 2008 enclosing copy papers of the Special General Purposes Committee dated 4 November 2008.
- Correspondence relating to any action you took after sending the e-mail dated 1 December 2008 enclosing copy papers of the Special General Purposes Committee dated 4 November 2008.
- Any further information or documentation which may be relevant to the investigation.

You are welcome to provide me with your initial response to the allegation should you wish to do so at this point.

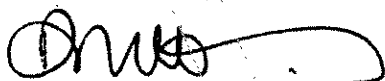
I hope to complete the investigation within 8 (eight) weeks. In order to assist in the progress of the investigation could you please let me know of any periods of time, such as holidays, when you will not be available?

I want to keep you informed of the progress of the investigation. However, I am aware that some people would prefer to be contacted only when there are substantive developments, while others will want to be updated more regularly. If you would prefer to be updated on progress at monthly intervals please contact me to confirm this and I will endeavour to accommodate your wishes.

Please note that the existence of this investigation and all related documentation is a confidential matter and you are required to maintain confidentiality and not disclose this matter and related documentation to any person, with the exception of your Solicitor or other legal representative should you choose to appoint one.

If you have any queries I can be contacted directly on 020 8489 5829 or by e-mailing [daniel.toohay@haringey.gov.uk](mailto:daniel.toohay@haringey.gov.uk). Please quote the reference number on all correspondence.

Yours sincerely



Daniel Toohey  
Interim Principal Lawyer

for the Head of Legal Services

cc John Suddaby, Head of Legal Services, Monitoring Officer  
enc

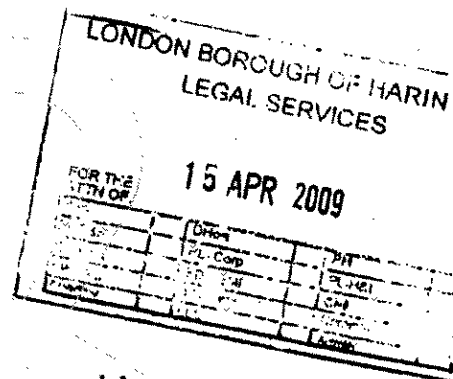
NOT FOR PUBLICATION

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D Toohey Esq  
Haringey Council Legal Services Dept.

From Cllr John Oakes  
L/B Haringey Etc

April 13/ 2009



Dear Mr Toohey: Ref 14821/DXT

Re Confidential: SC3LR Complaint

I write further to your letter of March 5<sup>th</sup>, and apologise for any delay, occasioned by the need to take legal advice.

I note the documents you attached. In answer to your questions,seriatim:

1 My request to Cllr Aitken was purely verbal. I did not tell him why I wanted the Committee report.

2 Cllr Aitken had no knowledge of my email of 1<sup>st</sup> December to the Evening Standard, and there was no correspondence between us about it. Nor was there any other correspondence concerning it, except verbally to Evening Standard staff.

3 There was however very similar correspondence with the Mail on Sunday, again without Cllr Aitken's knowledge, in response to a request from that newspaper. Again, I would have spoken to MoS staff after the receipt of the email.

4 There is no other documentation, as far as I am aware, that is relevant to this investigation - at least, none issued by me..

I have been advised to reserve my defence at this moment. Could I repeat my request to see the actual letter/email of complaint from Cllr Lorna Reith as soon as possible?

I would be grateful to know of any significant progress in this inquiry.

Yours sincerely,

Councillor John Oakes  
Shadow spokesman for Community Involvement, L/B Haringey

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Jarrett Evelyne

From: Murray Rod  
 Sent: 04 June 2009 11:40  
 To: Jarrett Evelyne  
 Subject: FW: Investigation  
 Importance: High  
 Follow Up Flag: Follow up  
 Flag Status: Orange  
 Attachments: image002.jpg; failure notice.txt

Evelyne,

Luckily the data was still in the investigations area from our previous work on this case. In summary the 13:21 on Dec 1 was quarantined as it contained .jpg attachments and was subsequently released by an engineer by mistake. The message was delivered to all the recipients except the [soasron@yahoo.co](mailto:soasron@yahoo.co) as this is not a valid address, and an NDR (Non-Delivery Report) was received by Cllr Oakes informing him of this. The later 2 attempts on Dec 1 and on Dec 3 were seen by the engineers and stopped and not relayed.

Regards  
 Rod

From: Radia Umesh  
 Sent: Thu 04/06/2009 11:19  
 To: Murray Rod  
 Cc: Moore David - IT  
 Subject: Investigation

Hi Rod

Just to confirm:

Events 1<sup>st</sup> December 2008

On 1<sup>st</sup> December 2008 13:21 an email was sent from Cllr Oakes to the following people:

From: "Cllr Oakes John" <[John.Oakes@haringey.gov.uk](mailto:John.Oakes@haringey.gov.uk)>  
 To: <[tim.ross@standard.co.uk](mailto:tim.ross@standard.co.uk)>  
 Cc: <[soasron@yahoo.co](mailto:soasron@yahoo.co)>, <[ron.aitken@haringeylibdems.org](mailto:ron.aitken@haringeylibdems.org)>, <[catslondon@hotmail.com](mailto:catslondon@hotmail.com)>

As discussed mail divergence would have taken place at the mimesweeper gateway (mimesweeper-messagelabs interface)  
 Cllr CC'd 3 people, of which only 2 were delivered by messagelabs

**Delivered** : [ron.aitken@haringeylibdems.org](mailto:ron.aitken@haringeylibdems.org) and [catslondon@hotmail.com](mailto:catslondon@hotmail.com)

**Non Delivered**: [soasron@yahoo.co](mailto:soasron@yahoo.co) (incorrect email address hence – recipient did not receive and Cllr Oakes received that attached NDR)

2 further attempts were made: 13:46 and 13:47 on 1<sup>st</sup> December 2008 which I deleted via mimesweeper upon your request at around 15:30 on that day.

05/06/2009

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*Even if there was a LAN - Dr  
 can not get into his inbox. He  
 to the C's Internet our info  
 if that he now it*

NOT FOR PUBLICATION

James Harding notified by myself via telephone – Cllr's emails copied into his personal home folder to maintain integrity (as msg's)

Contents of email was \*.jpg...

**Mimesweeper scanning (Blocked attachments Out)** – quarantine reasons = contents on outgoing = \*.JPG

☒ Right-click here to download pictures. To help protect your privacy, Outlook prevented automatic download of this picture from the Internet.

Quarantine-released : released by Engineer admin-ryd only 13:21 all other instances deleted off system.

**Events 3<sup>rd</sup> December 2008**

Again 2 attempts made 14:29 and 15:41 – again informed relevant people and deleted from mimesweeper to avoid unnecessary people viewing.

Hope this helps

Thanks

**Umesh Radia**  
**IT Infrastructure Engineer**  
**IT Services Operations Section**  
3rd Floor, River Park House, 225 High Road, Wood Green, LONDON N22 4HQ  
**Tel: 0208 489 4497**  
**Email: [umesh.radia@haringey.gov.uk](mailto:umesh.radia@haringey.gov.uk)**  
**Web: [www.haringey.gov.uk](http://www.haringey.gov.uk)**

05/06/2009

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**Jarrett Evelyne**

**From:** Jarrett Evelyne  
**Sent:** 08 June 2009 16:47  
**To:** Murray Rod, Dalglish Kyrsti  
**Subject:** RE: Email investigation

Rod,

Thanks,

regards

**Evelyne Jarrett**  
 Interim Deputy Head of Legal Services and Deputy Monitoring Officer  
 Haringey Council  
 9th Floor  
 Alexandra House  
 10 Station Road  
 Wood Green  
 London, N22 7TR

**Tel:** 020 8489 5937  
**Fax:** 020 8489 3835

**Email:** Evelyne.Jarrett@haringey.gov.uk

**From:** Murray Rod  
**Sent:** 08 June 2009 15:31  
**To:** Dalglish Kyrsti  
**Cc:** Jarrett Evelyne  
**Subject:** RE: Email investigation

As per the e-mail I sent Evelyne on Friday.

The 13:21 Dec 1 message was released sometime after 13:21 and before 13:48 that day, as it was at 13:48 that Cllr Oakes received the NDR saying it could not send the message to the incorrectly typed address soasron@yahoo.co.

The other attempts were stopped and deleted by us, and we alerted Stuart Young on Dec 1 about the e-mails.

Regards  
 Rod

**Events 1<sup>st</sup> December 2008**

On 1<sup>st</sup> December 2008 13:21 an email was sent from Cllr Oakes to the following people:

**From:** "Cllr Oakes John" <John.Oakes@haringey.gov.uk>  
**To:** <tim.ross@standard.co.uk>  
**Cc:** <soasron@yahoo.co>,  
 <ron.aiken@haringeylibdems.org>,  
 <catslondon@hotmail.com>

As discussed mail divergence would have taken place at the mimesweeper gateway (mimesweeper-messagelabs interface)  
 Cllr CC'd 3 people, of which only 2 were delivered by messagelabs

08/06/2009

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**Delivered** : ron.aiken@haringeylibdems.org and catslondon@hotmail.com

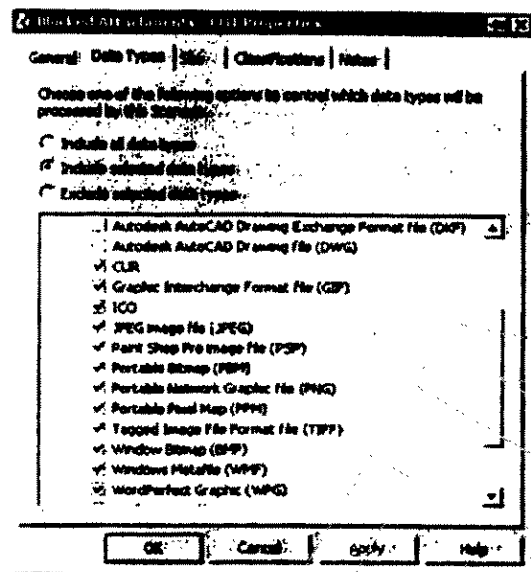
**Non Delivered**: soasron@yahoo.co (incorrect email address hence – recipient did not receive and Cllr Oakes received that attached NDR)

2 further attempts were made: 13:46 and 13:47 on 1<sup>st</sup> December 2008 which I deleted via mimesweeper upon your request at around 15:30 on that day.

James Harding notified by myself via telephone – Cllr's emails copied into his personal home folder to maintain integrity (as msg's)

Contents of email was \*.jpg...

**Mimesweeper scanning (Blocked attachments Out)** – quarantine reasons = contents on outgoing = \*.JPG



**Quarantine-released** : released by Engineer admin-ryd only 13:21 all other instances deleted off system.

#### **Events 3<sup>rd</sup> December 2008**

Again 2 attempts made 14:29 and 15:41 – again informed relevant people and deleted from mimesweeper to avoid unnecessary people viewing.

**From:** Dalglish Kirsti  
**Sent:** 08 June 2009 15:10  
**To:** Murray Rod  
**Cc:** Jarrett Evelyne  
**Subject:** FW: Email Investigation

Hi Rod

Some further questions for you ...

The email that was quarantined and released when was this mistakenly released? 1st or 2nd December (13.21 released by agency staff).

08/06/2009

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Emailed delivered to everyone - when? 1st or 2nd December?

Non-Delivery report received by Cllr Oakes - when was this report received by Cllr Oakes?

Many thanks

Kyrsti Dalglish  
Legal Administrator  
Ext: 3892

---

**From:** Murray Rod  
**Sent:** 01 June 2009 13:15  
**To:** Dalglish Kyrsti  
**Cc:** Jarrett Evelyne  
**Subject:** RE: Email investigation

Kyrsti,

Sorry for the delay there was a fatality on my train line and everything was stopped.

1. We would have to perform a recovery to review what happened exactly. Mails on the 1st were probably released, but without investigating it is not possible to tell, now we are 6 months past.
2. The one which we provided to management was quarantined, if there were more, again we would have to complete an investigation to find out exactly what went on with other traffic.
3. Cllr Aitken's LibDem account is external and so the outbound message would have been treated the same as for the other intended recipients. The message to him as others would have been quarantined. I am doing an experiment to see if it is possible for the message to have been relayed differently ( seen by MimeSweeper as a different mail ) as it was bounced off the auto-reply. Again the real option is to do an investigation, which will take a number of days and will be chargeable.

Regards  
Rod

---

**From:** Dalglish Kyrsti  
**Sent:** Mon 01/06/2009 11:08  
**To:** Murray Rod  
**Cc:** Jarrett Evelyne  
**Subject:** Email investigation

Morning Rod

Hope you are well.

Evelyne has some questions re. the above :

1. Of the emails of 1 Dec, (13.21, 13.46 and 13.47) can you let us know which were quarantined and which one got through, which was mistakenly released?
2. Of the emails of 3 Dec to Mail on Sunday, were all three of these quarantined? and
3. As the above emails were quarantined, would Cllr Aitken have received them if they had been sent to his LibDem account - bearing in mind this had an auto forward on to his yahoo account and can you confirm that if quarantined that it would not have made it direct to his yahoo account given that it was copied to this directly?

Many thanks for your further help on this. Also, sorry, is it possible to have a reply before 12?

08/06/2009

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NOT FOR PUBLICATION

Thanks again  
Kyrsti

[REDACTED]

08/06/2009

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# CORPORATE LEGAL SERVICES

## DRAFT MEETING NOTES/FILE ATTENDANCE NOTE

Form CLS

11.1/1004

Attendance Type: Tel. In <input type="checkbox"/>	Tel. Out <input type="checkbox"/>	Meeting <input checked="" type="checkbox"/>	File Work <input type="checkbox"/>	Other <input type="checkbox"/>	Fee Earner: OA
Date: 30/04/09		Case No./Description: Confidential Complaints case			
Time: 10.30am					
Attendance with (name/s):		Evelyne Jarrett James Harding – IT Security & Business Continuity Manager (LBH) Kyrati Dalglish (notes)			

JH gave EJ background information on the security set up regarding the checking of inbound and outbound external emails. He explained that IT Services administers an email content filtering system called MimeSweeper. JH advised the tool is made up of classifications that quarantine potentially malicious or harmful external emails or those emails that may breach Council policy for manual review. The queues of quarantined emails are checked by the IT Service Desk between 8am and 6pm each working day and are normally processed within one hour of being quarantined. JH did say that if emails are quarantined after 6pm they would be reviewed and released or deleted as appropriate at 8am the next working day.

When the two emails came to light via MimeSweeper on 01 December, JH was working from home. An IT Service Desk Analyst was processing the queue of quarantined emails within MimeSweeper when the emails to the papers from Cllr Oakes were spotted. The two emails were dated 01.12.08 and timed at 13:21 and 13:47. The Service Desk Analyst raised the alarm with Rod Murray (IT Operations Manager) and Stephen Cornell (IT Service Delivery Manager). JH was informed that same afternoon by SC. The alarm was also raised with Stuart Young ("SY") that afternoon by either RM or SC. Unfortunately one of these quarantined emails was accidentally released by the IT Service Desk Analyst.

On 02.12.08 JH had a conversation with SY about the situation and how he wanted to proceed. SY requested for a copy of Cllr Oakes Outlook account to be secured for management review. This was done. Cllr Oakes would not have known about this.

2 further emails were sent by Cllr. Oakes on 3<sup>rd</sup> December. At this point Cllr. Oakes had not been contacted and made aware that IT had seen the emails. It is thought that Cllr Oakes may have realised one of his previous emails had not gone through though. Cllr. Oakes rang Elias Demetriou (ED) on 3.12.08 to say that one or more of his emails may have been quarantined and could these please be released. ED confirmed this conversation. Both emails had been quarantined and JH was informed of this.

EJ brought up a comment that Oakes had made about a previous leak of information to the Standard on [REDACTED]. JH confirmed that he recalled a leak some years ago when [REDACTED] left the authority that did make the papers. JH recalled the press coverage related to an article about his redundancy/payment/pension package.

EJ then asked about a discrepancy in one of the email chains timed at 15:41 on 03.12.08. JH explained that once an email had been sent, the same email could then be forwarded to another recipient but with the original information modified or changed.

EJ asked JH about contact made with SY on 1<sup>st</sup>. JH said that would have been either Steve or Rod.

On 05/12/08 JH made Oakes's copied Outlook account available to SY for review. This was reviewed by SY for evidence of any further potential leakages.

JH understood there were no additional emails from Oakes' account leaking information. SY had potential concerns however about unauthorised disclosures made by Cllr Aitken to Oakes. SY asked JH to secure Aitken's Outlook account for investigative review. This is when problems were experienced. Aitken had (and still has) an auto-relay set up on his Council Outlook account to redirect all emails to his personal email address. JH advised that emails sent or received are not kept within Cllr. Aitken's Council Outlook account. JH said that checks made by the Council's IT Infrastructure Team suggested this facility was set up for Cllr. Aitken c July 2005. JH said about 8 or 9 councillors had auto-forward facilities set up to their personal email accounts, however Cllr. Aitken was the only Member to JH's knowledge whose emails were not maintained within their Council Outlook accounts following relay.

EJ asked why we did not keep copies of Aitken's emails on the Council's Outlook system? JH said he did not know why this was agreed or who approved this. He went on to explain that IT Services were hoping a new system would be implemented later in 2009, which would keep copies of all emails sent or received. JH explained this was a realistic possibility.

On 02.12.08, due to this unauthorised disclosure of personal information, JH reported the breach to Anita Hunt (the Council's Data Protection Officer).

EJ asked about pulling any deleted items from Aitken's outlook account. JH reiterated there was nothing in there, as his emails

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NOT FOR PUBLICATION

were all relayed to his personal email account and not kept with his Council Outlook account.

The Council's Email Acceptable Usage Policy was discussed and JH advised that Members fell within the scope of the policy – JH advised that Members also receive a pack from the Council advising of their obligations. JH advised he thought Ian Christie (AH's boss) was in charge of producing and providing this. JH said IC would be the best person to initially speak to. Cllr's Oakes and Aitken would have probably have given this info pack containing policy requirements and guides.

JH advised he gave a Data Protection presentation to Members at the Civic Centre in 2007. This covered a multitude of subjects including the 8 principles of the Act, member legal obligations, including disclosures that could be made depending on what "hat" they were wearing etc.

Signed:

Duration of  
attendance:

hrs

55

mins

Cont/d....

YES/NO

163

**Dalgleish Kyrsti**

---

**From:** Demetriou Elias  
**Sent:** 05 May 2009 12:36  
**To:** Demetriou Elias  
**Subject:** FW: Messages

**Elias Demetriou**

**MEMBER & EXEC IT SUPPORT**  
tel: 020 8480 3455 (ext. 3455)  
mobile: 07980316643 (ext. 6643)

---

**From:** Demetriou Elias  
**Sent:** 03 December 2008 16:45  
**To:** Cllr Oakes John  
**Subject:** Messages

Hi Cllr

Just wanted to flag up that there seems to be a problem with some of the emails you have sent. I approached the helpdesk with the intention of finding and potentially releasing the messages you mentioned only to be told that there was a problem with the content and that the matter had been passed to the IT operations manager. At that point I could not see the messages or which filter caught them.

Sorry I couldn't help in this instance but do not hesitate to call if there is anything else you need.

Thanks

**Elias Demetriou**

**MEMBER & EXEC IT SUPPORT**  
tel: 020 8480 3455 (ext. 3455)  
mobile: 07980316643 (ext. 6643)

05/05/2009

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**Dalgleish Kyrsti**

**From:** Demetriou Elias  
**Sent:** 05 May 2009 15:55  
**To:** Dalgleish Kyrsti  
**Cc:** Jarrett Evelyne  
**Subject:** RE: Investigation  
**Sensitivity:** Private

Hi Krsti  
 I've made a small amendment. Please see below.  
 In accept this as an accurate synopsis of our conversation.

thanks

**Elias Demetriou**

**MEMBER & EXEC IT SUPPORT**  
 tel: 020 8489 3455 (ext. 3455)  
 mobile: 07980316643 (ext. 6643)

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**From:** Dalgleish Kyrsti  
**Sent:** 05 May 2009 13:30  
**To:** Demetriou Elias  
**Cc:** Jarrett Evelyne  
**Subject:** RE: Investigation  
**Sensitivity:** Private

Dear Elias

Further to our telephone conversation this morning, could you please confirm or amend the contents of that conversation as shown below.

Kyrsti Dalgleish spoke with Elias Demetriou (ED) at 12.43 on 5 May 2009, who works for Member and Exec IT Support.

ED said that he received a telephone call on 3rd December 2008 from Cllr John Oakes to say that an email he had sent did not seem to have gone through. Could ED possibly check to see whether quarantined (ED then went on to say what content would cause an email to be quarantined, e.g. swear words, flesh content (pictures) and certain key words). ED then spoke a member of the Service Desk who informed me there was a problem with the content of the email/s and the matter had been passed on to the Ops Manager - Rod Murray -

ED then sent a message to Cllr Oakes to inform him of this information, that the email had not gone. ED later rang and spoke with Cllr Oakes again and explained that the email in question had been quarantined. ED said that the Cllr seemed to take this information on board, and only replied with an "oh". ED said that there was no fuss about the email at all, the Cllr just seemed to accept this.

05/05/2009

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Many thanks for your help in this matter and many thanks for your attached email.  
Kyrsti Dalglish

**From:** Demetriou Elias  
**Sent:** 05 May 2009 12:41  
**To:** Dalglish Kyrsti  
**Cc:** Murray Rod; Lamrani Mohammed  
**Subject:** RE: Investigation  
**Sensitivity:** Private

Hi Krysti

That'll be fine. Now would be fine if that's convenient for you.  
I've attached the email I sent to the Cllr at the time that outlines the course of events but feel free to call.

Thanks

**Elias Demetriou**

MEMBER & EXEC IT SUPPORT  
tel: 020 8489 3455 (ext. 3455)  
mobile: 07960316643 (ext. 6643)

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**From:** Dalglish Kyrsti  
**Sent:** 05 May 2009 11:22  
**To:** Demetriou Elias  
**Subject:** Investigation  
**Importance:** High  
**Sensitivity:** Private

Morning Elias

Evelyne Jarrett has asked me to have a brief word with you when you are free regarding the emails and conversation you had with Cllr John Oakes regarding the emails back in December.

Could you please confirm when you are free and I can do over the telephone with you, pref today.

Many thanks for your help.

Regards,  
Kyrsti Dalglish

05/05/2009

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NOT FOR PUBLICATION

# CORPORATE LEGAL SERVICES FILE ATTENDANCE NOTE



Form CLS

11.1/1004

Attendance Type: Tel. In ☐ Tel. Out ☒ Meeting ☐ File Work ☐ Other ☐ Fee Earner: OA

Date: 05/05/09

Case No./Description Confidential Complaints case

Time: 12.43

Attendance with (name/s):

Evelyn Jarrett  
James Harding - IT Security & Business Continuity Manager (LBH)  
Kyrsti Dalglish (notes)

Kyrsti Dalglish spoke with Elias Demetriou (ED) at 12.43 on 5 May 2009, who works for Member and Exec IT Support.

ED said that he received a telephone call on 3rd December 2008 from Cllr John Oakes to say that an email he had sent did not seem to have gone through. Could ED possibly check to see whether quarantined (ED then went on to say what content would cause an email to be quarantined, e.g. swear words, flesh content (pictures) and certain key words). ED then spoke to a member of the Service Desk who informed him there was a problem with the content of the email/s and the matter had been passed on to the Ops Manager - Rod Murray.

ED then sent a message to Cllr Oakes to inform him of this information, that the email had not gone. ED later rang and spoke with Cllr Oakes again and explained that the email in question had been quarantined. ED said that the Cllr seemed to take this information on board, and only replied with an 'oh'. ED said that there was no fuss about the email at all, the Cllr just seemed to accept this.

Signed:

Duration of attendance:

hrs 10 mins Cont'd.... YES/NO

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# **CORPORATE LEGAL SERVICES FILE ATTENDANCE NOTE**



11.1/1004

Attendance ☐ Tel. ☐ Meeting ☐ File Work ☐ Other ☒ Fee ☐ OA  
Type: Tel. In Out

Date: 14 May 09

Case No./Description Confidential Complaints case

Time:

Attendance with  
(name/s):

Rod Murray IT Operations Manager  
Evelyne Jarrett  
Kyrsti Dalglish (notes)

Interview with Rod Murray (RM) IT Operations Manager by Evelyn Jarrett.

As IT Operations Manager one of his duties is to make sure systems are secure. When the first email was quarantined RM was already working on another matter for SY.

The service desk team bought the second quarantined email to the attention of RM – the email had been sent from Cllr Oakes account on 1 December had been quarantined and contained details surrounding [REDACTED] leaving the Council. RM said the reason it was quarantined was purely due to the attachments and size.

There were temps on the service desk and the original email got released by accident. It was then re-sent and quarantined, this time it was picked up by a more permanent member of staff who held it. Rafik Delwalear might have released the first one in error. When the second email was sent through it was bought to the attention of operatives due to the contents being controversial. RM contacted SY on 1.12.08.

Emails are quarantined due to a number of points it may receive based on rules; these include profanities (which are not some much about swear words but offence words due to racism etc) and size. Once quarantined engineers or operatives look at the emails and determine which are false positives and if ok and not contravening council email policies they are automatically released to the intended recipient.

Cllr Oakes may have realised that the first email didn't get through and re-sent it, but his second attempt was quarantined and RM contacted. Satu Williams first looked at the email and then realised the contents were not for transmission, she would have told Mohammed Lamrani, IT Service Desk Manager, who in turn told RM who then informed SY.

RM telephoned SY and explained had caught an email containing Council [REDACTED] private information. RM then took a copy of the email to SY who said he would deal. That was effectively the end of RM's involvement in the matter.

RM explained to EJ that the email would have been run off as proof and then was deleted from the quarantine zone to stop others looking at the contents.

It was noted that Cllr Oakes cc'd in Cllr Aitken.

RM also confirmed that LBH knew that Cllr Oakes was previously a journalist.

When the email didn't get released, Cllr Oakes then contacted Elias Demetrious to rectify this. ED then went to RM with regard to the release. RM told him that the email would not be released. RM said that he may have told ED to hold off telling this to Cllr Oakes.

EJ asked about if auto-forward from our system to a personal email and whether this could still go in as spam. RM confirmed that yes it could. It depended on the parameters set up by yahoo and the recipient.

RM went on to explain that a number of Councillors have an auto-forward set up on their LBH email accounts. This is custom-recipient which allows from external emails to go to personal addresses – this is normally for privacy. LBH I.T dept normally set this up. There is a rule that all auto-forwards from LBH to external personal accounts will not have copies stored on the system.

RM explained there was a 28 day log for LBH for emails sent from this address, but no ability to see what happens to the emails once they have actually left. If the system generates a non-delivery receipt then it will send out after. LBH has 3 day delivery period. If the email is not delivered to the intended recipient then a report is sent by to the sender saying that the mail has not been delivered, but this is only after 3 days.

He went on to explain that all emails go through processes before reaching intended recipient. Each of those different stages may retain copy of information and this is after it has left our gateway. Even if a message is encrypted certain encryptions take minutes

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to crack and again all that information will be stored somewhere in cyber-space. They are only unsecured sites.

EJ asked about checking the history of the PCs via forensics. RM said too costly for this kind of thing. RM also commented that even a hard-drive that is erased 32 times and re-formatted can still be read for previous data.

EJ asked about read receipts; RM said that these were add-ons to the system, it also depended on the system that others used, but again can only store for 28 days, the ISP may not offer the service as it costs too much and effectively email and the service is free, but this would be in the terms and conditions of the provider.

RM confirmed that he spoke to SY on 1 December re. the emails.

Duration of  
attendance:

hrs

30

mins

Cont/d....

YES/NO

**RECORDED INTERVIEW****COUNCILLOR JOHN OAKES****Dated: 14 May 2009**

Interview with Councillor Oakes

EJ: Good Afternoon Councillor Oakes, my name is ....

Oakes: Afternoon

EJ: My name is Evelyne Jarrett and I am an Investigator for the Monitoring Officer of the London Borough of Haringey, John Suddaby. As I advised you by letter I would like to record this interview. Can you confirm for the record that you consent to this.

Oakes: Absolutely, quite happy.

EJ: Thank you. For the benefit of the tape it is 3.20pm on 14 May 2009. The monitoring officer responsible for this investigation has asked me to assist him in this matter. For the record there is an interview with yourself. ... sorry, for the record this is an interview with yourself about case number SC3LR 14821/EBJ regarding allegations about your conduct. On the 1<sup>st</sup> and 3<sup>rd</sup> December 2008 the Council's email quarantine tool mimesweeper trapped two emails sent by you containing confidential and personal information relating to an ex Senior Manager's Compromise Agreement. A complaint was made by Councillor Lorna Reith to the monitoring officer John Suddaby alleging that you were attempting to leak this information to the Evening Standard, the Mail on Sunday and other recipients in breach of the Council's Code of Conduct for elected members.

I am conducting this interview under the powers given to the monitoring officer by the Local Government Act 2000 and the Standards Committee (England) Regulations 2008. Before the investigation is completed you will be sent a draft of the report to enable you to make any representations that you consider necessary. As a witness, you may be sent relevant extracts from the draft report for the same purpose. I would like to go back to what I did say regarding the complaint. I did say that you were attempting to leak this information, actually you did leak the information because the newspapers confirmed that they had received the email from you so this is a complaint against the unauthorised disclosure of personal data and confidential information by you to the press.

Having considered comments on the draft reports I will then issue my final report. Copies of the draft report will also be sent to Councillor Aitken who is also a subject of this complaint and also to the complainant, Councillor Lorna Reith. Parts of the transcript of this interview may be included in the draft and final reports. If the case is considered at a hearing, parts of the transcript of this interview may be submitted as evidence and you may be called as a witness. If you provide me with information of a sensitive or private nature, I will ask the Adjudication Panel for England or the Standards Committee to keep this information confidential. This is however their decision, and they may disagree with my recommendation and allow the information that you have provided to be made public. Please treat any information provided to you during the course of this investigation as confidential. In addition there are statutory restrictions on

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the disclosure of information obtained during an investigation. This is covered by section 63 of the Local Government Act 2000 and disclosure of information contrary to this is a criminal offence. Do you have any questions about what I have said so far?

Oakes: I don't think I have up to this point.

EJ: Thank you. If at any stage you feel you would like a break, please say so and I will adjourn the interview for a short period.

Oakes: Thank you.

EJ: Is there anything else you like me to explain on the procedures or otherwise?

Oakes: Er, I was just going to look at the reference number, I don't know if you have the reference number, I only heard half of it and I just want to make sure we were ...

EJ: Oh yes. It's SC3LR and then we've got 14821/EBJ.

Oakes: Ah, DXT I think.

EJ: Yes, that was my predecessor.

Oakes: Yes of course. No that's fine, I just had missed that that's all.

EJ: The interview will take approximately 45 minutes. However, this may change. I can offer you a break at any time you request it and I may decide to take a break to assist me in my role, even if you don't actually need one.

OK thanks, I'll first start with some general questions. How long have you been a member please?

Oakes: Since May 2006.

EJ: And when you became a member, did you sign a declaration of acceptance of membership and an undertaking to observe the code of conduct?

Oakes: I did.

EJ: Do you recollect the day you signed it?

Oakes: Not off hand but it would have been within a few days of actual... actually taking my seat.

EJ: Thanks, yeah. My records do show that it was on 8 May, that was four days after ????????. What training have you had on the Code of Conduct?

Oakes: I would have had the general induction all members had erm..... which obviously has been topped up at group meetings on a routine basis by ??????? internally. I am sure I've gone through all the standard Council induction procedures.

EJ: OK. Do you recollect attending an Ethical Governance briefing held by Davina Fiore and John Suddaby?

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Oakes: I certainly ... I can't be certain as to the date but I certainly attended a session at which they spoke yes.

EJ: OK. And you have also mentioned that you did attend a LibDem briefing.

Oakes: Well, I'm saying from time to time ... I can't be specific as to dates, but the general question of members conduct does come under the subject of discussion of renewal of certain things.

EJ: Thank you. Have you ever attended any briefing on the Data Protection Act since you became a Councillor?

Oakes: Well I'm assuming it would have been covered in the Council's standard induction procedure, so yes.

EJ: Our records show that you did attend one on 13 May 2006.

Oakes: Fine. I won't dispute that.

EJ: Are you familiar with the provisions of the Code of Conduct?

Oakes: In general terms yes. I couldn't quote specific paragraphs.

EJ: Following on from this, are you familiar with the provisions of paragraph 4 of the Council's Code of Conduct regarding the disclosure of information?

Oakes: Well, I'm aware of the general intention of that, yes.

EJ: Thank you for that.

OK, I'll now go on to the emails which are the subject of this complaint. I do know that my colleague, Daniel Toohey, did send you copies of the emails.

Oakes: Yes I have them here. Or it, rather I've only got one but in fact there were two.

EJ: Yes, there were two.

Oakes: Two that you mentioned, two.

EJ: Yes. Sorry ... I am just ... here they are. There are two sets of emails sent on the 1st December and the 3<sup>rd</sup> December 2008. I will first deal with the email of 1<sup>st</sup> December which was sent at 13:21pm. On 1<sup>st</sup> December 2008 the Council's email quarantine tool mimesweeper trapped an email sent by you to Tim Ross of the Standard, of the Evening Standard and this is the email. Is this the email that was sent by you?

Oakes: Erm... it looks very like ... yes, yes it is.

EJ: OK, thank you. Can you please tell me why you decided to send this email to Tim Ross?

Oakes: I was asked to do so, by the Evening Standard, who rang me up with the details of the story verbally and asked if I could confirm.

EJ: Are you saying that they were aware of this, because you say that they rang you to confirm? Had you spoken to them previously?

Oakes: I had not.

EJ: Did you ask them how they came, how they heard about this story?

Oakes: Well, as a former journalist I know it would be useless to ask them because journalists don't usually reveal their sources so where they got the information from is immaterial to me.

EJ: Can you please elaborate, can you tell me exactly what they said to you?

Oakes: Erm, well, without being able to recall the conversation verbatim, erm ... they said that they had information to the effect that a senior member of IT had been on what is popularly called Garden Leave for a long time erm and they mentioned various other details of the story... erm

EJ: Can you tell me what you recollect them mentioning about the story?

Oakes: Well, certainly the name of the person, the position, the fact that they had been on paid leave for a long time, that there had been a case brought in the Employment Tribunal already by this person against Haringey and that it had now been decided and that she and Haringey should part company and that she should receive a large sum of money.

EJ: Do you remember the date you received the telephone call from Tim Ross?

Oakes: Well, it would have been within two days of the date of the email?

EJ: That would be 30<sup>th</sup> November.

Oakes: 30<sup>th</sup> November, something like that.

EJ: 29<sup>th</sup> November.

Oakes: Yes, yes.

EJ: So, Tim Ross telephoned you and asked you for details?

Oakes: Well, he asked me to confirm.

EJ: He asked you to confirm?

Oakes: Yes.

EJ: OK. Who gave you the report? Who gave you the report that was the subject of the email?

Oakes: Well, I asked Councillor Aitken.

EJ: Do you recollect when you asked Councillor Aitken to give you the report?

Oakes: Well it would have been subsequent to the phone call from me, within a couple of hours of the phone call from the Evening Standard.

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- EJ: When Councillor Aitken gave you the report, did he ask you why you wanted it?
- Oakes: He didn't actually no.
- EJ: Were you aware of the status of the report when he gave it to you?
- Oakes: I was.
- EJ: Are you a member of the Committee because the report is a report of the General Purposes Committee?
- Oakes: That's true. Erm, no, I'm not a member of that committee but its not uncommon for Councillors to share reports.
- EJ: But when he gave it to you, you asked him, you say you asked him for a copy of the report, didn't he ask you why you wanted the report?
- Oakes: Well, he and I are close colleagues, erm no he didn't ask. We had already discussed the story in general terms, much nearer the actual date of the Committee, but I had given it no thought at that time. It was only when the Standard rang me seeking confirmation that it assumed a larger significance.
- EJ: So when you asked Councillor Aitken for the report, he did ask you why you wanted it?
- Oakes: No, he didn't.
- EJ: And he did not ask you what you were going to do with it?
- Oakes: No.
- EJ: Did you volunteer that information?
- Oakes: No I didn't. Just to put those remarks in context because they might otherwise sound erm unusual, erm I've known Councillor Aitken erm since 1980 so we have an extremely close political understanding. He asks me questions, I ask him questions on a regular basis, erm, freely, how shall I explain it, natural mutual inquisitiveness erm...
- EJ: OK, so for the purpose of obtaining the report from Councillor Aitken was that to send it to the Evening Standard?
- Oakes: It was so that I could have hard evidence to confirm what was up to then, just a verbal story as well as far as they were concerned.
- EJ: So to ask you a straight question, why did you send the report to the press?
- Oakes: Erm ...
- EJ: To Tim Ross?
- Oakes: Well, that's right. I sent it to them because I thought there was an overriding public interest that a newspaper, in possession already of some facts, should

have accurate information, or if it was going to publish something. So should not mislead the public.

EJ: So, before you sent it, you were a councillor, you had signed an undertaking to observe the Code of Conduct. Did you ever consider paragraph 4 of the Code of Conduct that ??????

Oakes: I did but there are many demands made of a Councillor. Councillors are supposed to be leaders in some respect. They are supposed to point out unpopular truths so that injustices or irregularities and illegalities can be rectified, and looking at the story as a whole, in view of the large amounts of money which have already been expended on this case because of Haringey's then habit of giving people extended gardening leave and failure to determine their situations properly, I decided there was an overriding public interest with this situation, it deserved to be known about so that it could be rectified and also there was a secondary matter of public interest in that it was widely rumoured that a councillor was involved in this whole thing on a personal level.

EJ: Thank you. Did you speak to anyone else other than Councillor Aitken before you sent the email and the report to the Evening Standard?

Oakes: No, the report stood on itself ... by itself and I didn't need to consult with anybody else.

EJ: The report clearly states not for publication and classified as exempt, can you confirm again that you were aware of this at the time you sent the report?

Oakes: I was. I was.

EJ: Thank you.

Oakes: Can I volunteer information as well?

EJ: Oh yes, you can.

Oakes: Yes. Another important aspect of this is that the newspaper was not offering money. I did not do it for personal gain.

EJ: Thank you.

Oakes: Although I have in the past been a journalist and I have earned my money in that way.

EJ: OK, thanks for that.

Oakes: But since becoming an elected member, I have not earned money in that way.

EJ: Ok. I have another question actually. Why did you copy Councillor Aitken into the report?

Oakes: Retrospectively so that he could know what I'd done with it.

EJ: You copied him in using his two email addresses, why did you do that?



- EJ: In that email you say that his departure cost Haringey [REDACTED] Can you please elaborate on this?
- Oakes: Excuse me. Well, I think that was the headline which the story carried when it appeared, erm that would refer to the total package which [REDACTED] received on leaving the Council. Together with pension rights and ???
- EJ: Did you leak that story to the Standard?
- Oakes: Erm ...
- EJ: ... several years ago?
- Oakes: I think I did yes, I don't know about leak.
- EJ: You sent it to the Standard?
- Oakes: Yes, well I was a journalist at that stage.
- EJ: Were you a member at that stage?
- Oakes: Erm ...
- EJ: I mean a member of ... an elected member of Haringey Council.
- Whyte: You can see he was elected 2006 ????
- EJ: Yes I know I just wanted to know when this was ... when this was sent to the Standard.
- Oakes: I am sure that would have pre-dated ...
- EJ: It would have predated?
- Oakes: My ... yes.
- EJ: OK. So this happened when you were a journalist?
- Oakes: Yes.
- EJ: OK, so you weren't a member then?
- Oakes: No.
- EJ: Thank you.
- Oakes: I will have to check that but in my memory I was not a member.
- EJ: Can you tell me when you first became a member because you did say 2006. Previous to that were you a member?
- Oakes: No, No I wasn't.

EJ: So 2006 was the first time you became an elected member of the ????

OK, I have also another email. There was an attempt, I don't know if this reached Tim Ross but at 1:46pm on the same day you sent another email to Tim Ross. Can you confirm that you sent this to Tim Ross?

Oakes: Erm...

EJ: That was a few minutes after you sent the first one.

Oakes: Yes, yes, I did send an email to Martin Delgado.

EJ: The emails to Martin Delgado were sent on 3 December. I will get to those shortly.

Oakes: Yes. I haven't got a copy of it but that looks familiar.

EJ: I will now go on to the email sent on 3 December at 14:29 and 15:41 to the Mail on Sunday. I would now like to show you a copy of the first one that was sent. Can you confirm whether you sent that email.

Oakes: Yes, I did.

EJ: Thank you. Why did you send that email?

Oakes: For exactly the same reasons as the identical email sent to the Evening Standard. The Standard and the Mail on Sunday separately phoned me and said that they had a large number of details relating to the story and could I confirm them. I said I was in a position to do so, so I did.

EJ: Thank you. In that email you refer to a call, a telephone call from Martin to yourself, did he call you?

Oakes: He did, yes.

EJ: Why did he call you?

Oakes: He would have had my name as a contact from the first story I sold to the Mail on Sunday, was in 1984, so, up until my election as a member I would have been a member of their, how shall I say it, a list of contacts in London.

EJ: Did you call him previously that day or days before?

Oakes: No, in both cases it was a newspaper that called me, not vice versa.

EJ: OK. Do you recollect when he called you? Was it on 3 December or 1<sup>st</sup> December?

Oakes: It must have been after the Evening Standard's call. I can't be precise. Within 24hrs of the Evening Standard's call I would have thought and I would have replied to him within a day.

EJ: In that email you said "everything in the memo to Tim below applies of course". What do you mean by that?

- Oakes: Well, the various requests ... I mean that I ask them not to be identified in print nor Ron Aitken because his name was on the label on the first page.
- EJ: Ok, thank you. I am now going onto the second email that you sent on 3<sup>rd</sup> of December and that was sent at 15:41. Can you have a look at this and can you confirm whether you sent that email.
- Oakes: Er, yes I did.
- EJ: In that email you say "I hope this reaches you. I think the case never got to the Employment Tribunal because Haringey did not want to risk the embarrassment of Councillor Charles Adje's revelation for which she should have been taken to a disciplinary tribunal, arguably and not rewarded." Please explain what you mean by this.
- Oakes: Well, there was a rumour that an elected member had been involved in this case ... on a personal level.
- EJ: Any further details ... any further details that you can give me?
- Oakes: .... I'd prefer not to be more precise at this stage.
- EJ: OK. Thank you for that. So can you confirm the reasons for disclosing the report to Martin Delgado of the Mail on Sunday.
- Oakes: They would have been identical to my reasons for disclosing them to the Evening Standard. Erm, that is over-riding public interest particularly as far as what I saw to be irresponsible waste of public money and also secondly the improper involvement ... the possible improper involvement of an elected member.
- EJ: Ok. Thank you. On 3<sup>rd</sup> December 2008, did you contact anybody in the Council asking about some emails that you had sent?
- Oakes: Erm ...
- Whyte: Can you say that date again?
- EJ: Sorry.
- Whyte: Can you say what date that was again?
- EJ: That was 3<sup>rd</sup> December. Specifically did you contact anybody in the Council's IT section?
- Oakes: Honestly I'm trying to remember. I should have perhaps ... I should have made a note at the time. I'm pretty sure that I did erm, I can't for the life of me ... I can't remember precisely why...
- EJ: When you said that ..

Oakes: I'm sorry am just trying to remember exactly the sequence of events. I am fairly sure that I did ring someone in I.T and I am not entirely sure as to why. It could possibly have been a technical query.

EJ: After you sent the emails on the 1<sup>st</sup> and 3<sup>rd</sup> December, did you speak to any of the Press regarding the emails? Was there a follow-up conversation with anybody at the Press?

Oakes: Yes. I would have spoken to the Mail on Sunday.

EJ: Can you tell me what you spoke about?

Oakes: Without recalling in detail erm, we would probably have spoken about the Council's reaction to the emails because by then the Council and the Mail on Sunday were talking on a very regular basis. The Council Press Office particularly ...

EJ: Yes.

Oakes: ... as far as I'm aware and also probably the legal department.

EJ: Yes. I have it on record that you phoned the IT section on the 3<sup>rd</sup> December and spoke to one of the I.T operatives, called Elias Demetriou regarding an email that you had sent.

Oakes: Yes. Well I am not denying that.

EJ: OK. Can you ...

Oakes: I can't ...

EJ: ... recall what was discussed? That's why I've given you some information to help your memory.

Oakes: Yes of course. Erm, erm, if I was more au fait with...erm information technology I could probably tell you immediately. It might have been in relation to a delay or transfer, I just, I just don't know.

EJ: Do you recollect whether there was a delay in the emails that you sent? When you sent those emails did they go through, because some of them were quarantined, intercepted by the Council?

Oakes: Yes, I think it may have been actually at the time ???? . Yes, I can't be certain.

EJ: Did you ask anyone to check whether an email that you sent had gone through, because that is what Elias ...

Oakes: I can't be certain but it sounds correct, yes.

EJ: How many times did you phone? Did you speak to the IT people on that day, do you recollect?

Oakes: I don't think I would have made it more than one call. One or two maybe, but I can't be certain.

- EJ: Did you engage in email correspondence with any member of the IT team on that day?
- Oakes: No.
- EJ: Or subsequent day?
- Oakes: No. It's always been verbal. I haven't, to my knowledge, I don't think I ever needed to send an email.
- Oakes: *Inaudible ... (something about quick)*
- EJ: Yes. I would just like to show you this email which we got from Elias. Its just an email that he sent to you in response to your query.
- Oakes: Ah.
- EJ: That was on the 3rd of December.
- Oakes: Right, well this is them to me, not me to them.
- EJ: No, but there were phone calls and you have confirmed that you probably phoned.
- Oakes: Well, I tried to remember and you've assisted and I think that's the sequence of events yes, and here he is. I'd forgotten this one, in fact I'm going to make a note of it because it's erm... so clearly he is unaware of the contents of these.
- EJ: Yes. Because what happens, I think mime sweeper just intercepts and then quarantines them until somebody checks them...
- Oakes: Hmmmm. Erm, yes, and he can't necessarily tell why they've been quarantined.
- EJ: Yes.
- Oakes: So this is just factual information as far as he is concerned and he is not involved in this? Apart from...
- EJ: No, he's not involved in this, just confirmation.
- Oakes: Yes, I mean I've certainly no wish to involve IT.
- EJ: No, no they are not involved at all.
- Oakes: Good. OK.
- EJ: You should have a copy of that in your inbox.
- Oakes: Well, I may, well unless I've ...er... forgive me, was that sent to my domestic or my council?
- EJ: It doesn't say...

[Talking amongst EJ and Councillor Oakes]

Oakes: Yes it is, its marked to Councillor inbox, yes. Thank you very much.

EJ: Ok, thank you. Do you have any questions that you would like to ask?

Oakes: I think there is a perennial one. I would be grateful to see the exact terms of her complaint that Councillor Reith...

EJ: The complaint was sent to you when my colleague sent you a copy of the report and email.

Oakes: Oh, I don't remember that. I'd seen it in paraphrase but I haven't seen the exact letter from her. I haven't seen the exact ...

EJ: The exact complaint.

Oakes: It would assist if ....

EJ: Here is a copy of the complaint.

Oakes: Thank you very much. Would it be possible to have a photostat of this?

EJ: Yes.

Oakes: That's fine. Thank you. Thank you very much. If we are still on record ...

EJ: Yes.

Oakes: I would just like to stress again that this was not done for personal gain, it was done in both cases at the instigation of newspapers involved, I didn't volunteer information, I was merely giving information confirming what they already told me was in the public domain, so I did it because of over-riding public interest which is something a Councillor is expected, indeed encouraged to look out for, awkward though it may be in some circumstances. Because I thought the public had a right to accurate rather than misleading information, hence nobody else was involved in this except to the extent an innocent provision of information in Councillor Aitken's case.

EJ: Thank you very much.

Oakes: Thank you.

EJ: Thank you. Do you have any further questions?

Oakes: I don't believe at this moment that I do.

EJ: Just to repeat. The purpose of this interview as I have stated is to investigate the allegation of unauthorised disclosure of personal information made by Councillor Lorna Reith against you. Before the investigation is completed, you will be sent a draft of the report to enable you to make any representations that you consider necessary. Copies of the draft report will also be sent to Councillor Oakes, sorry Councillors Aitken and Lorna Reith. Please treat what we have discussed today as confidential. In addition there are statutory restrictions on

the disclosure of information obtained during an investigation. This is covered by Section 63 of the Local Government 2000 and Disclosure of Information. Contrary to this is a criminal offence. If the case is considered at a hearing, part of the transcript of this interview may be submitted as evidence and you will be called as a witness. Any information that you provide me which is of a sensitive or private nature will be kept confidential and I will ask the Adjudication Panel for England or the Standards Committee to keep this information confidential. This is, however, their decision and they may disagree with my recommendation. Thank you very much for attending this interview. I will be preparing the draft report and my proposed timescale for disclosure of the draft report to you will be week beginning the 8<sup>th</sup> of June. I will keep you updated of the progress.

Oakes: That's very kind of you. Sorry week beginning 8<sup>th</sup> June?

EJ: 8<sup>th</sup> of June, yes.

Oakes: Yes. There is one other thing I which I would like to stress which hasn't emerged, erm, it was no intention of mine to er do anything which might harm an individual Council officer. Er, the intention was to disclose a general wrong so as far as I knew, as far as I intended there wouldn't be any identification of any individual in this story.

EJ: OK, thank you for that. OK, before we conclude, something else. I mean we have already discussed about its to do with Councillor Aitken, you did say that you believed you might have discussed what happened, you know the emails that you sent to his email addresses, with him after, subsequently after they were sent.

Oakes: Yes. But not before.

Whyte: Sorry, can we ... the tape's stopped

EJ: OK, thank you. Can I just repeat one question again? Before we end I would just like to confirm something that we have already discussed. You did say that you discussed the emails that you sent to the Press with Councillor Aitken after the emails had been sent.

Oakes: After they had been sent, yes.

EJ: And do you recollect what Councillor Aitken said about those emails?

Whyte: Sorry he didn't say that, he said "I'm sure we must have discussed it but I can't remember".

EJ: inaudible

Whyte: You said "You asked the question did you discuss the emails with him after you sent the email" and he answered "I am sure we must have discussed it but I can't remember".

EJ: Thank you, we have got that on the transcript and I wanted confirmation of that. So, you're saying he must have discussed it but you can't remember.

Oakes: I can't recall in detail.

- EJ: Yes. Do you, so you can't recollect any discussion with Councillor Aitken on this?
- Oakes: No, but I'm pretty certain that one did, well he would have remarked on the fact that he had received a copy.
- EJ: Yes. OK. Have you discussed this with Councillor Aitken recently? During the past 3 months have you had any discussions on this with Councillor Aitken?
- Oakes: Well, naturally, since we're both being investigated, yes. He knows that I'm being interviewed now and that he's waiting for a similar interview.
- EJ: Yes he is.
- Oakes: So, yeah.
- EJ: Well, thank you very much for attending this interview today.
- Oakes: Thank you very much.

INTERVIEW TERMINATED

I hereby confirm this to be a true and accurate record of my interview.

Signed: .....  
John Oakes

Date:

Members' Room,  
River Park House  
July 6, 2009

Dear Evelyn Jarrett

Standards Complaint Case 1482/EBJ

I write in answer to your letter of June 19th and the accompanying Personal Interview and Draft Report.

### PERSONAL INTERVIEW

#### 1 Format

The normal court procedure in the UK is for transcripts to omit any mention of "coughing," "pause," "long pause," for the specific reason that these can all be misconstrued.. I am therefore requesting that all these details be removed before either of the interviews are shown to any third parties.

#### 2 Timing

You have only allowed two weeks for comment, on a wealth of material which the Council has spent months gathering. In the circumstances I asked for a further two-week extension, of which you have allowed only one week. It has not been possible for me to access the proper legal advice within this time frame.

#### 3 Errors etc.

There are several literal and transcription mistakes in my interview.. Most importantly,

page 4, line 13, should read "recollect", not "regret."

page 6, line 14 should read "widely", not "wildly"

page 8, line 9: I question the use of the word "leak", since it has not appeared in the text before, and it is not usually a word I use.

page 8, line 27: I have checked my records, and the article about [REDACTED]  
[REDACTED] before I was an elected Member

of the council.

Otherwise, the transcript seems to be an accurate version of the interview, as far as my memory carries, since I have not been able to compare it with the tape, and I sign it with that caveat.

#### 4 Procedure:

Correspondence confirms that this was in the nature of a preliminary interview, to establish a prima facie position; I approached it as such, and I will provide a full witness statement should the matter proceed further.

#### DRAFT REPORT

I would like to comment as follows on the draft report, but these comments do not preclude further comments:

Page 4, Para 4, Evidence gathered: I notice that almost no steps have been taken to verify any evidence or statements relating to the actions of the newspapers concerned. It follows that judgments of their role/intentions in this Draft are entirely subjective; which must cast doubt on your conclusion 9.3 which I challenge vigorously (see below).

I also note that there has been no attempt to question any of the Labour Councillors known to have been connected with this issue, and can only guess why this should be.

Page 8, Para 6.3: My guesses about what we may or may not have said were based on the assumption that Cllr Aitken actually received the emails. Now it appears that he did not; I know his computer was damaged at the time, and was also routinely putting emails in the Spam section.

Page 8, Para 6.4: ~~one reason why~~ I did not want to be identified was that this was not being done for personal or political gain, but to underline a situation (Haringey's granting of unduly prolonged gardening leave) which I judged should be rectified - see "unauthorised use of public funds", page 4, where the situation is dealt with in Haringey's Whistleblowing protocol, 06/08.

Significantly, this protocol also says, Para 8 page 6, "The council will seek to

protect an individual's identity when they raise a concern and do not want their name to be disclosed". This has an obvious bearing on my case.

It also says whistleblowers will be "afforded protection under the Public Interest Disclosure Act" even if they are mistaken; and that, Page 8, "if whistleblowers fear that their employer will bring retribution, they can make a wider disclosure to.....the media....." This also has a bearing on my case. Haringey appears to have no equivalent protocol for Councillors.

Page 9, Cllr Aitken's interview, Para 7.1;

I confirm that Cllr Aitken did not know what I was going to do with the report, because I did not tell him. Any apparent contradiction can be explained by the order in which things happened. (see also Para 9.12)

Para 7.5: I have already commented on the question of Cllr Aitken's non-receipt of emails.

Page 11, Para 9.3, second sub-para: this appears to be contradicted by your para 5.1, which seems to say that emails are quarantined because of content.

Para 9.3, third sub-para, "I do not find any evidence...." : there is abundant evidence, but it has not been sought. Further, I believe that you cannot, by definition, disclose something which is already in the public domain. The fact that there was an Employment Tribunal case means that information would inevitably be in the public domain already.

There is an assumption throughout this report that my disclosure of information would have led to the identification and harming of a council employee. But that information was already substantially in the public domain in one form or another, and known to the press.

What the Evening Standard and Mail on Sunday needed were documents proving what they had been told by others, since investigative journalists go to any length to validate their sources to ensure accuracy. All I did was to provide solid evidence that their previous verbal information was in fact correct.

The justification for doing so was to bring to light a practice (granting extended gardening leave) that had been common in Haringey at least since 1979, when I started as a local journalist, and which I thought residents ought to be rid of.

The matter has been raised in the Council Chamber, but with only partial success. This newspaper request gave an opportunity to bring the spotlight of

public disapproval to bear – a solution sanctioned on page 8 of the Council's Whistleblowers' protocol.

New Councillors (which is what I am) are encouraged to employ a wide range of tactics to improve local government, and that is what I thought I was doing here.

I repeat, my intention was not to harm a council employee: the story could easily have been run without identifying the individual in print. The newspapers merely needed the assurance that the facts were true to be able to draw attention to the waste of public money on a large scale. But newspapers have not been approached for this side of the story.

I am not saying I would take this course of action again. But I am saying it was perfectly understandable in the circumstances, done entirely in the public interest, and would not have had the damaging results which your draft assumes.

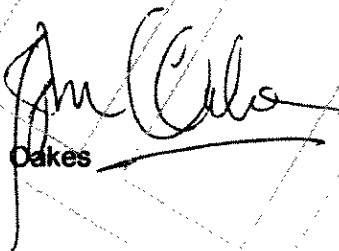
Page 13, Para 9.9: you state "There is an overriding public interest...."

Surely the overriding public interest is that the residents of Haringey shall receive the services they pay for in an efficient and economic manner, which I claim they were not in this instance.

Page 14, Para 9.15: Cllr Aitken did not know I was going to give the report to the press. I thought that he, as a former Whip, would advise me against it. He was copied in merely to advise him of what had been done.

Yours sincerely

Councillor John Oakes



**RECORDED INTERVIEW****Interview with Councillor Ron Aitken****Dated: 20 May 2009**

EJ: Good afternoon Councillor.

Aitken: Hello.

EJ: My name is Evelyne Jarrett and I am an Investigator for the Monitoring Officer of the London Borough of Haringey, John Suddaby. As I advised you by letter, and as you have now agreed, I will be recording this interview. Can you confirm for the record that you consent to this?

Aitken: Yes I consent to the interview being taped.

EJ: Thank you. For the benefit of the tape it is 5.00pm on the 20 of May 2009. The monitoring officer responsible for this investigation has asked me to assist him in this matter. For the record this is an interview with Councillor Aitken about case number SC3LR 14821 regarding allegations about the conduct of Councillors Oakes and yourself. I would now like to set out the complaint.

The complainant Councillor Lorna Reith made a complaint to the monitoring officer John Suddaby on 2nd December 2008 against Councillor Oakes and yourself alleging that Councillor Oakes sent an email to the Evening Standard which contained the exempt and confidential papers of the Special General Purposes Committee Meeting held on 4 November 2008 and that Councillor Oakes revealed the identify of the member of staff from the report. You were included in the complaint as you were copied into the report and the copy of the report sent was the copy provided to you as a member of the General Purposes Committee. The Standards Committee Assessment Sub-Committee decided that the complaint could amount to a breach of paragraph 4 of the Code of Conduct which relates to disclosure of information given to you in confidence by anyone or information acquired by you which you believe or ought reasonably to be aware of, to be aware is of a confidential nature. The Assessment Sub-Committee then referred it for investigation to the Monitoring Officer.

I am conducting this interview under the powers given to the Monitoring officer by the Local Government Act 2000 and the Standard's Committee England Regulations 2008. Before the investigation is completed Councillor Oakes and yourself will be sent a draft of the report to enable you to make any representations that you consider necessary. As a witness you may be sent

relevant extracts from the draft report for the same purpose. Councillor Reith will also be sent a draft of the report to enable her to make any representations. Having considered comments on the draft report, I will then issue my final report.

Parts of the transcript of this interview may be included in the draft and final reports. If the case is considered at a hearing, parts of the transcript of this interview may be submitted as evidence and you may be called. If you provide me with information of a sensitive or private nature, I will ask the Adjudication Panel for England or the Standards Committee to keep this information confidential. This is however their decision, and they may disagree with my recommendation and allow the information you have provided to be made public. Please treat any information provided to you during the course of this investigation as confidential. In addition there are statutory restrictions on the disclosure of information obtained during an investigation. This is covered by section 63 of the Local Government Act 2000 and disclosure of information contrary to this is a criminal offence. Do you have any questions about what I have said?

Aitken: No.

EJ: Thank you. If at any stage you feel that you would like a break, please say so and we will adjourn the interview for a short period. Is there anything you would like me to explain either to do with the procedure or otherwise.

Aitken: No, I'm quite clear about the procedure.

EJ: OK. Thank you. The interview should take approximately 45 minutes. However, this might change. I will offer you a break if you request it and I may decide to take a break to assist me in my role even if you don't actually really need one. Thank you. And this is something that I have to go through as part of this interview. Erm, before we start, there is something I would like to say and this is addressed to Councillor Whyte. Councillor, you are quite welcome to be here as Councillor Aitken's friend but you are not to interrupt or to attempt to answer any questions on his behalf.

Whyte: I understand that. On that last occasion you said the question wrong and I think I reserve the right to be able to if something is being put wrongly.

EJ: No, you don't reserve the right because I asked a question that I had asked previously I didn't ask it wrongly.

Whyte: You repeated an answer, you repeated it wrongly and I am entitled to do that.

- EJ: No, no you're not entitled to do that -- I would just like to explain. If I ask a question and I para-phrase what the you know, the interviewee has said, then it is up to the interviewee to say to me 'no you got it wrong that's not what I said', but you were ...
- Whyte: Well ???? (*inaudible*)
- EJ: Well, I am just setting out the boundaries right now and I would be grateful actually if you would accept what I have said.
- Whyte: Er, I will, then I'll just tell Councillor Aitken to have a break at that point.
- EJ: Ok, thank you. Ok, I will start with questions, and erm I will just start with background questions. Can you tell me how long you've been a member please?
- Aitken: Er... I think a total of 13 years from 1988 to 1994 and then again since 2002.
- EJ: OK, thank you, 2002 and its been consecutive to 2006 and then ...
- Aitken: Yes.
- EJ: Thank you for that. Did you sign a Declaration of Acceptance of Office and an undertaking to observe the Code of Conduct?
- Aitken: I did.
- EJ: OK, when did you sign them?
- Aitken: Erm .. that would have been May 2002 and May 2006.
- EJ: Thank you. What training have you had on the Code of Conduct since you became a Councillor?
- Aitken: Er ... I have had the normal member induction training in the Code of Conduct.
- EJ: OK, have you had any other training? That you can think of?
- Aitken: Not that I'm aware of no.
- EJ: Did you attend training on the Data Protection Act by S Cornell and J Harding on 30th May 2006?
- Aitken: I believe so yes.
- EJ: Ok, thank you. Did you ... have you also attended any Liberal Democrat group training... briefing on the Code of Conduct?

Aitken: Not that I'm aware of. Or not that I recall.

EJ: OK. Thank you. Are you familiar with the provisions of the Code of Conduct?

Aitken: Yes I am.

EJ: Are you familiar with the provisions of part 4 of the Code of Conduct relating to the disclosure of confidential information?

Aitken: Yes I am.

EJ: Are you aware of the provisions relating to information that is described as exempt information in committee reports?

Aitken: Yes I am.

EJ: Are you aware of the provisions of the Data Protection Act?

Aitken: I am.

EJ: Thank you. Are you familiar with the Local Government Access to Information 1985 Act?

Aitken: Yes, I am familiar with that.

EJ: OK. Can you briefly tell me what you think it deals with?

Aitken: Well, it deals with protecting individuals from having their identity released by unauthorised persons.

EJ: Ok. I would now like to ask you a few questions about Councillor Oakes. How long have you known Councillor Oakes?

Aitken: Oooh, 20 years I think.

EJ: Can you expand on the relationship?

Aitken: He's a colleague.

EJ: He's a colleague, ok. So you knew him before he became a councillor of Haringey Council?

Aitken: Well I think almost every Haringey Councillor knew Councillor Oakes in some way, he was a journalist with the Hornsey Journal...

EJ: Yes so he's well known.

Aitken: Yes.

EJ: Thank you. Are you a member of any committees of the Council?

Aitken: I'm a member of the General Purposes Committee and the Overview & Scrutiny Committee.

EJ: Ok, thank you. OK. I will now move on to the email of the 1st. On the 1st December 2008 at 1.21pm the Council's quarantine tool mine-sweeper intercepted two emails sent by Councillor Oakes to a Tim Ross of the Evening Standard. The emails contained highly confidential and personal information about a former senior employee of the Council. I have a copy of the email here, can you have a look at it. Do you recognise this email?

Aitken: I've seen that email yes. Just... hold on actually ... erm ..., yes, I've seen that email, yes.

EJ: OK, thank you. I would now like to read out the contents of the email.

"Hi Tim, all this is highly confidential all on yellow paper. Press and public excluded, so please don't use my name or Ron's if you are discussing it with Haringey's press office."

The next paragraph is as follows –

"it is numbered [REDACTED] with the first two being merely introductory sheets. Haringey has a habit of making big sacking/departure payouts. A few years ago the Standard carried my story of the departure of [REDACTED] because he fell out with Council Finance Chief, Charles Adje. That cost Haringey [REDACTED]. You could do a rag out" and that's where it stops "Cheers, John Oakes."

This email was sent by Councillor John Oakes to Tim Ross and you were copied in using both your LibDem email address and your personal address, which is soasron@yahoo.co [sic]. Can you tell me if those are your addresses?

Aitken: They are my email addresses but I only saw this email after Mr Suddaby contacted me on, I think, the 20th of December and I've checked that so er, I saw this email after Mr Suddaby contacted me.

EJ: So you are you saying you ... when this email was sent on the 1st, 2nd and 3rd you never saw it?

Aitken: No. No.

EJ: Ok, can you explain why you were copied in to the email?

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Aitken: Well, I can only assume that Councillor Oakes copied me in because he had got my copy of the report from me.

EJ: Ok. Thank you. The email contains an attachment and you've referred to it, it contains actually two attachments, there's the agenda and the exempt report. Did you attend the meeting on 4th November 2008?

Aitken: Er, I did.

EJ: Did Councillor Oakes attend the meeting on the 4th November?

Aitken: Not that I recall.

EJ: Is he a member of that Committee?

Aitken: Er, I believe not.

EJ: As you can see the Agenda has your name, Councillor Ron Aitken and your River Park House Address on it.

Aitken: Yes.

EJ: Do you recognise the agenda and the report?

Aitken: That is correct.

EJ: Thank you. Did you give the agenda and the reports to anyone after that meeting?

Aitken: I gave a copy of the agenda and the report to Councillor Oakes.

EJ: After the meeting? On the 4th November?

Aitken: Yes, it was sometime after the meeting.

EJ: OK, when you say some time, can you give me an estimate?

Aitken: Erm ...

EJ: A couple of days?

Aitken: Five days, maybe a week.

EJ: Five days. Thank you. The report is marked "not for publication" as it contains information classified as exempt under Schedule 12A to the Local Government Act 1972, in that it contains information that relates to an individual and also contains information from which a claim of legal professional privilege could be maintained in legal

proceedings, were you aware of the status of this report at the time of the meeting?

Aitken: I was aware of the status of the report at the time of the meeting.

EJ: Why did you give Councillor Oakes the report?

Aitken: Well, the body of ... in the body of the report there is a reference to a restructuring er which was taking place of the Council and er the possibility of the person concerned in the report being offered a position of, I think it was [REDACTED]. This comes under Councillor Oakes's community involvement portfolio and so I viewed it as perfectly normal to share a report with a colleague whose portfolio included aspects of the report.

EJ: Thank you. I will now hand you a copy of the report and can you identify the particular paragraphs that you are referring to or the sections.

Aitken: I'm referring to paragraph 6.2, where it says "That the applicant was invited to apply for a new job as [REDACTED]"

EJ: Thank you. So what you are saying is that it is just paragraph 6.2 that you believe is relevant to Councillor Oakes's shadow portfolio?

Aitken: Well, if I can have a look, another look... Well there was also mentioned in the report the fact that the Council considered making a financial settlement with the employee because there has been some disruption to the [REDACTED] department, and I regarded that as being relevant to Councillor Oakes's portfolio.

EJ: Yes. Please can you identify the specific paragraph?

Aitken: Erm, ok, lets have a look. There's a paragraph 6.10, "Since [REDACTED] return to work there has been a significant effect on the efficiency and smooth operation of the [REDACTED] at a senior management level". Paragraph 6.10.

EJ: OK. Thank you. You did say that after the meeting you felt that you should communicate the contents of the report to Councillor Aitken, to Councillor Oakes, sorry.

Aitken: Yes.

EJ: So you made the move, you approached Councillor Oakes?

Aitken: Er, Councillor Oakes asked me if he could have my copy of the report.

EJ: Can you tell me why he asked you for your copy?

Aitken: Because I think he had seen the agenda for General Purposes Committee.

EJ: So you did not approach him with it, he approached you?

Aitken: No, I did not approach him about it, he asked me for my copy of the report.

EJ: But what you initially said a few minutes ago was that you felt he should know about you know some parts of the report as they relate to his portfolio?

Aitken: Well, yes, of course and er er that's why I gave him my copy of the report.

EJ: OK, so you took the initiative? So you ...

Oakes: No I didn't take the initiative.

EJ: Did he approach you before you started thinking this might be relevant to his work, that's just what I'm trying to get at?

Aitken: Well, you would have to ask Councillor Oakes that, but you know he asked me if he could have my copy of the report and I was quite happy to oblige. As far as I was aware there was er nothing in the erm exempt and confidential information rules which prevented me from giving my copy to him and indeed there were a number of labour members at the Committee and labour members who were not at the committee who had information about this case and who got copies of the report, so I don't think there's anything exceptional in what I did with Councillor Oakes.

EJ: Yes, but you know, what you are saying seems to contradict what you said originally, because said that you felt that he should know about parts of the report, and then you said a few minutes later that he asked you for a copy of the report.

Aitken: Well, you know he is the portfolio holder, he knows his portfolio, I don't know his portfolio, but it was at his request that I gave him the report.

EJ: OK, so he requested it, so you never really thought that this would help him, but he came to you and asked you and then you started thinking oh, some parts of this report would have been?

Aitken: (pause) No, I mean, it wasn't up to me to decide which parts of the report were relevant to his portfolio if it is relevant to his portfolio so there would be no reason not to give him a copy of the report

provided the confidentiality rules are observed.

EJ: It's just that you know there is a contradiction here because you said that you felt that he should see it and that's why and you referred me to paragraph 6.1 first?

Aitken: Well if he had asked, if he had come to the meeting or if he had asked the Chairman of General Purposes Committee for a copy of the report he would have got a copy of the report.

EJ: Are you sure of that?

Aitken: Yes.

EJ: OK, can you give me the name of the Chairman of the General Purposes Sub-Committee on that day?

Aitken: Er, it was erm, let's have a look, it should be on the agenda sheet shouldn't it.

EJ: Oh yes, Councillor Griffith.

Aitken: Councillor Griffith, that's right.

EJ: Yes. Thank you.

Aitken: Yes.

EJ: Did you give Councillor Oakes your copy or a photocopy?

Aitken: I gave him my yellow copy of the report,

EJ: So that left you with no copy, you didn't have a copy?

Aitken: Well, my view on exempt reports is that there is no need to hang on to them after the decision has been taken because there is a need to protect the confidentiality of the individual or the Council contained in the report.

EJ: OK. Did you give anyone else a copy of the report?

Aitken: No.

EJ: Do you usually give out copies of exempt reports of meetings that you have attended to other Councillors?

Aitken: Er, yes.

EJ: Do you give out copies of exempt reports of meetings that you have attended to people who are not Councillors?

Aitken: No.

EJ: Did you discuss what was discussed at the meeting with Councillor Oakes after the meeting took place?

Aitken: No, no I didn't.

EJ: Did Councillor Oakes return the report or the copy to you?

Aitken: No he didn't.

EJ: Has Councillor Oakes asked you for copies of any reports on other occasions?

Aitken: No he has not.

EJ: What reason did Councillor Oakes give for requesting the report?

Aitken: Well because he was er, er, the Council was carrying out the restructuring er of Customer Services which falls within the community involved in the portfolio. You know ... and if, quite honestly, if someone is being paid [REDACTED] to leave the Council's employ, er then I think Councillors, members of the authority are entitled to know the background to that.

EJ: You said members of the Authority are required oh what did you say exactly, what did you say exactly can you repeat that again?

Aitken: They are entitled to know the background aren't they.

EJ: Do you think the press are also entitled to know the background?

Aitken: No, no I don't. I would never take that view. There are certain matters which need to be confidential which need to be maintained as confidential to protect the interests of the Council and the individual involved, and I did actually ask a number of questions during the meeting of General Purposes Committee because I was concerned as to whether or not the person that the report was about was actually being made to leave the Council and those questions, some of them were answered by the Chair or the head of human resources.

EJ: Where you satisfied with the responses that the Head of Human Resources and the Chair gave to your questions?

Aitken: Er, I'm not sure whether I was satisfied. I specifically asked a question about whether there were any [REDACTED] harassment implications involved er in the Employment Tribunal or in the er employment of er this individual.

EJ: Was it because you were dissatisfied with the responses that you decided to give Councillor Oakes the report?

Aitken: No, because er in fact I and my colleagues on the er night of the Committee Hearing voted in favour of the recommendations contained in the report.

EJ: OK. Did Councillor Oakes tell you ...

Aitken: I would add, if I'd been dissatisfied with the outcome of the meeting or if I was dissatisfied by any aspects of the report I would say so at the meeting that's the places where that would be done.

EJ: Thank you. Did Councillor Oakes tell you that he was going to leak the report to the press?

Aitken: No he didn't.

EJ: If he had told you that he was going to leak the report to the press, what would you have done?

Aitken: Erm, well, if he had told me that he was going to do that, I would have contacted my Chief Whip and I think the Head of Human Resources er because clearly er, he would be breaching the Code of Conduct and the Confidentiality Rules.

EJ: When you gave him the report did it cross your mind that he might decide to leak it to the press?

Aitken: Well, I mean I think I didn't think that he would do that. It wasn't .... You know I didn't think he would be idiotic enough as to send it to the press.

EJ: Ok. What reason do you think that Councillor Oakes had to copy you in to his emails to the press?

Aitken: Well, lots of people you know, lots of people copy me into emails and er whether they are group colleagues or members of the public or whatever er and you know, I don't know why he copied me in, I wish he hadn't copied me in, but he did.

EJ: Councillor Oakes said that he copied you in to his email so that you could know what he had done with your report and you say that you did not receive it?

Aitken: No, I haven't received those emails.

EJ: He copied you in using your two email addresses to make sure that it got to you and that is what he says.

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Aitken: Well, I did not receive those emails and I only saw those emails after Mr Suddaby contacted me on the 20<sup>th</sup> of December.

EJ: In my interview with Councillor Oakes he said that he doesn't recollect details of any discussion with you after he sent you the emails although he must have done, he must have spoken to you. Then he says "it is difficult to remember in detail. It is likely that you said 'oh, I see you sent it to the Standard'. What do you have to say about that?

Aitken: Well if I said 'oh, I see you've sent it to the Standard" that would be a conversation after the 20<sup>th</sup> of December because obviously I wasn't exactly delighted to find out that he sent it to the papers.

EJ: Have you given Councillor Oakes copies of any exempt reports from meetings that you have attended in the past?

Aitken: No.

EJ: Do you know Tim Ross of The Evening Standard?

Aitken: Er, I think I've spoken to Tim Ross about policing issues.

EJ: Do you recollect why you spoke to him?

Aitken: Because of my portfolio of being a spokesperson in the policing.

EJ: Do you recollect when you spoke to him?

Oakes: No.

EJ: The year?

Aitken: The year, oh, well it would be 2009. March, something like that. No, 2008. yes.

EJ: When?

Aitken: March.

EJ: Did you speak to him in December 2008?

Aitken: No.

EJ: Do you know Martin Delgado of the Mail on Sunday?

Aitken: No I don't.

EJ: Have you ever spoken with, you've answered this partly, but you know, I will still go through it. Have you even spoken with or received any communication via email from Tim Ross, Martin Delgado or any other journalist regarding the contents of the email of the 1st of December 2008?

Aitken: No I haven't.

EJ: Have you ever received any communication via letter or by telephone from Tim Ross, Martin Delgado or any other journalist regarding the contents of the email of the 1<sup>st</sup>.

Aitken: No I haven't.

EJ: Are you aware of the fact that Councillor Oakes attempted to send his email to Martin Delgado of the Mail on Sunday on the 3<sup>rd</sup> of December 2008?

Aitken: Well that's, that's in the er, information that Mr Suddaby sent to me. By the way, what is mime-sweeper?

EJ: Mime-sweeper, I hear it is something that sort of checks, it's like a tool and it checks emails that are sent out.

Aitken: Oh, I see.

EJ: And if its got any, you know sometimes you get some of these ...

Aitken: Dubious contents.

EJ: That's it, dubious content so that sets it off.

Aitken: Right, yes, ok. So you are aware that there has been a problem with the emails ... are you Kyrsti?

KD: Yes.

Aitken: .... That Kyrsti's been sending me because they've all been ending up in Spam, in my spam folder.

EJ: Yes, Kyrsti has shown me

Aitken: Going back...

EJ: Yes, she has shown me her responses.

Aitken: I apologise for that, I have sorted it now.

EJ: Thank you. The second paragraph of Councillor Oakes's email of the 1st of December 2008 refers to a story that Councillor Oakes

said he did when he was a journalist on the departure of Haringey's [REDACTED] In that email, Councillor Oakes says that [REDACTED] departure cost Haringey [REDACTED] This happened some years ago, do you remember [REDACTED]

Aitken: Er, yes I do remember him.

EJ: Where you a councillor when he left the Council?

Aitken: I was.

EJ: Where you a member of the Council's General Purposes Committee at that time?

Aitken: Er, I think ... yes, I was.

EJ: Did you give Councillor Oakes a copy of the exempt report relating to David Warwick's departure and the Compromise Agreement?

Aitken: Er, no I didn't and in fact I was myself and I think Councillor Williams er, were asked about that matter by Mr Suddaby er, and it was, the outcome was that we had not in any way, er, leaked er, the report with regard to the departure of [REDACTED] I think the source of that leak was within the Labour group.

EJ: OK and this was a couple of years back? Was that when Mr Suddaby asked you?

Aitken: That's correct, yes.

EJ: Thank you.

Aitken: In fact, in fact if I recall I was either, I was on the General Purposes Committee and I think I was on the Remuneration Committee and if I recall I actually handed my yellow report back at the end of that meeting to be, to be destroyed.

EJ: Thank you. Have you discussed the complaint with Councillor Oakes recently?

Aitken: No, I haven't on the advice of my Chief Whip.

EJ: Did you seek anyone's opinion before you disclosed the report to Councillor Oakes?

Aitken: No I didn't.

- EJ: Why do you think that Councillor Oakes felt fit to keep you abreast of his secret dealings with the press if you had no prior knowledge of what he was going to do?
- Aitken: Well, I think that's a leading question if I can say so.
- EJ: Let me put it another way. Why do you think he copied you into his emails?
- Aitken: Well, he, erm you know people copy other people into emails in a sort of casual way and erm, I think that's what he did. He wasn't aware of what he was doing. If I, if I, if he had, if I had known at the beginning of December that he had sent that report to the Evening Standard, I would have been on the phone immediately to my Whip and to Stuart Young, the Head of Human Resources.
- EJ: OK, thank you for that. I would just like to ask you a few questions about your letter of the 23 March 2009 to my predecessor?
- Aitken: Hmmmm, is it an email? Its an email, yes, to Mr Toohey?
- EJ: Yes.
- Aitken: Right.
- EJ: Yes. In your email of 23 March to Daniel Toohey you say "I had conversations with several Councillors about the contents of the report for General Purposes Committee and provided Councillor Oakes with my copy as there were aspects of the report that pertained to shadow community involvement portfolio." Can you tell me who these other Councillors are, the several councillors that you discussed?
- Aitken: Councillors Bull & Dodds.
- EJ: Did you discuss it with Councillors Bull & Dodds after the meeting or prior to the meeting?
- Aitken: Er, after the meeting.
- EJ: In your email you further say "...there was no correspondence regarding this report and the first I knew of the email from Councillor Oakes to Tim Ross copied to me, was when Mr Suddaby contacted me in mid-December".
- Aitken: Yes.
- EJ: This contradicts what Councillor Oakes has said, how do you explain this?

Aitken: Well I don't know what Councillor Oakes has said.

EJ: Councillor Oakes says that even though he doesn't recollect everything that happened he is pretty certain, and I quote, he says that he is pretty certain that you would have remarked on the fact that you had received a copy.

Aitken: Well, as I said, if I had known at the beginning of December that he had copied the report to the papers I would certainly have raised it with him, but you know I didn't discuss it with him in the way that you're outlining now. And erm, you know, I wasn't aware of the identity of the person in the report, I was not aware of the identity of that officer er, because it's not an area of the council that I've worked with, it's not part of my portfolio.

EJ: If what you ... let me understand what you are trying to say, you knew her name from the report?

Aitken: Er, no, I didn't.

EJ: You didn't know.

Aitken: I didn't know the name of the officer concerned until several weeks after the meeting and it was a labour member who told me er, who it was that was the subject of the report. Until then I had no idea who it referred to.

EJ: Ok. Another question. So when Councillor Oakes asked you for a copy of the report, he didn't give you any names?

Aitken: No, no. Definitely not.

EJ: OK. In your letter/email to Daniel Toohey, you further said as follows: "I did not solicit this email, and indeed not open it nor did I enter into correspondence regarding the contents of it". Is this an accurate representation?

Aitken: Yes I think so.

EJ: I note what you say. Would you have any objection to giving us access to your email account for a specific period?

Whyte: I don't see what the chance is.

EJ: Sorry, please, don't answer, he can answer himself. Don't interrupt. Can I repeat the question again please councillor and I would like you to answer it please?

Aitken: Yes, please do.

EJ: Would you have any objection to giving us access to your email account for a specific period from 1<sup>st</sup> -6<sup>th</sup> of December 2008?

Aitken: No.

EJ: Ok, thank you. Do you have any questions?

Aitken: Er, is it, can I ask questions?

EJ: Of course you can.

Aitken: Er, if you ... you know, what is the next step as it were?

EJ: The next step, I mean I have interviewed, I have also interviewed Councillor Oakes and I have interviewed other people so I will have to look at all the papers and then I will draft a report.

Aitken: Right.

EJ: And I will send copies of the draft report to the complainant who is councillor Reith,

Aitken: Yes, ok.

EJ: ...and yourself and Councillor Oakes and I will give you a few days for your comments.

Aitken: And are you interviewing any other Councillors apart from myself and Councillor Oakes?

EJ: At this point in time, no.

Aitken: At this point, no.

EJ: But I have interviewed some Council officers.

Aitken: Hmmm.

EJ: Yes.

Aitken: Ok.

EJ: Ok, before I finish I just need to reinforce some of the things I said at the beginning. I will send you a draft of the report to enable you to make any representations that you consider necessary, and if this case is considered as a hearing, parts of the transcript of this interview may be put in as evidence and you will be called as a witness. I would also ask you to treat any information that has been provided to you and during the course of this investigation as

confidential, and for the record you know all the information that you have given me is confidential to this investigation.

Aitken: OK.

EJ: Any other questions?

Aitken: Erm, I mean my, my reservation about access to my email account is borne from some problems I've had myself with data being released and you know my Chief Whip is aware of that and my leader is aware of that and that's why I have given the answer that I did.

EJ: Ok, thank you. My estimated timescale for the preparation of the draft report and for the release of the draft report is the week beginning the 8th June and I will keep you updated on that progress. Thank you. Thanks for attending.

Aitken: Thank you.

EJ: The interview ended at 5.40pm. Thank you.

I hereby confirm this to be a true and accurate record of my interview.

Signed: .....  
Ronald Aitken

Date:

5<sup>th</sup> Floor, River Park House, 225 High Road, Wood Green, London N22 8HQ  
 Tel: 020 8489 0000 Fax: 020 8881 5218  
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**Haringey**

Ms Evelyne Jarrett  
 Investigating Officer  
 Legal Services  
 8<sup>th</sup> Floor  
 Alexandra House  
 10 Station Rd  
 Wood Green  
 N22 7TR

28 June 2009.

Dear Ms Jarrett,

Complaint: Case No 1482/EBJ

Thank you for sending the draft report and record of interview to me. With regard to the Report, my comments are as follows;

1. There is no evidence that I was aware that Cllr Oakes intended to communicate the Exempt Report to the press, indeed it is clear that the e-mail supposedly copied to me never arrived. There is also no evidence of any e-mail traffic between myself and Cllr Oakes regarding this matter or between myself and the media.
2. My providing Cllr Oakes with a copy of the Report was made in good faith and in compliance with the reasonable grounds of the Authority. Indeed a Council Officer later mistakenly released the e-mail in question.
3. No conversation took place in the first week of December with Cllr Oakes because I was in Edinburgh recuperating from pneumonia - and I did state this in my interview with you. Your assertion that "on the balance of probabilities it appears to me to be more likely than not that Cllr Aitken was aware of Cllr Oakes' intention to disclose the report to the media" is conjecture and not supported with evidence.
4. The fact that a meeting has taken place with the Office of the Information Commissioner at which discussions took place as to whether Haringey was prepared, in the light of recent media publicity, to act as Complainant against myself indicates that the findings of your report have been pre-judged by the Council.

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2005-2008  
 Getting Closer to Communities



INVESTOR IN PEOPLE

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**Haringey**

With regard to the record of the interview I would like it to be recorded that you refused to allow my representative to advise me during the interview, and that consequently when I refused my consent to your accessing my personal e-mail account I was unable to state that I would consider this in the light of legal advice. Your assertion that I contradicted myself over whether the report was relevant to Cllr Oakes portfolio is also unjustified by the facts.

In light of the above I wish to state clearly that I have not breached the Code of Conduct and am instructing Counsel to vigorously contest your findings.

Sincerely,

  
Cllr Ron Aitken.

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INVESTOR IN PEOPLE

## **Part Five, Section A Members' Code of Conduct**

### **THE GENERAL PRINCIPLES**

#### ***Selflessness***

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

#### ***Honesty and Integrity***

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

#### ***Objectivity***

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

#### ***Accountability***

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

#### ***Openness***

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

#### ***Personal Judgement***

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

PART FIVE - CODES AND PROTOCOLS  
Section A- Member Code of Conduct

*Respect for Others*

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

*Duty to Uphold the Law*

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

*Stewardship*

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

*Leadership*

10. Members should promote and support these principles by Leadership, and by example, and should act in a way that secures or preserves public confidence.

**EXPLANATORY NOTE**

Listed above are the general principles, as specified by the Secretary of State, which are to govern the conduct of Members and co-opted members of relevant authorities in England and police authorities in Wales, in accordance with section 49(1) of the Local Government Act 2000. The general principles are expected to govern only the official conduct of Members and co-opted members, apart from the second and eighth, which have effect on all occasions.

Members are required to give the authority a written undertaking that in performing their functions they will observe the Code of Conduct adopted by the London Borough of Haringey as set out below. This is based on the general principles above but contains more detailed mandatory requirements. A person who becomes a Member or co-opted Member of the Council may not act in that office until he/she has given the authority this written undertaking.

The monitoring officer of the authority must establish and maintain a register of interests of the Members and co-opted members of the authority under section 81 of the Local Government Act 2000. Members and co-opted members must register all their financial and other interests as specified in the Code and do so before participating in any business of the authority related to those interests. The register of interests will be available for inspection by the public at all reasonable hours.

PART FIVE CODES AND PROTOCOLS  
Section A- Member Code of Conduct

SCHEDULE  
THE MODEL CODE OF CONDUCT

Part 1  
General provisions

Introduction and interpretation

1. –(1) This Code applies to you as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—

"meeting" means any meeting of—  
(a) the authority;

(b) the executive of the authority;

(c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

Scope

2. –(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

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**PART FIVE - CODES AND PROTOCOLS**  
**Section A- Member Code of Conduct**

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

**General obligations**

3. —(1) You must treat others with respect.

(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

PART FIVE - CODES AND PROTOCOLS  
Section A- Member Code of Conduct

4. You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

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

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

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

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6. You—

(a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements;

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7. —(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

PART FIVE - CODES AND PROTOCOLS  
Section A- Member Code of Conduct

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

**Part 2**  
**Interests**

**Personal Interests**

8. -(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

PART FIVE - CODES AND PROTOCOLS  
Section A- Member Code of Conduct

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;

(ii) (in the case of the Greater London Authority) other council tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or

(iii) (in all other cases) other council tax payers, ratepayers or inhabitants of your authority's area.

(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

**PART FIVE - CODES AND PROTOCOLS**  
**Section A- Member Code of Conduct**

- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

**Disclosure of personal interests**

9. -(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

**Prejudicial interest generally**

10. -(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant

PART FIVE CODES AND PROTOCOLS  
Section A- Member Code of Conduct

that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to members;

(v) any ceremonial honour given to members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

**Prejudicial interests arising in relation to overview and scrutiny committees**

**11.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**PART FIVE - CODES AND PROTOCOLS**  
**Section A- Member Code of Conduct**

**Effect of prejudicial interests on participation**

**12. –(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority–**

**(a) you must withdraw from the room or chamber where a meeting considering the business is being held–**

**(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;**

**(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;**

**unless you have obtained a dispensation from your authority's standards committee;**

**(b) you must not exercise executive functions in relation to that business; and**

**(c) you must not seek improperly to influence a decision about that business.**

**(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.**

**Part 3**  
**Registration of Members' Interests**

**Registration of members' Interests**

**13. –(1) Subject to paragraph 14, you must, within 28 days of–**

**(a) this Code being adopted by or applied to your authority; or**

**(b) your election or appointment to office (where that is later),**

**register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.**

PART FIVE CODES AND PROTOCOLS  
Section A- Member Code of Conduct

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

**Sensitive information**

14. —(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation

**DECLARATION OF ACCEPTANCE OF OFFICE AND UNDERTAKING TO  
OBSERVE THE CODE OF CONDUCT**

I, JEAN L. CARES, being an elected Member of the  
London Borough of Haringey Council, undertake to observe the code as to the  
conduct which is expected of members of the London Borough of Haringey  
Council.

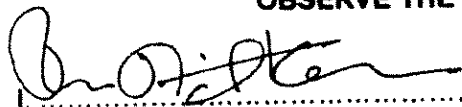
Signed



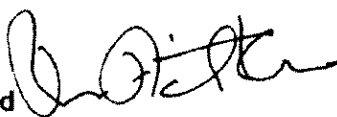
Date

June 6 / 2017

**DECLARATION OF ACCEPTANCE OF OFFICE AND UNDERTAKING TO  
OBSERVE THE CODE OF CONDUCT**



....., being an elected Member of the  
London Borough of Haringey Council, undertake to observe the code as to the  
conduct which is expected of members of the London Borough of Haringey  
Council.

Signed 

Date

## **APPENDIX B**

### **Meaning of Confidential information**

Under the Council's Access to Information Procedure Rules confidential information means information given to the Council by a government department on terms which forbid its public disclosure, information which cannot be publicly disclosed without a court order and information treated as "exempt" under the rules.

"Exempt" information means information falling within the 10 categories specified in the Rules. These categories include

1. Information relating to any individual
2. Information which is likely to reveal the identity of any individual
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information)
4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority and a Minister of the Crown and employees of, or office holders under the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes to give under any enactment a notice under or by virtue of which requirements are imposed on a person or to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
8. Information which is subject to any obligation of confidentiality.
9. Information which relates in any way to matters concerning national security and
10. The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60 (2) or (3), 64 (2), 70(4) or (5) or 71(2) of that Act.

The obligation under paragraph 4 is a serious one not least because an

unjustifiable disclosure could not only place a member in breach of the Code of Conduct and liable to sanction but also place a member in breach of the Council's protocol on Member/Officer relations and or the Protocol on the use of IT equipment and in certain circumstances such a disclosure could give rise to implications under the Data Protection Act 1998.

The Council is a registered data controller under the Data Protection Act and there are strict controls on the disclosure of personal data which is defined to include any information relating to or about a living individual who can be identified from the data. If a member were to knowingly or recklessly disclose personal data in breach of the Act then that member could be subject to criminal prosecution punishable by a fine. However the Act specifies circumstances in which a person may disclose personal data without committing an offence and these broadly mirror the exemptions contained within the Code, including where disclosure is in the public interest.

There are also circumstances in which the Council itself can incur liability for compensation if a member were to disclose personal data in breach of the Act and an individual suffers damage and distress as a result. The Council could also be subject to enforcement action by the Information Commissioner.

Article 2 of the Constitution provides that councillors will not make public information which is confidential or exempt without the consent of the council or divulge information which is given in confidence to anyone other than a councillor or officer entitled to know it. Section B of the Council's Protocol for Member/Officer relations also provides that members should not discuss with or disclose confidential or exempt information to the press.

**APPENDIX C**  
**Public Interest Test**

Disclosure of confidential information in the public interest is only justified in very limited circumstances and when all four of the following requirements are met:

**A. The disclosure is reasonable.**

This depends on the facts of the case and is a matter of judgment. Here a member would need to consider issues such as:

- whether the member believes that the information disclosed and any allegation contained in it is true. If the member does not believe it is true, then the disclosure is unlikely to be reasonable
- whether the member makes the disclosure for personal gain. If a member is paid to disclose the information the disclosure is unlikely to be reasonable.
- the identity of the person to whom the member makes the disclosure. It may be reasonable to disclose the information to the police but not to the world at large through the media. It is extremely unlikely that disclosure of confidential information to the press will ever be acceptable.
- the extent of information disclosed. The inclusion of unnecessary detail is unlikely to be reasonable.
- whether the disclosure involves details of private matters such as names, addresses or telephone numbers (or identifiable individuals) it is unlikely to be reasonable.
- the seriousness of the matter. The more serious it is, the more likely it is that the disclosure will be reasonable.
- the timing of the disclosure. If the matter to which the disclosure relates has already occurred and is unlikely to occur again, then the disclosure may be less likely to be reasonable than if the matter is continuing or is likely to be recur.
- whether the disclosure involves the Council falling in a duty of confidence to another person.
- whether there is reason to believe that the disclosure may result in the Council being placed in breach of contract or subject to liability under the Data Protection Act or give rise to an actionable claim for breach of confidence. In such circumstances, a disclosure is unlikely to be reasonable.

**B. The disclosure is in the public interest (i.e. the public interest outweighs the need for confidentiality)**

For a disclosure to be in the public interest it needs to involve at least one of the following matters, or something of comparable seriousness, that has either happened in the past, is currently happening, or is likely to happen in the

future:

- a criminal offence is committed
  - the council or some other person fails to comply with any legal obligation to which they are subject
  - a miscarriage of justice occurs
  - the health or safety of any individual is in danger
  - the environment is likely to be damaged
  - information showing any of the above is deliberately concealed
- C. The disclosure is made in good faith
- To make a disclosure in good faith the member must not act with an ulterior motive, for example to achieve political advantage
  - the member must hold a reasonable belief that they have the right to disclose the information.
- D. The disclosure complies with the reasonable requirements of the Council.

The reasonable requirements of the council are:

- that the content of committee reports, minutes or appendices that are marked as confidential items will not be disclosed without the prior written approval of the relevant Head of Service.
- that details of legal or other professional advice is not disclosed without the prior written agreement of the relevant Head of service
- consideration is given to the Council's policy on whistle-blowing (found within the Anti-Fraud and Corruption policy available on the Councils website) together with the guidelines for reporting concerns (also on the website)
- the current officer-member protocol is consulted, found in Section B of the Protocol for Member/officer relations in the Constitution
- the members code of conduct and all guidance must be observed
- the advice of the Monitoring officer is sought prior to disclosure.

# **AUP/001**

## **EMAIL ACCEPTABLE USAGE POLICY**

<b>Author:</b>	James Harding
<b>Owner:</b>	James Harding
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## Document History

Version	Effective Date	Author	Reviewer	Comments
14 November, 2000	1.0	All	All	New
3 September, 2001	1.1	All	All	General Revision
18 November 2004	1.2	All	All	General Revision
19 November 2004	1.3	All	All	Change to Arial Font & General Revisions to AUP
20 July 2005	1.4	4	All	Section added relating to acceptable usage of web based mail
20 July 2005	1.4	9	All	Addition of Staff Sign Off section for authorised users of the Web Based Email facility
02/06/05	1.5	All	All	Correction of general syntax errors
02/06/05	1.6	4	10	Addition of Section 4.10
24/06/05	1.6	4	All	General revision
24/06/05	1.6	9	All	Section deleted
24/06/05	1.6	Appendix 1	All	Addition of new Appendix
28/06/05	1.7	Appendix 1	All	Amendment of Web Based Email requirements
20/03/06	1.8	Appendix 1	N/A	Amendment to Signature / Approval Table
18/04/07	1.9	5	N/A	Annual review / Addition of relevant legislation
18/04/07	1.9	1.2	N/A	Amendment to reflect the transition to ISO 27001
15/06/07	2.0	All	All	General revisions
07/08/07	2.1	All	All	General updates following comments from Legal Services.
08/10/07	2.2	All	All	General revisions following consultation with HR.
12/03/08	2.3	Appendix & Sections 1.2 and 4.0	All	Appendix removed. Security approach revised. Web mail usage provisions inserted.

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## 1.0 Introduction

Information is a valuable asset and is an essential requirement for a local authority to carry out its legal and statutory functions. The information Haringey Council processes is about you, it can be highly confidential and very personal; therefore the Council has a legal duty to take care of it. This document will address why the Council needs to secure the information we process, identify the security measures required and provide guidance to users of Council information.

### 1.1 What is Information?

Information can be in a number of forms: -

- Spoken in conversations (including telephone)
- Printed out and or written on paper
- Sent by fax
- Sent via Email
- Sent via texts (SMS)
- Stored on computers
- Transmitted across networks
- Stored on mobile storage devices/media (including, but not limited to; tapes, disks, CD's, film, microfiche, memory sticks etc).
- Stored in databases
- As part of presentations
- Any other methods used to convey information and knowledge.

### 1.2 What is the Security Approach?

The most effective way of providing information security is to use a structured approach that will ensure appropriate controls are applied. The ISO 27001 International Standard for Information Security Management framework comprises a comprehensive set of controls, which define best practice in information security. This is the most widely recognised security standard in the world & compliance to ISO 27001 has become the benchmark by which all organisations are measured. Haringey Council's information security policies are certified to this standard.

## 2.0 Scope

This Email Acceptable Usage Policy (AUP) applies to all Haringey Council's systems and is effective from the date of issue of this document. The policy, rules and conditions apply to all Haringey Council Members, employees, contractors, consultants, agency staff, independent contractors and other users of Haringey Council information systems irrespective of the tools used or where users are located.

### 3.0 Email Acceptable Usage Policy (AUP)

Haringey Council provides users (identified within the Scope of this policy) with electronic communications tools, including an email system for business purposes.

Users may utilize the email system for limited personal use; within the strict parameters outlined within the Acceptable Use section of this policy.

**Acceptable Use**

Users are authorised to use Haringey Council's email facility for:

1. Haringey Council Business purposes.
2. Personal communication purposes during official / authorised work breaks only, where those communications do not breach any other aspect of Council policy
3. Personal communication purposes outside of official / authorised work breaks "with the express permission of your Manager", where those communications do not breach any other aspect of Council policy.

**Unacceptable Use**

Users are prohibited from using Haringey Council's Email facility:

1. To engage in activities or transmit content that is harassing, discriminatory, menacing, threatening, obscene, defamatory, fraudulent, embarrassing, indecent, profane, obscene, pornographic, racist, libellous, intimidating or considered by management to be inappropriate or in any way objectionable or offensive. (*Note - It is not a breach of policy to receive an inappropriate email, however a breach will occur if such an email is retained or forwarded internally or externally by a user. Users encountering such material must report it immediately to their Manager, Internal Audit or the IT Services Quality Assurance and Data Team*).
2. For commercial or personal advertisements, solicitations, promotions, political material or other unauthorised material without prior written permission from the Head of IT Services or authorised deputy.
3. To operate a business, conduct an external job search, solicit money for personal gain, campaign for political causes or candidates, or promote or solicit funds for a religious or other personal cause.
4. To operate personal web based email facilities (Hotmail, Gmail etc.) for business or personal communications.
5. To access, send, receive, solicit, print or copy, confidential, proprietary or personal information unless authorised to do so.
6. For personal communication purposes outside of official / authorised work breaks, unless you have the express permission of your Manager.
7. To access or attempt to access another users mailbox.
8. To send or attempt to send "All User" Emails. (*The Communications Team are the only authorised business unit who may send emails using the All User Email facility. All requests for use of the All User facility should be forwarded to Communications Team for review and action*).
9. To transmit "information classified as Confidential" without appropriate password protection or encryption. (*For further details please refer to the ISP003 Information Classification Policy & IPR007 Information Handling, Labelling and Disposal Procedure on Harinet*).
10. To open Restricted or Confidential Council Information where unauthorised access may result.
11. Distributing unsolicited advertising, junk mail or chain letters.

Haringey Council is not responsible for the actions of individual users. A disclaimer notice will automatically be added to all external E-mail.

#### **4.0 Web Based Email AUP**

In addition, users granted access to the Council's Web Based Email facility must also:

1. Ensure they do not share the web based email facility and associated details, such as the URL, their Logon ID and Password, with any other user
2. Ensure they log out when away from the facility
3. Ensure that attachments are only saved into secure areas and are password protected from others including partners, friends and relatives.
4. Ensure that any attachments are deleted along with any other related documents when no longer required.
5. Ensure that printed emails are destroyed in a secure manner i.e. shredding.
6. Ensure additional precautions are taken when using internet cafés or any other such public facilities. Users must:
  - Not leave the facility unattended at any time whilst logged on
  - Not save attachments on to any public machines
  - Not view documents of a sensitive nature as viewed documents are saved as a temporary internet file that can be accessed at a later stage.

#### **5.0 Enforcement Monitoring**

Haringey Council has the legal right to monitor usage of its email system therefore users should not have an expectation of privacy in anything they create, send, or receive.

Monitoring of the Policy is the responsibility of all managers as part of their management role. Internal and External Audit may undertake reviews on a planned and ad-hoc basis as part of the audit process. The Quality Assurance and Data Team will conduct quality reviews on cyclical basis as part of their security role.

This policy complies with relevant laws and regulations, including but not limited to:

- The Data Protection Act (1998);
- The Human Rights Act (1998);
- The Regulation of Investigatory Powers act (2000); and
- Telecommunications (lawful business practice), and (interception of communications) Regulations 2000.

### 5.1 Penalties for Non-compliance

Haringey Council has an established staff Disciplinary Code of Conduct. Any breach of policies contained within this document will be dealt with in accordance with those procedures.

### 5.2 Enforcement

A violation of standards, procedures, or guidelines established in support of this policy will be brought to the attention of the Quality Assurance and Data Manager for investigation. The Quality Assurance and Data Team enforces this policy by continuously monitoring, through the use of software tools. Business Unit Management, Human Resources, Internal Audit and External Audit will be notified when it is considered a breach has taken place. It is the responsibility of all users (as defined within the Scope of this document) to ensure compliance with the policy. Failure to adhere to the policy may result in a breach of Financial Regulations, Standing Orders and or current legislation. In the event of a breach by a Haringey Council employee, IT facilities may be suspended/removed and disciplinary action taken against them in accordance with the Disciplinary Code of Conduct. A serious breach of the Email AUP may be considered as a gross misconduct offence and lead to a penalty up to and including dismissal. Action against non-Haringey Council employees may result in removal/suspension of IT facilities, removal from site, cancellation of any contracts and possible legal action.

### 5.3 Exceptions to the Email Acceptable Usage Policy

Haringey Council expects all users to achieve compliance with the directives presented within this policy. In the following exceptional cases, compliance with Haringey Council's Information Security policies may be relaxed. The parts that may be relaxed will depend on the particular circumstances of the incident in question. These exceptional circumstances are outlined below:

- If complying with the policy would lead to physical harm and/or injury to a member of staff or other third party (e.g. contractor).
- If complying with the policy would cause significant damage to Haringey Council's reputation and/or ability to operate
- If an emergency arises and a user has no alternative other than to breach Haringey Council policy to assist with the emergency.

In such cases, the Haringey Council employee or third party (contractor etc) concerned must take the following action:

- Ensure that a Business Unit Manager is made aware of the situation and the action to be taken.
- Ensure the situation and the actions taken are recorded in as much detail as possible
- Ensure the situation is reported to the Quality Assurance and Data Manager as soon as possible.

*(Failure to take these steps may result in disciplinary action).*

The Quality Assurance and Data Manager will:

Maintain a list of known exceptions and non-conformities to the Information Security Policies. This list will contain:

- Known breaches that are in the process of being rectified
- Minor breaches that are not considered to be worth rectifying
- Any situations to which the Information Security Policies are not considered applicable.
- Haringey Council will not take disciplinary action in relation to known, authorised exceptions to the Information Security Policies.

#### 5.4 Non-compliance

Non-compliance is defined as any one or more of the following:

- A breach of Haringey Council's Information Security Policies, standards or controls. Unauthorised disclosure or viewing of confidential information belonging to Haringey Council
- Unauthorised modification to information, software or operating systems
- The use of hardware, software, communication networks, equipment, data or information for illicit purposes, which may include violations of law, regulation or reporting requirement of any enforcement agency or government body
- The exposure of Haringey Council to adverse publicity or actual or potential monetary loss through any compromise of security
- Any person who knows of, or suspects a breach of Haringey Council's Information Security Policies must report the facts immediately to the Quality Assurance and Data Manager or Senior Management, failure to do so will be treated as non-compliance to the Information Security Policy
- Violation or non-compliance with Haringey Council's Information Security Policy may be treated as gross misconduct.
- Penalties may include:
  - Suspension of system access rights
  - Action in accordance with the Council Disciplinary Code of Conduct
  - Termination of employment or contractual arrangements and civil or criminal prosecution

#### 6.0 Standards

The following Standards should also be used in conjunction with this Policy.

Ref	Standard
ISS002	Information Security Standards Manual


### 7.0 Associated Information Security Policies

The following Policies are also available to support the Email Acceptable Usage Policy

Policy	Document Number	Description
ISP	001	High Level Information Security Policy
ISP	002	Organisational Security
ISP	003	Information Classification
ISP	004	Personnel Security
ISP	005	Physical Security
ISP	006	Systems and Network Security
ISP	007	Access Control
ISP	008	System Development and Maintenance
ISP	009	Business Continuity
ISP	010	Compliance
ISP	011	Security Incidence Response

### 8.0 Review and Sign Off

Reviewed By:	
Committee Name:	Management Board / CMG / CEMB
Date Authorised:	13/12/00

Reviewed By:	Job Title	Version	Date
Stephen Cornell	IT Security Manager	1.0	14/11/00
Stephen Cornell	IT Security Manager	1.1	03/09/01
Stephen Cornell	IT Security Manager	1.2	16/11/04
Stephen Cornell	IT Security Manager	1.3	19/11/04
Stephen Cornell	IT Security Manager	1.4	20/07/05
Stephen Cornell	IT Security Manager	1.5	02/08/05
Stephen Cornell	IT Security Manager	1.6	24/08/05
Stephen Cornell	IT Security Manager	1.7	13/09/05
Stephen Cornell	IT Security Manager	1.8	20/03/06
James Harding	QA & Data Manager	1.9	18/04/07
James Harding	QA & Data Manager	2.0	15/06/07
James Harding	QA & Data Manager	2.1	07/08/07
James Harding	QA & Data Manager	2.2	09/10/07
James Harding	QA & Data Manager	2.3	12/03/08

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STATUTORY INSTRUMENTS

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2008 No. 1085

**LOCAL GOVERNMENT, ENGLAND AND WALES****The Standards Committee (England) Regulations 2008**

<i>Made</i> - - - -	<i>14th April 2008</i>
<i>Laid before Parliament</i>	<i>17th April 2008</i>
<i>Coming into force</i> - -	<i>8th May 2008</i>

The Secretary of State, in exercise of the powers conferred by sections 53(6) and (12), 54(4), 54A(4), 55(8), 57C(7), 66(1) to (4A), 73(1) and (6) and 105 of the Local Government Act 2000(a), makes the following Regulations:

**PART 1****GENERAL****Citation and commencement**

1. These Regulations may be cited as the Standards Committee (England) Regulations 2008 and shall come into force on 8th May 2008.

**Interpretation****2. In these Regulations—**

"the Act" means the Local Government Act 2000;

"the 1972 Act" means the Local Government Act 1972(b);

"the 1989 Act" means the Local Government and Housing Act 1989(c);

"Adjudication Panel" means the Adjudication Panel for England constituted under section 75 of the Act;

"ethical standards officer" means an ethical standards officer appointed under section 57(5)(a) of the Act;

"independent member" means a person appointed to a standards committee, or sub-committee of the standards committee, of an authority, who is not a member, or an officer, of that or any other relevant authority;

---

(a) 2000 c. 22. Section 54A was inserted into the 2000 Act by section 113(1) of the Local Government Act 2003 (c. 26); section 55 was amended by section 188(2) of the Local Government and Public Involvement in Health Act 2007 (c. 28), and section 66 was amended by section 194 of the 2007 Act; section 57C was inserted into the 2000 Act by section 185 of the 2007 Act; section 73(1) and (6) were amended by section 194(8) of the 2007 Act. There are other amendments to section 73 which are not relevant to these Regulations.

(b) 1972 c. 70.

(c) 1989 c. 42.

"member", in relation to parish councils, includes persons appointed under section 16A of the 1972 Act;

"monitoring officer", in relation to an authority which is a relevant authority for the purposes of section 5 of the 1989 Act (designation and reports of monitoring officer)(a) means the monitoring officer designated under subsection (1) of that section and includes any person for the time being nominated by the monitoring officer as deputy for the purposes of that section and any person nominated under section 82A(2) or (3) of the Act(b) to perform any function;

"partner" includes a spouse, civil partner or someone a person lives with in a similar capacity;

"relative" means a partner, a parent, a parent of a partner, a son or daughter, a stepson or stepdaughter, the child of a partner, a brother or sister, a brother or sister of a partner, a grandparent, a grandchild, an uncle or aunt, a nephew or niece and the partners of any of the preceding persons;

"responsible authority" means a district council or unitary county council(c) which has functions in relation to parish councils for which it is responsible under section 55(12) of the Act;

"Standards Board" means the Standards Board for England constituted under section 57 of the Act.

## PART 2

### CONSTITUTION AND GENERAL PROCEEDINGS OF STANDARDS COMMITTEES AND SUB-COMMITTEES

#### Interpretation of Part 2

3. In this Part "authority", except where the context otherwise requires, means a relevant authority in England other than a parish council.

#### Composition of standards committees

4.—(1) An authority must ensure that—

- (a) at least 25% of the members of its standards committee are independent members; and
- (b) where it is operating executive arrangements under Part 2 of the Act, only one member of its standards committee is a member of the executive.

(2) Where an authority is a responsible authority, it must ensure that at least two members of the standards committee are members of parish councils for which it is responsible, who are not also members of the responsible authority.

#### Appointments to standards committees

5.—(1) Subject to the following provisions of this regulation, a person may only be appointed as an independent member of a standards committee if the appointment is—

- (a) approved by a majority of the members of the authority;
- (b) advertised in one or more newspapers circulating in the area of the authority, and in such other publications or websites as the authority considers appropriate;

- 
- (a) As to "relevant authority", see the definition in section 5(8) of the 1989 Act. That definition was amended by the Local Government Act 2000 (c. 22), Schedule 5, paragraph 24(1) and (7). A relevant amendment to section 5 of the 1989 Act (the insertion of subsection (8A)) was made by paragraph 24(1) and (8) of that Schedule. There are other amendments to section 5 that are not relevant to these Regulations.
  - (b) Section 82A was inserted by section 113(2) of the Local Government Act 2003 (c. 26). Subsection (1) was amended by section 194(9) of the Local Government and Public Involvement in Health Act 2007 (c. 28).
  - (c) See section 55(13) of the Act for the definition of "unitary county council".

- (c) of a person who submitted an application to the authority.
- (2) But a person may not be appointed as an independent member of a standards committee if that person—
  - (a) has within the period of five years immediately preceding the date of the appointment been a member or officer of the authority; or
  - (b) is a relative or close friend of a member or officer of the authority.
- (3) A person who is an independent member of the standards committee of a different relevant authority, may be appointed as an independent member of the standards committee of an authority unless that person—
  - (a) has within the period of five years immediately preceding the date of the appointment been a member or officer of that authority; or
  - (b) is a relative or close friend of a member or officer of that authority.
- (4) An independent member appointed under paragraph (3) may, as an alternative to being appointed for a specified period of time, be appointed in relation to a particular allegation, or set of allegations against a member, co-opted member, former member, or former co-opted member, and the term of office of an independent member so appointed shall be fixed accordingly.
- (5) Subject to paragraph (7), an authority may adopt such procedures as it thinks fit for the appointment to the standards committee of—
  - (a) independent members under paragraph (3) of this regulation; and
  - (b) members of parish councils.
- (6) Any person appointed as an independent member of a standards committee of an authority under this regulation who becomes—
  - (a) a member or officer of an authority; or
  - (b) a relative of a member or officer of that authority,
 shall cease to be a member of the standards committee.
- (7) An authority must have regard to any relevant guidance issued by the Standards Board in making appointments under this regulation.

#### **Sub-committees of standards committees**

- 6.—(1) The standards committee of an authority shall, under section 54A of the Act—
  - (a) appoint sub-committees, each of which must be chaired by an independent member, to discharge any function specified in section 57A of the Act; and
  - (b) appoint sub-committees, each of which must be chaired by an independent member, to discharge any function specified in section 57B of the Act.
- (2) If the standards committee of an authority appoints sub-committees to discharge functions under regulations 17 to 20 of these Regulations, those sub-committees must be chaired by an independent member.

#### **Validity of proceedings**

- 7.—(1) A meeting of a standards committee, or sub-committee of a standards committee, shall not be quorate unless at least three members of that committee or sub-committee are present for its duration.
- (2) Where a meeting of a sub-committee of a standards committee is convened to consider a request under section 57B(2) of the Act, no decision on that request may be taken by the sub-committee if any member of that sub-committee is present who took part in the decision under section 57A(2) of the Act to which that request relates.
- (3) Where a meeting of a standards committee, or sub-committee of a standards committee of an authority is convened to discharge any function specified—

- (a) in sections 57A or 57B of the Act; or
- (b) in regulation 17 to 20 of these Regulations,

no decision may be taken unless at least one member of that authority is present when such matters are being considered.

(4) Where a meeting of a standards committee, or sub-committee of a standards committee, is convened to discharge any function specified—

- (a) in sections 57A or 57B of the Act; or
- (b) in regulation 17 to 20 of these Regulations,

relating to a member or former member of a parish council, no decision may be taken unless at least one member of a parish council for which the authority is the responsible authority, who is not also a member of that responsible authority, is present when such matters are being considered.

#### Application of the Local Government Act 1972

8.—(1) Subject to paragraphs (2), (3), (5) and (6), Part 5A of the 1972 Act(a) shall apply in relation to meetings of a standards committee, or sub-committee of a standards committee, of an authority as it applies to meetings of a principal council in England.

(2) Sections 100E, 100G, 100J and 100K of that Part shall not apply.

(3) Where, by virtue of paragraph (1), a responsible authority must act in accordance with section 100A(6)(a), 100B(1) or 100C(1) of the 1972 Act it shall also give to every parish council for which it is responsible—

- (a) written notice of the time and place of the meeting at least five clear days before that meeting or, if the meeting is convened at shorter notice, then at the time that it is convened;
- (b) a copy of the agenda for the meeting and a copy of any report for the meeting at least five clear days before the meeting, except that—
  - (i) where the meeting is convened at shorter notice, the copies of the agenda and any report shall be given to the parish council at the time the meeting is convened; and
  - (ii) where an item is added to an agenda, of which a copy has been given to a parish council, a copy of the item (or of the revised agenda), and of any report to be presented at the meeting relating to the item shall be given to the parish council at the time the item is added to the agenda; and
- (c) a copy of the minutes excluding so much of the minutes of proceedings during which the meeting was not open to the public under section 100A(2) or (4) of the 1972 Act, or where applicable, a copy of a summary made under section 100C(2) of that Act.

(4) Nothing in paragraph (3)(b) requires copies of any agenda item or report to be given to the parish council until copies are available to members of the responsible authority.

(5) (a) Where a meeting of a sub-committee of a standards committee is convened to consider an allegation received under section 57A(1) of the Act or to review a decision under section 57B of the Act, the following provisions of this paragraph shall apply, and the provisions of Part 5A of the 1972 Act shall not apply.

- (b) The sub-committee shall produce a summary in writing of its consideration of the allegation or review of the decision.
- (c) The written summary—
  - (i) must record the main points considered, its conclusion as regards the allegation or review of the decision and the reasons for that conclusion;

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(a) Part 5A was inserted by the Local Government (Access to Information) Act 1985 (c. 43).

- (ii) must be prepared having regard to any relevant guidance issued by the Standards Board;
- (iii) may give the name of any member, co-opted member, former member or former co-opted member, who was the subject of the allegation, unless such disclosure is not in the public interest or would prejudice any investigation;
- (iv) must be made available for inspection by members of the public at the offices of the authority for a period of six years beginning with the date of the meeting; and
- (v) must be given to any parish council of which any person who is the subject of an allegation referred to in the written summary is a member;

but nothing in this sub-paragraph requires the written summary to be open to inspection or given to any parish council until the person who is the subject of the allegation has been given a written summary under section 57C(2) of the Act.

(6) Where a meeting of a standards committee, or sub-committee of a standards committee, is convened to consider a matter under regulations 13 or 16 to 20 of these Regulations, or referred under section 58(1)(c) of Act, the provisions of Parts 1 to 3 of Schedule 12A to the 1972 Act shall apply as if, after paragraph 7 of that Schedule, the following descriptions of exempt information were inserted—

“7A. Information which is subject to any obligation of confidentiality.

7B. Information which relates in any way to matters concerning national security.

7C. Information presented to a standards committee, or to a sub-committee of a standards committee, set up to consider any matter under regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under section 58(1)(c) of the Local Government Act 2000.”.

### PART 3

#### PROCEDURES RELATING TO ALLEGATIONS

##### Interpretation of Part 3

##### 9. In this Part—

“appeals tribunal” means a tribunal appointed by the president or deputy president of the Adjudication Panel consisting of members drawn from the Adjudication Panel;

“authority” except where the context otherwise requires, means a relevant authority in England;

“matter”, in references to section 57A of the Act means a written allegation made under subsection (1) of that section;

“member”, except where the context otherwise requires, includes a co-opted member, former member or former co-opted member of an authority;

“standards committee” means the standards committee, or sub-committee of a standards committee, which exercises functions in relation to an authority under Part 3 of the Act.

##### Written allegations

10.—(1) Every standards committee shall publish in such manner as it considers appropriate, details of the address or addresses to which written allegations under section 57A(1) of the Act should be sent.

(2) Every standards committee shall take reasonable steps to ensure that the details published under paragraph (1) continue to be brought to the attention of the public and that any changes to those details are promptly published.

(3) Every standards committee shall publish in such manner as it considers appropriate, details of the procedures it will follow in relation to any written allegation received under section 57A(1).

(4) In complying with its obligations under this regulation, every standards committee shall take account of any relevant guidance issued by the Standards Board.

#### **Modification of duty to give written summary to subject of allegation**

11.—(1) The duty in section 57C(2) of the Act to take reasonable steps to give a written summary to the person who is the subject of an allegation does not arise at the time the standards committee receives the allegation, if the standards committee determines that to do so would be contrary to the public interest or would prejudice any person's ability to investigate the allegation.

(2) In reaching a determination whether it is contrary to the public interest or would prejudice any person's ability to investigate the allegation, the standards committee must take account of any guidance issued by the Standards Board and may take account of any advice received from the monitoring officer or any ethical standards officer concerned.

(3) Where the duty in section 57C(2) of the Act does not arise at the time the standards committee receives an allegation, by virtue of paragraph (1), the standards committee must take reasonable steps to give a written summary of the allegation to the person who is the subject of that allegation—

- (a) when the monitoring officer or ethical standards officer has advised the standards committee that it would no longer be contrary to the public interest or prejudicial to any investigation; and in any event
- (b) before any consideration of any report or recommendation from a monitoring officer or ethical standards officer relating to that allegation.

(4) Nothing in this regulation prevents—

- (a) a monitoring officer from notifying the subject of an allegation that an allegation has been made; or
- (b) the standards committee from giving the subject of an allegation some details of the allegation if the standards committee is of the opinion that disclosure of those details would not be contrary to the public interest and would not prejudice any investigation.

#### **Application of section 63 of the Local Government Act 2000 with modification**

12.—(1) Subsection (1) of section 63 of the Act (restrictions on disclosure of information) shall apply in respect of information obtained by monitoring officers in the performance of any of their functions under Part 3 of the Act and regulations made under that Part, as they apply in respect of information obtained by ethical standards officers under sections 61 and 62 of the Act, subject to the modification set out below.

(2) The modification is the insertion, after paragraph (a), of the following paragraph—

“(aa) the disclosure is made for any one or more of the following purposes—

- (i) enabling a standards committee or sub-committee of a standards committee established under this Part to perform any of its functions under this Part, or under regulations made under this Part, in connection with the investigation and consideration of an alleged breach of an authority's code of conduct; or
- (ii) enabling a tribunal drawn from members of the Adjudication Panel to consider any appeal from a finding of a standards committee or sub-committee of a standards committee established under this Part in connection with an alleged breach of an authority's code of conduct.”.

#### **Referral of matters to monitoring officer for steps other than an investigation**

13.—(1) This regulation applies—

- (a) where a standards committee refers a matter to a monitoring officer under section 57A(2)(a) or 57A(3) of the Act; or
  - (b) an ethical standards officer refers a matter under section 60(2) or 60(3) of the Act, with a direction to take steps other than carrying out an investigation.
- (2) A standards committee may only make a referral under paragraph (1) after consultation with the monitoring officer.
- (3) The steps referred to in paragraph (1) are—
- (a) arranging for the member who is the subject of an allegation to attend a training course;
  - (b) arranging for that member and the complainant to engage in a process of conciliation;
  - (c) such other steps (not including an investigation), as appear appropriate to the standards committee, or as the case may be, the ethical standards officer.
- (4) Where a matter is referred to a monitoring officer under this regulation, the monitoring officer—
- (a) shall deal with the matter in accordance with the direction; and
  - (b) shall give notice that the matter has been so referred to—
    - (i) the member who is the subject of the allegation,
    - (ii) any person who made the allegation which gave rise to the referral,
    - (iii) the standards committee of any other authority concerned; and
    - (iv) any parish council concerned; and
  - (c) within the period of three months beginning on the day on which the direction was received, or as soon as is reasonably practicable thereafter, submit a written report giving details of the action taken or proposed, to comply with the direction—
    - (i) where the matter was referred to the monitoring officer under section 57A of the Act, to the standards committee; or
    - (ii) where the matter was referred to the monitoring officer under section 60 of the Act, to the ethical standards officer concerned.
- (5) If the standards committee is not satisfied with the action specified in the report received under paragraph (4)(c)(i), it shall give a further direction to the monitoring officer.
- (6) If the standards committee is satisfied with the action specified in the report received under paragraph (4)(c)(i), it shall give written notice to that effect to—
- (a) the member who is the subject of the report;
  - (b) any person who made an allegation that gave rise to the referral;
  - (c) the standards committee of any other authority concerned; and
  - (d) any parish council concerned.
- (7) If the ethical standards officer concerned is satisfied with the action specified in the report received under paragraph (4)(c)(ii), that officer shall give written notice to that effect to—
- (a) the member who is the subject of the report;
  - (b) any person who made an allegation that gave rise to the referral;
  - (c) the standards committee of any authority concerned; and
  - (d) any parish council concerned.
- (8) If the ethical standards officer concerned is not satisfied with the action specified in the report received under paragraph (4)(c)(ii), that officer may require the monitoring officer to arrange for a statement to be published in at least one newspaper circulating in the area of any authority concerned, giving—

- (a) details of the direction given by the ethical standards officer;
- (b) the ethical standards officer's reasons for being dissatisfied; and
- (c) the monitoring officer's response to the ethical standards officer's reasons for being dissatisfied.

**Referral of matters to a monitoring officer for investigation**

14.—(1) This regulation applies where a matter is referred to a monitoring officer under section 57A(2)(a), 57A(3), 60(2) or (3) of the Act otherwise than in accordance with regulation 13(1).

(2) The monitoring officer shall, unless otherwise directed by the ethical standards officer or standards committee—

- (a) inform
  - (i) the member who is the subject of the allegation;
  - (ii) any person who made the allegation which gave rise to the referral;
  - (iii) the standards committee of any other authority concerned; and
  - (iv) any parish council concerned,

that the matter has been referred for investigation;

- (b) subject to paragraph (5), conduct an investigation into the matters referred;
- (c) give any member who is the subject of the investigation the opportunity to comment on the allegation made;

(3) The monitoring officer shall, in conducting an investigation, have regard to any relevant guidance issued, and shall comply with any relevant direction given, by the Standards Board.

(4) The monitoring officer may, in conducting an investigation—

- (a) make such inquiries of any person as the monitoring officer thinks necessary or expedient for the purpose of conducting that investigation;
- (b) require any person to give such information or explanation as the monitoring officer thinks necessary or expedient for the purpose of conducting that investigation;
- (c) require any of the authorities concerned to provide such advice and assistance as may reasonably be needed to assist in the investigation;
- (d) require any of the authorities concerned, other than a parish council, to meet the reasonable cost of any advice and assistance provided in accordance with sub-paragraph (c);
- (e) if any of the authorities concerned is a parish council, require the responsible authority to meet any reasonable costs incurred by that parish council in accordance with sub-paragraph (d); and
- (f) require any of the authorities concerned to afford reasonable access to such documents in the possession of that authority as appear to the monitoring officer to be necessary for the purpose of conducting the investigation.

(5) In the case of an investigation pursuant to a reference under section 60(2) or (3) of the Act, the monitoring officer of an authority may, at any stage prior to the completion of the investigation, by a request in writing to the ethical standards officer concerned, ask that the matter be referred back to that ethical standards officer for investigation; and any such request must set out the reasons for making it.

(6) The ethical standards officer must respond to a request under paragraph (5) within 21 days of its receipt and may—

- (a) direct that the matter be so referred for investigation, in which case the investigation by the monitoring officer concerned shall cease; or

- (b) direct the monitoring officer concerned to continue the investigation in accordance with these Regulations.
- (7) Where a direction is given under paragraph (6)(b), the monitoring officer may not make a further request under paragraph (5) in respect of the same matter.
- (8) On completion of an investigation under this regulation, the monitoring officer shall—
  - (a) make a finding—
    - (i) that there has been a failure to comply with the code of conduct of the authority concerned or, as the case may be, of any other authority concerned ("a finding of failure"); or
    - (ii) that there has not been a failure to comply with the code of conduct of the authority concerned or, as the case may be, of any other authority concerned ("a finding of no failure");
  - (b) prepare a written report of the investigation which contains a statement as to the finding;
  - (c) send a copy of that report to the member who was the subject of the investigation;
  - (d) refer the report to—
    - (i) the standards committee of the authority; and
    - (ii) the standards committee of any other authority, other than a parish council, of which the person who was the subject of the investigation is a member, if that other authority so requests.

#### **Matters referred to monitoring officer after investigation**

15. Where a matter is referred to a monitoring officer under section 64(2) or (4) of the Act the monitoring officer shall—

- (a) send a copy of any report received from the ethical standards officer who has referred the matter, to any member who is the subject of such a report; and, after that member has received the report,
- (b) refer the report to the standards committee of the authority for consideration under regulation 17.

#### **References back from monitoring officer**

16.—(1) Where a matter is referred to a monitoring officer under section 57A(2)(a) of the Act for investigation, the monitoring officer may, subject to paragraph (4), refer that matter back to the standards committee concerned if—

- (a) as a result of new evidence or information, the monitoring officer is of the opinion that the matter—
  - (i) is materially more serious; or
  - (ii) materially less serious
 than may have seemed apparent to the standards committee when it made its decision under section 57A(2) of the Act, and
- (iii) that the standards committee would have made a different decision had it been aware of that new evidence or information; or
- (b) the person who is the subject of the allegation—
  - (i) has died; or
  - (ii) is seriously ill; or
  - (iii) has resigned from the authority concerned, and

the monitoring officer is of the opinion that in the circumstances it is no longer appropriate to continue with an investigation.

(2) If a matter is referred back to a standards committee under this regulation, the standards committee shall make a decision under section 57A(2) of the Act as if the matter had been made to it under section 57A(1) of the Act.

(3) In forming an opinion for the purposes of paragraph (1)(a), a monitoring officer may take account of—

- (a) the failure of any person to co-operate with an investigation; or
- (b) an allegation that the member concerned has engaged in a further breach of the code of conduct of a relevant authority; or
- (c) an allegation that another member has engaged in a related breach of the code of conduct of a relevant authority.

(4) Where a standards committee considers a matter referred back to it under this regulation, it may direct that the matter should not be referred back a further time.

#### **Consideration of reports by standards committee**

17.—(1) Where a monitoring officer refers a report to the standards committee of any authority under regulation 14 or 15, that standards committee shall convene to consider that report and make one of the following findings—

- (a) that it accepts the monitoring officer's finding of no failure ("a finding of acceptance"); or
- (b) that the matter should be considered at a hearing of the standards committee conducted under regulation 18; or
- (c) that the matter should be referred to the Adjudication Panel for determination.

(2) A standards committee may only make a finding under sub-paragraph (1)(c) if—

- (a) it has determined that the action it could take against the member would be insufficient were a finding of failure to be made; and
- (b) the president or deputy president of the Adjudication Panel has agreed to accept the referral.

(3) As soon as reasonably practicable after making a finding of acceptance, the standards committee shall—

- (a) give written notice of that finding to—
  - (i) the member who is the subject of the finding of no failure;
  - (ii) any ethical standards officer concerned;
  - (iii) the standards committee of any other authority concerned;
  - (iv) any parish council concerned; and
  - (v) the person who made the allegation that gave rise to the investigation; and
- (b) subject to paragraph (4), arrange for a notice to be published stating that the standards committee have found that there has been no failure on the part of the member concerned to comply with the code of conduct of the authority concerned or, as the case may be, with the code of conduct of any other authority concerned.

(4) The notices referred to in paragraph (3)(b) shall not be published if the member concerned so requests.

(5) Unless paragraph (4) applies, the notice referred to in paragraph (3)(b) shall be published—

- (a) in at least one newspaper circulating in the area of any authority concerned; and
- (b) if considered appropriate by the standards committee, on the web page of any authority concerned; and

(c) if considered appropriate by the standards committee, in any other publication.

(6) A tribunal may be appointed from the members of the Adjudication Panel to deal with a reference under sub-paragraph (1)(c), as if the reference had been made under section 64(3)(b) of the Act and shall have the same powers to take action as in such a case.

(7) Where a tribunal appointed under paragraph (6) decides that a member has failed to comply with the code of conduct of an authority, the member may appeal to the High Court against that decision, or any other decision made by that tribunal.

#### Hearings by standards committee

18.—(1) Where a standards committee holds a hearing pursuant to a finding under regulation 17(1)(b), it shall ensure that—

- (a) the hearing is conducted having regard to any relevant guidance issued by the Standards Board;
- (b) subject to sub-paragraph (c), the hearing is held within the period of 3 months beginning—
  - (i) in the case of a report referred by an ethical standards officer, on the date on which the monitoring officer received the report; or
  - (ii) in the case of a report prepared by the monitoring officer, on the date on which the report is completed;
- (c) the hearing is not held until at least fourteen days after the date on which the monitoring officer sent the report to the member who is the subject of the allegation, unless the member concerned agrees to the hearing being held earlier;
- (d) if the hearing is not held within the period specified in sub-paragraph (b), it is held as soon as reasonably practicable thereafter;
- (e) any member who is the subject of a report being considered by the standards committee is given the opportunity to present evidence and make representations at the hearing—
  - (i) either orally or, if the member chooses, in writing; and
  - (ii) either personally, or by counsel or by a solicitor or, with the committee's consent, by any other representative.
- (2) A standards committee may, subject to paragraph (1)(a) and (e), conduct a hearing using such procedures as it considers appropriate in the circumstances.
- (3) A standards committee may arrange for the attendance at a hearing of such witnesses as it considers appropriate.
- (4) Subject to paragraph (5), a member who is the subject of a hearing may arrange for the attendance at that hearing of such witnesses as that person wishes.
- (5) A standards committee may place a limit on the number of witnesses a member who is the subject of a hearing may call if it considers that the number that the member proposes to call is unreasonable.
- (6) A member who is the subject of a hearing may be represented by counsel, by a solicitor or, with the consent of the standards committee, by any other representative.
- (7) If a member who is the subject of a report to the standards committee fails to attend a hearing of which that member has been given notice, the standards committee may—
  - (a) unless it is satisfied that there is sufficient reason for such failure, consider the allegation and make a determination in the absence of that member; or
  - (b) adjourn the hearing to another date.
- (8) A standards committee may, at any stage prior to the conclusion of the hearing, adjourn the hearing and require the monitoring officer to seek further information or

undertake further investigation on any point specified by it; but the standards committee shall not adjourn the hearing on more than one occasion under this paragraph.

(9) Paragraphs (10) to (13) apply only to cases where the report under consideration has been referred to a monitoring officer under section 64(2) or (4) of the Act.

(10) A standards committee may at any stage prior to the conclusion of the hearing, adjourn the hearing and make a written request to the ethical standards officer concerned that the matter be referred back to the ethical standards officer for further investigation; and any such request must set out the committee's reasons for making it.

(11) Where a matter is referred to an ethical standards officer under paragraph (10), the ethical standards officer must respond to the request within 21 days of its receipt and may—

- (a) agree to accept the referral for further investigation and direct that the standards committee shall cease its consideration of the matter; or
- (b) direct the standards committee to continue to deal with the matter in accordance with these Regulations, in which case the standards committee shall do so and shall not make any further request under paragraph (10) in respect of the matter.

(12) Where the ethical standards officer gives a direction under paragraph (11)(b), the standards committee shall convene to continue its consideration of the matter within three months of the receipt of the ethical standards officer's direction or as soon as practicable thereafter.

(13) Paragraph (1)(a), (c) and (e) and paragraphs (2) to (8) of this regulation shall apply to a hearing convened under paragraph (12) as they apply to a hearing convened under paragraph (1).

#### **Findings of standards committees**

19.—(1) Following a hearing held under regulation 18, a standards committee shall make one of the following findings—

- (a) that the member who was the subject of the hearing had not failed to comply with the code of conduct of any authority concerned;
- (b) that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned but that no action needs to be taken in respect of the matters which were considered at the hearing; or
- (c) that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned and that a sanction under paragraph (2) or (3) should be imposed.

(2) If a standards committee makes a finding under paragraph (1)(c) in respect of a person who is no longer a member of any authority in respect of which it exercises any function under Part 3 of the Act, it shall censure that person.

(3) If a standards committee makes a finding under paragraph (1)(c) in respect of a person who is a member of an authority in respect of which it exercises any functions under Part 3 of the Act, it shall impose any one of, or any combination of, the following sanctions—

- (a) censure of that member;
- (b) restriction for a period not exceeding six months of that member's access to the premises of the authority or that member's use of the resources of the authority, provided that those restrictions—
  - (i) are reasonable and proportionate to the nature of the breach; and
  - (ii) do not unduly restrict the person's ability to perform the functions of a member;

- (c) partial suspension(a) of that member for a period not exceeding six months;
- (d) suspension of that member for a period not exceeding six months;
- (e) that the member submits a written apology in a form specified by the standards committee;
- (f) that the member undertakes such training as the standards committee specifies;
- (g) that the member participate in such conciliation as the standards committee specifies;
- (h) partial suspension of the member for a period not exceeding six months or until such time as the member submits a written apology in a form specified by the standards committee;
- (i) partial suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the standards committee specifies;
- (j) suspension of the member for a period not exceeding six months or until such time as the member has submitted a written apology in a form specified by the standards committee;
- (k) suspension of the member for a period not exceeding six months or until such time as that member has undertaken such training or has participated in such conciliation as the standards committee specifies.

(4) Subject to paragraph (5) and regulation 21 any sanction imposed under this regulation shall commence immediately following its imposition by the standards committee.

(5) A standards committee may direct that the sanction imposed under any of sub-paragraphs (b) to (k) of paragraph (3) or, where a combination of such sanctions is imposed, such one or more of them as the committee specifies, shall commence on such date, within a period of six months after the imposition of that sanction, as the committee specifies.

#### Notification of findings of standards committees

20.—(1) A standards committee shall, as soon as reasonably practicable after making a finding under regulation 19—

- (a) give written notice of the finding and the reasons for it to—
  - (i) the member who is the subject of the finding;
  - (ii) the Standards Board;
  - (iii) the standards committee of any other authority concerned;
  - (iv) any parish councils concerned; and
  - (v) any person who made an allegation that gave rise to the investigation; and
- (b) subject to sub-paragraph (2)(b), arrange for a summary of the notice under paragraph (1)(a) to be published—
  - (i) in at least one newspaper circulating in the area of every authority concerned; and
  - (ii) if considered appropriate by the standards committee, on the web page of any authority concerned; and
  - (iii) if considered appropriate by the standards committee, in any other publication.

(2) Where the standards committee makes a finding under regulation 19(1)(a),

- (a) the notice under paragraph (1)(a) of this regulation shall state that the standards committee has found that the member who was the subject of the hearing had not

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(a) See section 83(7) of the Local Government Act 2000 (c. 22) for a definition of partial suspension.

failed to comply with code of conduct of any authority concerned and shall give its reasons for that finding; and

(b) paragraph (1)(b) shall not apply if the member concerned so requests.

(3) Where the standards committee makes a finding under regulation 19(1)(b), the notice under paragraph (1)(a) of this regulation shall—

(a) state that the standards committee found that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned, but that no action needs to be taken in respect of that failure;

(b) specify the details of the failure;

(c) give the reasons for the standards committee's finding; and

(d) state that the member concerned may apply under regulation 21 of these Regulations for permission to appeal against the finding.

(4) Where the standards committee makes a finding under regulation 19(1)(c), the notice under paragraph (1)(a) of this regulation shall—

(a) state that the standards committee found that the member who was the subject of the hearing had failed to comply with the code of conduct of an authority concerned;

(b) specify the details of the failure;

(c) give reasons for the standards committee's finding;

(d) specify the sanction imposed in accordance with regulation 19(2) or (3); and

(e) state that the member concerned may apply under regulation 21 for permission to appeal against the finding or sanction imposed.

#### Notices of appeals

21.—(1) Where a standards committee makes a finding under regulation 19(1)(b) or (c), the member who is the subject of that finding may, by way of notice in writing given to the president of the Adjudication Panel—

(a) seek permission to appeal; and, if appropriate,

(b) apply for the suspension of any sanction imposed under regulation 19(3)(b) to (k) until such time as any appeal is determined.

(2) The notice specified in paragraph (1) must be received by the president of the Adjudication Panel within 21 days of the member's receipt of the notice under regulation 20(1)(a) and must specify—

(a) the finding against which the member seeks permission to appeal;

(b) in the case of a finding under regulation 19(1)(c) whether the appeal is against the finding that the member has failed to comply with a code of conduct, or if it is against the sanction which has been imposed, or both;

(c) the grounds of the appeal;

(d) whether any application for suspension of any sanction is made; and

(e) whether or not the member consents to the appeal being conducted by way of written representations.

(3) An application for permission to appeal or to suspend a sanction, shall be decided by the president of the Adjudication Panel or, in the absence of the president, by the deputy president, on consideration of the application and, unless the president or the deputy president (as the case may be) considers that special circumstances render a hearing desirable, in the absence of the parties.

(4) In deciding whether to give permission to appeal, the president, or deputy president (as the case may be), shall have regard to whether, in their opinion, there is a reasonable prospect of the appeal being successful (either in whole or in part).

(5) Permission to appeal or to suspend a sanction may be given in relation to the whole or any specified part of the finding or sanction.

(6) The president, or the deputy president (as the case may be), shall, within 21 days of receipt of a notice given in accordance with paragraphs (1) and (2), send notice of their decision to—

- (a) the member who gave the notice under paragraph (1);
- (b) the Standards Board;
- (c) the standards committee of any authority concerned;
- (d) any parish councils concerned; and
- (e) any person who made an allegation that gave rise to the investigation.

(7) If permission to appeal or for suspension of a sanction is refused, whether as to the whole or in part, the notice given under paragraph (6) shall give the reasons for the decision.

#### Conduct of appeals

22.—(1) Where permission to appeal has been given, the president or deputy president (as the case may be) shall refer the matter to an appeals tribunal which shall conduct the appeal in accordance with these Regulations.

(2) Where the member does not consent to the appeal being conducted by written representations, an appeals tribunal shall conduct an appeal hearing.

(3) The appeals tribunal shall give the member at least 21 days notice in writing of the date of the hearing.

(4) Where the member consents to an appeal being conducted by way of written representations, the appeals tribunal may either—

- (a) conduct an appeal hearing; or
  - (b) conduct the appeal by way of written representations,
- as it thinks fit.

(5) The member may appear at an appeal hearing in person or may be represented by counsel, a solicitor or, subject to the consent of the appeals tribunal, any other representative.

(6) The standards committee may be represented at an appeals hearing by any member of that committee, the monitoring officer of the authority concerned, by counsel, a solicitor or, subject to the consent of the appeals tribunal, any other representative.

#### Composition and procedures of appeal tribunals

23.—(1) An appeals tribunal shall consist of not less than three members appointed by the president of the Adjudication Panel (or, in the absence of the president, by the deputy president), from the members of the Adjudication Panel.

(2) The president or the deputy president of the Adjudication Panel may be a member of an appeals tribunal.

(3) A member of the Adjudication Panel may not at any time be a member of an appeals tribunal drawn from the Panel which is to conduct an appeal on a matter relating to a member of an authority if, within the period of five years ending with that time, the member of the Adjudication Panel has been a member or an officer of any of the authorities concerned or a member of any committee, sub-committee, joint committee or joint sub-committee of any of the authorities concerned.

(4) A member of the Adjudication Panel who is directly or indirectly interested in any matter which is, or is likely to be the subject of an appeal conducted by an appeals tribunal—

- (a) must disclose the nature of the interest to the Panel's president or deputy president; and
  - (b) may not be a member of the appeals tribunal which conducts an appeal in relation to that matter.
- (5) The procedure for conducting an appeal shall be such as the appeals tribunal considers appropriate in the circumstances.

**Failure of member concerned to attend appeal hearing**

24.—(1) If a member concerned has been duly notified of an appeal hearing and fails to attend or be represented at that hearing, the appeals tribunal may—

- (a) unless it is satisfied that there is sufficient reason for such absence, hear and determine the appeal in that member's absence, or
- (b) adjourn the hearing.

(2) Before deciding to determine an appeal in the absence of the member concerned, the appeals tribunal shall consider any representations in writing submitted by that member in response to the notice of the hearing and, for the purpose of this paragraph, any written reply to that notice shall be treated as a the member's representations in writing.

**Outcome of appeals**

25.—(1) An appeals tribunal must uphold or reject the finding or, where permission to appeal was granted as to only part of the finding, that part of the finding, to which the appeal relates, or may allow the appeal as regards a specified part of the finding.

(2) Where an appeals tribunal rejects the finding, the decision of the standards committee (including any sanction imposed) shall cease to have effect from the date of the rejection.

(3) Where an appeals tribunal upholds the finding of a standards committee made under regulation 19(1)(b), it may confirm the decision of that committee to impose no sanction or it may impose any sanction which was available to the standards committee.

(4) Where an appeals tribunal upholds the finding, or part of a finding, of a standards committee made under regulation 19(1)(c), it may confirm any sanction imposed by that committee, or vary it by substituting any other sanction which was available to the standards committee.

(5) Subject to paragraph (6), any sanction imposed under this regulation shall take effect immediately after its imposition.

(6) An appeals tribunal may direct that any sanction imposed under this regulation shall take effect on such date, within the period of six months after its imposition, as the appeals tribunal may specify.

(7) The appeals tribunal must give written notice of its decision to—

- (a) the member who is the subject of the decision to which the notice relates;
- (b) the Standards Board;
- (c) the standards committee of any authorities concerned;
- (d) any parish council concerned; and
- (e) any person who made an allegation that gave rise to the investigation.

(8) The appeals tribunal must arrange for a summary of its decision to be published in one or more newspapers circulating in the area of any authorities concerned.

## PART 4

## AMENDMENTS TO REGULATIONS

26. The instruments specified in the Schedule to these Regulations are amended as specified in the third column of that Schedule.

Signed by authority of the Secretary of State for Communities and Local Government

14th April 2008

*John Healey*  
Minister of State  
Department for Communities and Local Government

## SCHEDULE

Regulation 26

## Amendments to Regulations

<i>Regulations amended</i>	<i>References</i>	<i>Amendment</i>
The Relevant Authorities (Standards Committee) Regulations 2001(a)	S.I. 2001/2812	<p>In regulation 1(2) omit the words "relevant authorities in England, other than parish councils, and to".</p> <p>In regulation 2, omit the words "or 55(7)(a)" from the definition of "independent member" and omit the entry relating to "responsible authority".</p> <p>For regulation 3 substitute—</p> <p>"3. An authority must ensure that, where its standards committee has more than three members, at least 25% of them are independent members."</p> <p>In regulation 7(1) for "paragraphs (2) to (4)" substitute "paragraphs (2) and (4)".</p> <p>Omit regulation 7(3).</p> <p>In regulation 7(4) omit "60(2) or (3), 64(2)" in both places.</p>
The Local Authorities (Code of Conduct) (Local Determination) Regulations	S.I. 2003/1483	<p>In regulation 1(2) omit the words "relevant authorities in England and to".</p>

(a) Regulation 7(1) was amended, and regulation 7(4) was inserted by regulation 3 of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (SI 2003/1483); and regulation 7 was further amended by regulation 2 of the Relevant Authorities (Standards Committee) (Amendment) Regulations 2006 (SI 2006/87).

2003

In regulation 2(1)—

in the entry relating to  
"Adjudication Panel", omit the  
words "in respect of a relevant  
authority in England, the  
Adjudication Panel for  
England established under  
section 75(1) of the Act and, in  
respect of a police authority in  
Wales,";

in the entry relating to  
"authority" omit the words "a  
relevant authority in England  
and";

omit the entries relating to  
"ethical standards officer" and  
"ethical standards officer  
concerned";

omit the entry relating to "the  
parish councils concerned";  
and

in the appropriate place, insert  
the following—

Omit regulation 2(2).

Omit regulation 4.

In regulations 5, 6, 8, 9, 12 and  
13, for the references to ethical  
standards officer (in whatever  
terms), substitute references to  
the Public Services  
Ombudsman for Wales.

In regulations 5(1), 6(1)(a)(i),  
6(2)(b)(i) and 6(2)(c)(i) omit  
"64(2) or".

In regulation 5(2) omit "60(2)  
or (3) or".

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Section 53 of the Local Government Act 2000 ("the Act") requires relevant authorities in England and Wales (defined in section 49(6) of the Act) to establish standards committees to exercise functions conferred under Part 3 of the Act. Section 57A of the Act, (inserted with sections 57B to 57D, and section 58) by section 185 of the Local Government and Public Involvement in Health Act 2007 enables people to make a written allegation to the standards committee of a relevant authority in England that a member or co-opted member (or former member or former co-opted member) of the authority has failed to comply with the authority's code of conduct. These Regulations make provision for dealing with such allegations and confer powers on the monitoring officer of the relevant authorities concerned to carry out investigations. They also make provision for standards committees to reach decisions on allegations and to impose sanctions, and for appeals to tribunals of members of the Adjudication Panel for England ("appeals tribunals").

Regulations 1 to 3 contain citation, commencement and interpretation provisions.

Regulation 4 requires standards committees to consist of at least 25% independent members and restricts the number of members of the executive of authorities operating executive arrangements who may be members of the committee. Where an authority is responsible for parish councils it is a requirement that at least two members of the standards committee are parish councillors who are not also members of the responsible authority.

Regulation 5 makes provision as to the appointment to standards committees of independent members and parish councillors. The effect of paragraphs (3) and (4) is to permit standards committees to appoint persons who are independent members of the standards committees of other authorities for specified periods of time, or to sit on a committee or sub-committee considering a particular allegation or set of allegations.

Regulations 6 and 7 require standards committees to establish sub-committees, each chaired by an independent member, to undertake the initial assessment of allegations under section 57A of the Act. Differently constituted sub-committees, chaired by different independent members, must also be established to consider any request under section 57B of the Act to review decisions to take no action in respect of allegations made under section 57A of the Act. Standards committees may decide to establish sub-committees to consider reports or hold hearings, which must also be chaired by an independent member. At least three of its members must be present at meetings of a standards committee, or sub-committee of a standards committee, which must include at least one elected member of the authority. If a meeting is convened to consider an allegation against a parish councillor, the committee or sub-committee must include a parish councillor drawn from any of the parish councils for which the authority is responsible who is not also a member of the responsible authority.

Regulation 8 makes provision as to public access to meetings and documents of standards committee proceedings. Where a sub-committee of a standards committee is considering an allegation against a member under section 57A of the Act or a request under section 57B of the Act to review a decision to take no action, there is no public right of access to the meetings or documents. The sub-committee is required to produce a written summary of its consideration of those matters, which is to be made available to the public. Otherwise, the proceedings of standards committees and sub-committees of standards committees are to be open to the public in a manner similar to that in which other proceedings of local authorities are made open (see Part 5A of the Local Government Act 1972 (c. 70)). Standards committees of responsible authorities are required to supply certain information and documents to the parish councils for which they are responsible.

Regulation 10 requires standards committees to publicise the address or addresses to which written allegations of misconduct should be sent and to keep published details up to date.

Regulation 11 modifies the duty otherwise applicable to standards committees to give a written summary of an allegation to the subject of that allegation in situations where it would be contrary

to the public interest or would prejudice an investigation to provide that summary. In circumstances where a standards committee is not required to provide a written summary of an allegation at the time it receives the allegation, it must provide a written summary to the subject of the allegation before any hearing is convened under regulation 17 or 18 to consider any report on the allegation.

Regulation 12 prohibits monitoring officers from disclosing information they have obtained either through their investigation, or which has been supplied to them by an ethical standards officer, otherwise than for the purposes set out in section 63 of the Act, as modified by regulation 12. The modification authorises disclosure of information obtained for the purpose of enabling a standards committee, sub-committee of a standards committee or an appeals tribunal drawn from the Adjudication Panel for England, to perform any of their functions under Part 3 of the Act or Regulations made under that Part.

Regulation 13 makes provision in respect of cases where a sub-committee of a standards committee or ethical standards officer refers a matter to a monitoring officer with a direction to take steps other than carry out an investigation. A direction may require the monitoring officer to arrange for a member to attend a training course, to engage in a process of conciliation or to take such other steps as appear appropriate. The monitoring officer must report back to the standards committee or ethical standards officer and the regulation makes provision as to the steps they must take when they receive such a report.

Regulation 14 makes provision for monitoring officers to carry out an investigation into an allegation that a member or co-opted member (or former member or former co-opted member) has failed to comply with an authority's code of conduct. It makes provision as to who must receive notice that the matter has been referred for investigation, and confers powers on the monitoring officer to request information or an explanation of matters from any person and to require authorities to provide advice and assistance. The monitoring officer may apply to refer a matter back to the ethical standards officer who originally referred it and the ethical standards officer must notify the monitoring officer whether the referral back is accepted. Following an investigation, the monitoring officer must submit a report to the standards committee indicating whether in the opinion of the monitoring officer the person who is the subject of the report has failed to comply with the authority's code of conduct.

Regulation 15 requires a monitoring officer to send a copy of a report received from an ethical standards officer following an investigation, to the person who is the subject of the report and to refer the report to the standards committee for consideration under regulation 17.

Regulation 16 sets out the circumstances in which a monitoring officer may refer a matter back to the standards committee for reconsideration as to how an allegation that a person has failed to comply with an authority's code of conduct should be dealt with. The circumstances are:

- (a) the receipt of new evidence or information that leads the monitoring officer to form the opinion that the matter is more (or less) serious than may have appeared to the standards committee and that the standards committee would have made a different decision if the evidence or information had been available to them;
- (b) the death or serious illness of the person against whom the allegation was made; and
- (c) the resignation of that person from the authority concerned.

Regulations 17 deals with a standards committee's consideration of reports received from monitoring officers. The committee must make one of the following findings:

- (a) that it accepts the monitoring officer's findings that there has been no failure to comply with an authority's code of conduct;
- (b) that the matter should be considered at a hearing under regulation 18; or
- (c) that the matter should be referred to the Adjudication Panel for England for determination.

The regulation also imposes requirements as to notification and publication of its findings.

Regulation 18 deals with the procedure for the holding of a hearing. At any time before the conclusion of a hearing, a standards committee may, where the case under consideration has been investigated by an ethical standards officer, ask that ethical standards officer to take it back for further investigation. If the ethical standards officer does not agree to the referral the standards committee must continue with the hearing.

Regulations 19 and 20 makes provision as to the findings available to a standards committee following a hearing, the sanctions which it may impose on a person if it finds that the person has failed to comply with an authority's code of conduct and the manner in which those findings are to be notified and publicised.

Regulations 21 allows a person against whom a failure to comply with an authority's code of conduct has been made to seek permission from the president or deputy president of the Adjudication Panel for England to appeal against the finding and any sanction imposed, and to apply for the suspension of any sanction.

Regulations 22 to 25 deal with the conduct of appeals, the composition of appeals tribunals, the procedure to be followed and the notification of, and publicity to be given to, decisions of appeals tribunals.

Regulation 26 and the Schedule to the Regulations amend the Relevant Authorities (Standards Committee) Regulations 2001 (SI 2001/2812) and the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (SI 2003/1483). The effect of the amendments is to disapply those Regulations in respect of English authorities. They continue to apply to police authorities in Wales.

# Revised Model Code of Conduct

Adopted by Haringey Council at AGM  
effective from 22 May 2007

Members must sign up to Code within 2  
months of its adoption by Council

Monitoring Officer

## Features of Revised Code

Clearer, more enabling  
Rules on interests clearer, Members can act  
as community advocates  
Remove duty to report breaches  
Provision on bullying  
Clarify rules on confidential information  
Criminal activities covered by Code  
Must read Code together with general  
principles of conduct

Adopting the Code

# General Obligations

Treat others with respect –

Not do anything to cause authority to breach any of the equality enactments

Not bully any person

Not intimidate or attempt to intimidate complainant, witness, investigator etc. (Members' obligation to report other Members removed).

Compromise impartiality of officers

Not prevent access to information to which person entitled

Monitoring Officer

# General Obligations

Not do anything to cause authority to breach  
any of the equality enactments

the Equal Pay Act 1970

the Sex Discrimination Act 1975,

the Race Relations Act 1976,

the Disability Discrimination Act 1995,

the Employment Equality (Sexual Orientation)  
Regulations 2003 and

the Employment Equality (Religion or Belief)  
Regulations 2003

Alastair Jeffrey

# Bullying – SBE definition

## Guidance

“Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour. Such behaviour may happen once or be part of a pattern of behaviour directed at a weaker person or person over whom you have some actual or perceived influence. Bullying behaviour attempts to undermine an individual or a group of individuals, is detrimental to their confidence and capability, and may adversely affect their health”

Shropshire Council

## General Obligations (cont.)

Disclosure of Confidential Information

Not disclose confidential information  
except where:

Have consent of person authorised to give  
it

Required by law to disclose

Disclose to third party for professional  
advice

Warning Office

## General Obligations (Cont.)

Disclosure of Confidential Information  
only if disclosure is:

reasonable,  
in public interest,  
made in good faith and  
in compliance with reasonable  
requirements of authority (including  
seeking advice of Monitoring Officer)

Monitoring Officer

# General Obligations

**Disrepute** – not bring office or authority into disrepute

**Improper use of position** –not use or attempt to use position as member to confer or secure advantage

**Use of Resources** –

Act in accordance with authority's reasonable instructions

Make sure resources not used for political purposes (simplification of previous rule)

Have regard to Local Authority Code of Publicity

Monitoring Officer

# Scope of Revised Code

## Applies

When you conduct business of authority including business of office elected/appointed to

Act, claim to act, give impression acting as representative of authority (extension of scope)

**But some duties apply at any other time**

Monitoring Officer

# Obligations applying at any time

## Duties

not to intimidate complainants/witnesses  
bring office into disrepute,  
improperly use position as member for  
advantage

Apply at **any other time** to conduct which is  
criminal offence for which Member has been  
convicted (when amendments to LGA 2000  
are enacted).

Advantage House

# Reaching Decisions

Must have regard to any relevant  
advice of Chief Finance Officer or of  
Monitoring Officer carrying out statutory  
functions

Previously only in pursuance of duties  
under sections 114 LGFA 1988 or 5(2)  
LGHA 1989

Monitoring Officer

11

141

# Personal Interests

A member has a personal interest where the matter:  
relates to an interest they must register  
affects the well-being or financial position of  
themselves, or of a relevant person more than it  
would affect the majority of people in the ward  
affected by the decision  
if a member declares a personal interest they can  
remain in the meeting, speak and vote on the matter  
— unless the personal interest is also prejudicial

# Personal Interests

Must now consider if decision on matter impacts on welfare of relevant person

any person with whom you have a close association' – more extensive than 'friend'

Member of family

Employer of above/firm in which they are partners/company in which they are directors

Any person or body in whom relevant person has over £25k in shares (previously £5k)

Monitoring Officer

## Personal Interests -

Can now compare

impact of decision on welfare of  
self/relevant persons

with

impact of decision on welfare of tax  
payers/inhabitants of ward  
narrower scope

Monitoring collected

## Personal Interests

**New Category of Personal interest where business of authority relates to or is likely to affect:**

Interests of any person from whom received gift or hospitality £25 or more in value – you don't have to declare this if registered more than 3 years before date of meeting

documentary evidence

## Personal Interests – sensitive information

Where your personal interest information is sensitive information and agreed as such with Monitoring Officer

No need to include that information when registering interest

Must notify change of circumstances within 28 days

Sensitive information is information which if made available for inspection creates serious risk that Member or person living with may be subjected to violence or intimidation

## Personal Interests -Exemptions

**An exemption to declaring a personal interest applies:**

when the interest arises solely from a member's membership of or position of general control or management on:  
any other body to which they have been appointed or nominated by the authority  
any other body exercising functions of a public nature (e.g. another local authority)

Continuing Officer

## Personal Interests -Exemptions

### Exemption to declaring a personal interest continued .....

in these exceptional cases, provided the member does not have a prejudicial interest, they only need to declare their interest if they speak

if the member does not want to speak to the meeting, they may still vote on the matter without making a declaration

Meeting Officer

# Prejudicial Interests

**A personal interest is prejudicial if all of the following conditions are met:**

a member of the public who knows the relevant facts would reasonably think the personal interest is so significant that it is likely to prejudice the member's judgement of the public interest

the matter does NOT fall within one of the exempt categories of decision (under paragraph 10(2)(c))

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Prejudicial Interests continued..

And

The matter affects your financial position or financial position of person or body described in paragraph 8 of Code

And/or

The matter relates to any approval, consent, licence, permission or registration in relation to you or person or body described in paragraph 8 of Code

Witnessed by: Officer

## Prejudicial interests – new exclusions

No prejudicial interest where business of authority relates to the functions of your authority in respect of:

An allowance, payment or indemnity given to members

Any ceremonial honour given to members

Setting council tax or a precept under the LGFA 1992

Previous exclusions of housing functions if not in arrears, authority's functions re. school meals and transport and re. statutory sick pay are retained

Monitoring Officer

## Prejudicial interests – new exclusions

Prejudicial Interests relating to overview and scrutiny committees

Where business of O&S relates to a committee/sub committee of authority of which you are a member you only have a prejudicial interest if you were present when the relevant action or decision was taken.

Monitoring Officer

## Prejudicial interests – new rights of attendance at meetings

If you have a prejudicial interest you may attend the relevant meeting:

To make representations

To answer questions or give evidence

Provided the public are also allowed to attend the meeting for the same purpose

Or where you have a statutory right to attend

You must withdraw from the room as soon as representations have been made

Admission of the public

What can a member do/not do when they have a prejudicial interest?

**What a member cannot do:**  
exercise executive functions in relation to that business  
seek to improperly influence a decision about that business  
stay in the room when the business is being discussed (after speaking if they have been allowed to)

Administrative Officer

What can a member do/not do when they have a prejudicial interest?

**What a member can do:**

make written representations in their private capacity  
use a professional representative to act on their behalf  
get another member to represent the views of their constituents

Ms. MONTGOMERY

PART FOUR - RULES OF PROCEDURE  
Section C Miscellaneous Standing Orders

## Part Four, Section C

# Miscellaneous Standing Orders

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### MISCELLANEOUS STANDING ORDERS

#### 1. SEAL OF THE COUNCIL

- (1). The common seal of the Council shall be kept in a safe place in the custody of the Head of Legal Services.
- (2). The common seal of the Council shall be affixed to a document only on the authority of:
  - (a) a resolution of the Council;
  - (b) a decision by the Council, or by a duly authorised committee, sub committee or officer, to do anything where a document under the common seal is necessary to complete the action.
- (3). On civic or ceremonial occasions, the seal shall be attested by the Mayor or Deputy Mayor or another member of the Council and by the Chief Executive or Head of Legal Services.
- (4). On all other occasions the Seal on documents shall be attested in accordance with Article 14.05 (in Part 2) or by any one of the following officers:
  - Chief Executive
  - Chief Finance (section 151) Officer
  - Head of Legal Services
  - Deputy Head of Legal Services
- (5). An entry of every sealing of a document must be made and numbered consecutively in the book kept for the purpose and each entry must be signed by the person or persons who attested the Seal.
- (6). The Head of Legal Services, or in his/her absence the Deputy Head of Legal Services, is authorised to sign any document to secure the effective administration of the functions for which the Legal Service is responsible, or any document to secure the effective implementation of any function, power, duty, policy, programme or decision of the Council or of any Committee, Sub-Committee, or other body or Chief Officer acting within their terms of reference and delegated powers.

**PART FOUR - RULES OF PROCEDURE**  
**Section C Miscellaneous Standing Orders**

**2. ATTESTATION OF DOCUMENTS**

- (1). Any notice, order or other document which a local authority are authorised or required by or under any enactment to give, make or issue may be signed on behalf of the authority by the proper officer of the authority.
- (2). Any document purporting to bear the signature of the proper officer of the authority shall be deemed, until the contrary is proved, to have been duly given, made or issued by authority of the local authority.
- (3). In addition to any other person who may be authorised by resolution of the Council for the purpose, the proper officer for the purpose of section 234 of the 1972 Act (authentication of documents) shall be the head of the authority's paid service, the Head of Legal Services, any chief officer of the Council concerned with the matter to which the document relates or any officer authorised in writing by such chief officer.

**3. PAPERS AND ADVICE**

- (1). The agenda and papers for consideration at any meeting will normally be despatched to appropriate members of the Council leaving at least 5 clear days before the meeting.
- (2). Services shall ensure that all papers are delivered to the Head of Local Democracy & Member Services leaving at least 7 clear days before the meeting (e.g. on Friday for a meeting on Wednesday 12 days later).
- (3). The Chair of a Committee, Sub-Committee, or other body may only allow a late item/report to be considered at a meeting if satisfied that there are special circumstances. The special circumstances which, in the Chair's opinion, justify such action must be recorded in the Minutes of the meeting.
- (4). The agenda and papers for any part of a meeting open to the public shall be made available for inspection by members of the public.

**4. CONFIDENTIALITY OF REPORTS**

**Exempt Reports**

- (1). Reports and documents which are to be presented to meetings of the Council or of Committees, Sub-Committees, or other bodies and which in the opinion of the Head of Local Democracy & Member

**PART FOUR - RULES OF PROCEDURE**  
**Section C Miscellaneous Standing Orders**

Services, are likely to be the subject of a resolution to exclude the press and public from the proceedings on any of the grounds set out in the Local Government Act 1972 Schedule 12A and related or amending legislation must be marked in the top right hand corner "Not for Publication" because they contain exempt information. Categories of exempt information are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

**Confidential Reports**

- (2). Reports containing confidential information under the Access to Information Procedure Rules in Part 4 of this Constitution must be marked on the top right hand corner setting out the category of confidential information.

**Duty not to disclose information**

- (3). It shall be the duty of all Council Members, other voting and non-voting members of committees or other bodies, assessors and advisers appointed to committees or other bodies and Officers of the Council not to disclose any information contained in reports and documents classified as 'confidential' or 'exempt' until the Committee, Sub-Committee or other body in question decides to make the information public, and appropriate sanctions will be taken in the event of this being breached.

**Declassification of exempt reports**

- (4). It shall be the responsibility of the Proper Officer (Head of Local Democracy & Member Services) to determine as necessary whether at any future date it is appropriate to declassify any exempt reports.

**5. INSPECTION OF DOCUMENTS**

- (1). A member of the Council shall have the right to inspect and be provided with copies of the following documents in the Council's possession or under its control in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.
- (2). A member must not use any information obtained in the exercise of the rights under this rule for any purpose other than the performance of his/her role as a member of the Council and must not knowingly inspect or request copies of any document relating to any matter in which he or she is professionally or personally interested or in which he or she has a personal or prejudicial interest under the Members' Code of Conduct. A member should never disclose or use confidential or exempt information for the personal advantage of him/herself or of anyone known to them, or to the disadvantage or discredit of the Council or anyone else.

**PART FOUR - RULES OF PROCEDURE**  
**Section C Miscellaneous Standing Orders**

**6. INSPECTION OF LAND AND BUILDINGS**

No member of the Council and no other member (whether voting or non-voting) of a committee, sub-committee or other body shall have any claim by virtue of his/her position:

- (a) to enter any land or buildings occupied by the authority to which the public do not have access or to which members of the Council do not regularly have access except with the permission of the chief officer responsible for the service of the Council for which the land or buildings are occupied;
- (b) to exercise any power of the authority to enter or inspect other land or buildings, except where specifically authorised to do so by the authority;
- (c) to exercise any other power of the authority;
- (d) to issue any order with respect to any works which are being carried out by, or on behalf of, the authority, or with respect to any goods or services which are being, or might be, purchased by the authority.

**7. ABSENCE FROM MEETINGS**

Any member who for six months fails to attend any meeting of the authority or its committees, sub-committees or other bodies shall cease to be a member unless within that period his or her absence is approved by the authority.

**8. STATEMENT OF ATTENDANCES**


A statement showing the actual and possible attendances of each member at meetings of the Council and its Committees and Sub-Committees since and including the last annual meeting shall be presented annually to the Council at its last meeting in each municipal year and be entered in the minutes. In addition, Members' attendance at meetings of other bodies - appointments, appeals, grievance panels and other bodies with variable membership may also be reported.

PART FOUR - RULES OF PROCEDURE  
Section C Miscellaneous Standing Orders

9. **MATTERS AFFECTING NAMED INDIVIDUALS OR COUNCIL EMPLOYEES OR FORMER COUNCIL EMPLOYEES**

- (1). If, during the course of a meeting, an issue arises concerning a named individual or about an individual Council employee or former Council employee, the body must first decide whether or not to exclude the public and press before discussing the matter further and for this purpose the advice of the Monitoring Officer or his/her representative will be considered.
- (2). At no time shall there be discussion of any individual employee or former employee subject to outstanding disciplinary/appeal/grievance proceedings as such discussion could affect these proceedings.
- (3). In the event of a Member wishing to criticise an individual employee or former employee of the authority the Member shall follow the provisions of the Protocol on Member/Officer Relations which provides for a complaint against an officer to be referred confidentially to the relevant Chief Officer. This shall not prevent Members from asking officers proper questions.
- (4). In the event of a member having concerns about seriously improper, fraudulent or unlawful conduct by an officer the member should raise the matter confidentially with the Chief Executive under the Council's "Whistleblowing Policy".

Part C Section C  
of the Council  
Can't talk



10. **INTERESTS OF OFFICERS IN CONTRACTS AND OTHER MATTERS**

- (1). If it comes to the knowledge of any employee of the authority, that he/she has a personal interest, direct or indirect, in any contract which has been, or is proposed to be, entered into by the authority, or in some other matter which is to be considered by the council or any committee or sub-committee, and which (in either case) is not
  - (a) the contract of employment (if any) under which he serves the authority
  - (b) the tenancy of a dwelling provided by the authority,
 he/she shall as soon as practicable give notice in writing to the Head of Paid Service of the fact that he/she is interested therein.
- (2). For the purposes of this standing order, a personal interest is an interest that, if the employee were a member of the council, and if the contract or other matter were to be considered at a meeting of the council at which he/she were present, he/she would have to disclose under the Members' Code of Conduct.

**PART FOUR - RULES OF PROCEDURE**  
**Section C Miscellaneous Standing Orders**

- (3). The Head of Paid Service shall record in a book to be kept for the purpose particulars of any notice of a personal interest given by an employee of the authority. The book shall, during the ordinary office hours of the authority, be open for inspection by any member of the council.

**11. WEBCASTING OR BROADCASTING OF MEETINGS**

The Mayor, or the Chair of any subordinate body, shall have regard to any Protocol on Webcasting in force when deciding whether to permit the filming, or any other form of recording or broadcasting, of meetings. This rule does not affect the duty to keep a permanent sound recording of hearings under the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. no. 44)

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

# APPENDIX 5



Haringey Council

9th Floor, Alexandra House, 10 Station Road, Wood Green, London N22 7TR  
 DX 156930, Wood Green 5  
 Tel: 020 8489 3974 Fax: 020 8489 3835  
 www.haringey.gov.uk

Head of Legal Services John Suddaby

# FORM A

## FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

### Subject member's response to the evidence set out in the investigation report

Please enter the number of any paragraph in the investigation report where you disagree with the findings of fact, and give your reasons and your suggested alternative. Please add extra "boxes" or ask for a longer form if needed.

Paragraph number from the investigation report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read
Para 5.4	Error of fact	"Cllr Oakes tried to send an email"
Line 2		
Para 5.5, line 2	Error of fact	"Cllr Oakes tried to forward his....."
Para 5.10 line2	Error of fact	"Cllr Oakes tried to forward the two emails"
Para 6.2 line 1	Error of fact	Cllr Oakes attempted to send....."

"Cllr Oakes explained that he sent the email to Cllr Aitken 'so that he could know what I had done with it' ">

"He did not recall in detail the words used, or the exact time of any subsequent conversation. However he was sure that he had discussed it with Cllr Aitken and agreed it was highly likely that Cllr Aitken had said 'I see you sent it to the Standard.'"

"When asked why he had sent an email via the council, but did not want to be identified, and whether this was not a contradiction in terms, Cllr Oakes' reply was non-verbal.

"The Investigating Officer then put it to him: 'Because you did not want to be identified....' Cllr Oakes' response was "Well, I wasn't aware that I would be identified in that way." His purpose was to underline that he did not want to be identified in any press report, and he did not think he would be identified simply because he had used the council's email address. It was not to imply that he would not be identified by the journalists with whom he had intended to communicate as that, in the circumstances, would have been ludicrous.

Omit entirely

Omit the entire paragraph.

This does not tally with the answer Cllr Oakes gave (Interview page 48, para 106)

Does not tally with the transcript.

Does not tally with Cllr Oakes' answer

This question was not put to Cllr Oakes. He was asked "Did you speak to anyone other than Cllr Aitken before you sent the email?" To which he replied "I did not".

There are no discrepancies, and no discrepancies have been identified.

Para 6.3, line 10 Cllr Oakes could not explain why he felt he had to keep Cllr Aitken informed  
Para 6.3 (contd)  
Lines 11-15

Para 6.4, lines 4-7 When asked why he sent the emails via the council's email address if he did not want to be identified as the sender, he said that he was not aware that he could be identified via the council's email facility

Para 6.5, lines 15-18  
When asked why he did not discuss the matter with the Monitoring Officer...

At Page marked "Page 19" in script, at the top; Para numbered 3, italics: "Cllr Oakes has not clarified the discrepancies."

Page marked "Page 21" at top; Para 6, lines 5-7

"Cllr Oakes has not produced any information.....to corroborate his public interest defence."

"It is a matter of public and council record that the issue of the length of time that staff remain on suspension, pending resolution of disciplinary cases has been the subject of numerous press reports, and was raised as a matter of issue before the Council and Employee Joint Consultative Committee in 2006-7; and again in a report to the council's Audit in 2007-8. It was raised as an issue in proposals for the council's budget in 2008-9, and raised before Full Council in speeches in 2008-9 and 2009-10.

Page marked "Page 21", same para."He also does not appear to realise the potential impact of his actions."

Page marked "Page 24" para 9.3:"The fact that...E Standard and Mail on Sunday decided not to publish...is evidence of their recognition of the status of the report."

In the section numbered 9, paras 9.1-9.13 we will then Cllr Oakes takes issue with every conclusion reached, and we will address the Tribunal on that at the hearing

The potential impact has not been identified; nor is there any explanation of why it is said that Cllr Oakes "does not appear to realise", and we will address the Tribunal on this point more fully at the hearing

This cannot be deduced from their letter. It says they took a judgement that, in view of Haringey's protest, they would not publish anything without informing them.

Omit the sentence.

Specifically, and as an early indication of the grounds of dispute with the findings in the report, we take issue at page marked "Page 26", bullet points 4,5,6 and 7, in the same order.

Bullet points 4/5: Cllr Oakes did consider the council's protocol, he did consider whether the report should be disclosed, and he considered what information should be disclosed.

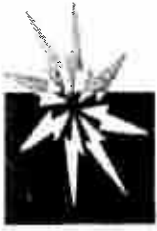
Bullet point 6: Cllr Oakes did not show a disregard for the rules and procedures of his office, but relied on them and the Public Interest exception that is part of them.

Bullet point 7: Oakes was not troubled in disclosing the information, and did not seek to conceal himself as the source from the journalists. That he sought to avoid taking any credit for revealing this material, and sought to avoid making any political revelations to the free press shows that his motives were not self-serving.

Cllr Oakes did not disclose material in an underhand manner.  
The comment is repeated, and we shall address the Tribunal further on these points at the hearing.

Page 26, para 9.11, line 7  
..... "underhand" ....

Line 8: "Underhand"



**Haringey Council**

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Head of Legal Services John Suddaby

## **FORM B**

### **FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS**

#### **Other evidence relevant to the complaint**

Please set out below, using the numbered paragraphs, any additional evidence you feel is relevant to the complaint made about you. This would be evidence in documents or from witnesses in addition to that contained in the Investigation Report and its Appendices. Please add extra "boxes" or ask for a longer form if needed.

#### **Paragraph number**

#### **Details of the evidence**

A letter from Cllr Robert Gorrie, Leader of Haringey Council's Liberal Democrat Group, which will confirm the fact that the party has long considered the granting of excessive "gardening leave" to Haringey Council employees as unacceptable.

**1**

A letter from the Managing Editor of the Mail on Sunday (which is a totally separate newspaper from the Daily Mail), outlining in detail the circumstances surrounding my emailing of a General Purposes Committee report to that newspaper.

The letter makes it clear that I was not the original source of the story, that my function was merely to authenticate information the newspaper already had from other sources, and that I did not stand to gain from the story's appearance in any personal way.

**2**

3

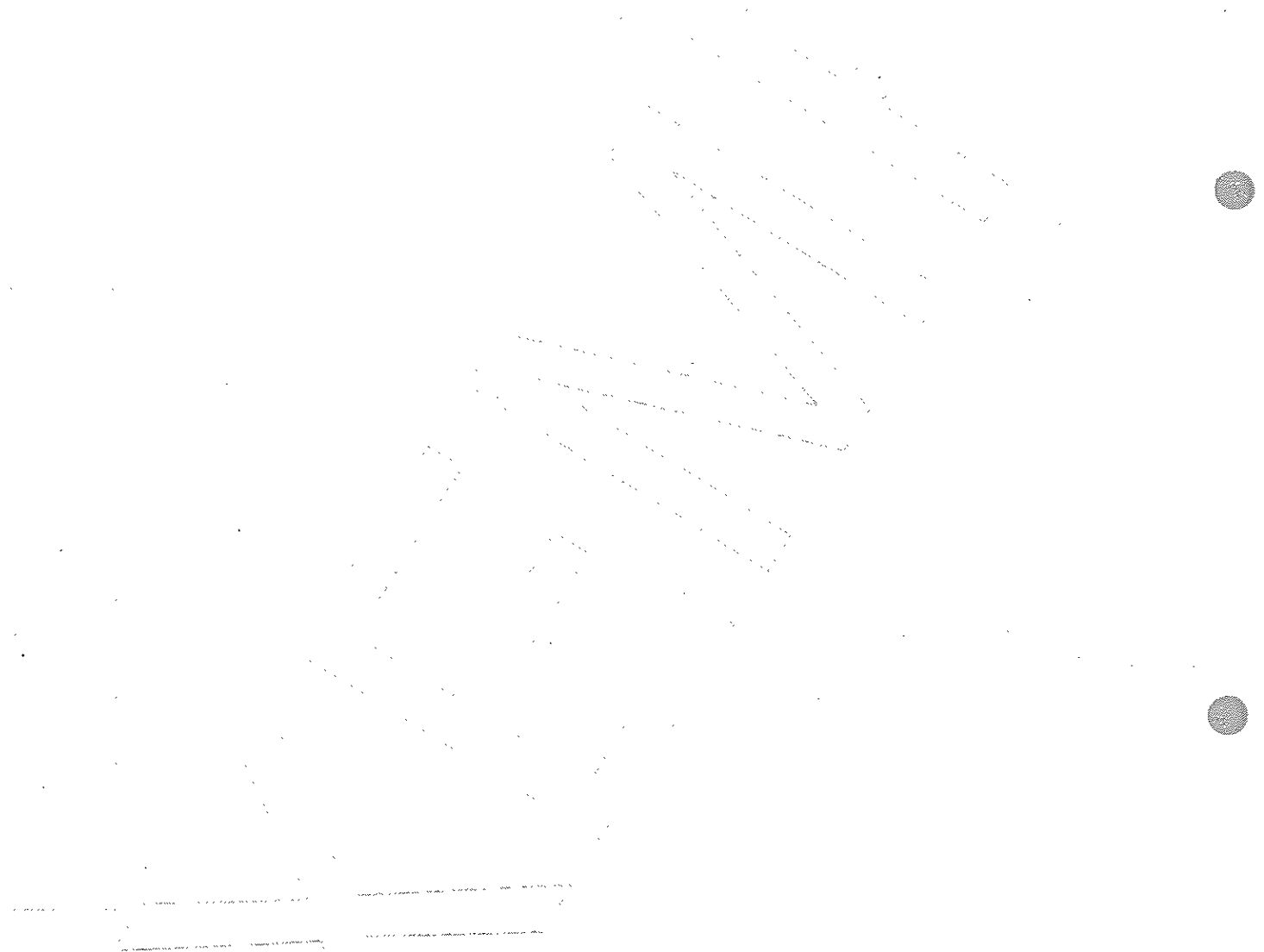
4

5

6

7

8



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Head of Legal Services John Suddaby

Haringey Council

**FORM D****FOR STANDARDS COMMITTEE/SUB COMMITTEE  
HEARINGS**

Please double click in the relevant box to enter 'x'.

<b>1</b>	<p>Are you planning to attend the standards committee hearing on the proposed date in the accompanying letter?</p> <p>If 'No' please explain why?</p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p>	Reason:
<b>2</b>	<p>Are you going to present your own case?</p>	<p>Yes <input type="checkbox"/></p> <p>No <input checked="" type="checkbox"/></p>	
<b>3</b>	<p>If you are not presenting your own case, will a representative present it for you?</p> <p>If 'Yes' please state the name of your representative.</p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p>	John Collis, Principal, of John Collis, Solicitors

<b>4</b>	<p>Is your representative a practising solicitor or barrister?</p> <p>If 'Yes', please give their legal qualifications. Then go to Question 6.</p> <p>If 'No' please go to Question 5.</p>	<p>Yes ✓</p> <p>No <input type="checkbox"/></p>	<p>Solicitor of the Supreme Court</p>
<b>5</b>	<p>Does your representative have any connection with your case?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No ✓</p>	<p>Details:</p>
<b>6</b>	<p>Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E.</p>	<p>Yes <input type="checkbox"/></p> <p>No ✓</p>	
<b>7</b>	<p>Do you, your representative or your witnesses have any access difficulties? For example, is wheelchair access needed?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No ✓</p>	<p>Details:</p>
<b>8</b>	<p>Do you, your representative or witnesses have any special needs?</p> <p>For example, is an interpreter needed?</p> <p>If 'Yes' please give details</p>	<p>Yes <input type="checkbox"/></p> <p>No ✓</p>	<p>Details:</p>

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Page 275

**9**

Do you want any part of the hearing to be held in private?

If 'Yes', please explain precisely which part(s) and give reasons.

Please note that the Committee/Sub Committee will have the final decision on what is heard in private or in public.

Yes

☐

No

✓

Reasons:

**10**

Do you want any part of the relevant documents to be withheld from public inspection?

If 'yes', please state precisely which documents and give reasons.

Please note that the Committee/Sub-Committee will have the final decision on what is heard in private or in public.

Yes

☐

No

✓

Legal Services  
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Head of Legal Services John Suddaby

**Haringey** Council

# FORM E

## FOR STANDARDS COMMITTEE/SUB COMMITTEE HEARINGS

Details of proposed witnesses to be called. This means all the witnesses you wish to call whether or not interviewed by the Investigating Officer.

Please double click in the relevant box to enter 'x'. Please add extra "boxes" or ask for a longer form if needed.

Name of witness or witnesses	1	Evelyn Jarrett			
	2				
	3				
<b>Witness 1</b>					
<b>a</b>	Will the witness give evidence about the allegation?  If 'Yes', please provide an outline of the evidence the witness will give.	<table border="1"> <tr> <td data-bbox="675 1178 762 1317">           Yes ✓         </td> <td data-bbox="762 1178 1423 1518" rowspan="2">Outline of evidence:</td> </tr> <tr> <td data-bbox="675 1317 762 1518">           No <input type="checkbox"/> </td> </tr> </table>	Yes ✓	Outline of evidence:	No <input type="checkbox"/>
Yes ✓	Outline of evidence:				
No <input type="checkbox"/>					
<b>b</b>	Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?  If 'Yes', please provide an outline of the evidence the witness will give.	<table border="1"> <tr> <td data-bbox="675 1518 762 1653">           Yes ✓         </td> <td data-bbox="762 1518 1423 2004" rowspan="2">Outline of evidence:</td> </tr> <tr> <td data-bbox="675 1653 762 2004">           No <input type="checkbox"/> </td> </tr> </table>	Yes ✓	Outline of evidence:	No <input type="checkbox"/>
Yes ✓	Outline of evidence:				
No <input type="checkbox"/>					

**Witness 2****a**

Will the witness give evidence about the allegation?

If 'Yes', please provide an outline of the evidence the witness will give.

Yes

☐

No

☐

Outline of evidence:

**b**

Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?

If 'Yes', please provide an outline of the evidence the witness will give.

Yes

☐

No

☐

Outline of evidence:

**Witness 3****a**

**Will the witness give evidence about the allegation?**

**If 'Yes', please provide an outline of the evidence the witness will give.**

**Yes**☐**No**☐**Outline of evidence:****b**

**Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?**

**If 'Yes', please provide an outline of the evidence the witness will give.**

**Yes**☐**No**☐**Outline of evidence:**

**Witness 4****a**

Will the witness give evidence about the allegation?

If 'Yes', please provide an outline of the evidence the witness will give.

Yes

☐

No

☐

Outline of evidence:

**b**

Will the witness give evidence about what action the standards committee should take if it finds that the Code of Conduct has not been followed?

If 'Yes', please provide an outline of the evidence the witness will give.

Yes

☐

No

☐

Outline of evidence:

Room 31**Reception**

From: robert gorrie [robertgorrie@mac.com]  
Sent: 25 September 2009 17:46  
To: Reception  
Cc: John Oakes  
Subject: For the Attention of John Collins Guest

**Standards Board hearing on case of John Oakes.**

The issue of the length of time staff remain on suspension pending resolution of disciplinary cases, and the cost of that unproductive time, has been an issue the Haringey Liberal Democrat Group has pursued for some time.

In my first year on the Council, 2006/07, I was a member of the Council and Employee Joint Consultative Committee. Material reported to this committee included reports by department on the average and longest length of time staff were remaining on suspension pending resolution of a disciplinary dispute. These reports showed average periods of between 100 and 150 days and longest cases running to, from memory, at least a year. I raised concerns at meetings about the process that was allowing these long periods of uncertainty for individuals and the Council.

In my second year, 2007/08, on the Council I was Opposition Finance Spokesperson and a Member of the Audit Committee. The same information on length of time spent on suspensions was reported to Audit and again I raised concerns about both the process and the cost of the periods staff were staying on suspension. As part of our proposals for the Council Budget of 2008/09 we included a clear target to reduce the cost of these suspensions. A copy of the paragraph from our press pack provided to local journalists is below and the item was clearly set out in my speech to Full Council:

- **Restructure pay for suspended staff – saving £500,000**  
The cost of suspended staff awaiting resolution of disciplinary issues remains, even after labour promises, between £1million and £1.5million. The average time for resolution of these cases is 120 days. Lib Dems believe that this is unacceptable and would work with investigate a structure whereby 60 days would be the maximum suspension period after which if cases remained open the employee would return to work. Saving £500,000

During my third year, 2008/09, the Council finally began to address this issue and the average length of time suspended staff stay on suspension pending resolution of the case has come down by 50%. Below is a paragraph from my speech to Full Council as part of the 2009/10 budget setting:

Last year in our comments on the Budget we made seven specific savings proposals. Labour rejected these at the time but are now acting on two of them. We called for a £500,000 saving from reducing the length of time taken to resolve staff suspensions and the introduction of a 60 target. The last quarter report to the Audit Committee showed averages are down to 74 days against an effective target of 60 days. We also proposed that a cut in the number of unfilled vacant posts would save £500,000. This years budget proposals include a total of £447,000 from cutting vacant posts.

I would hope that the above would be taken into account by the Board when considering Cllr Oakes case.

Robert Gorrie  
Hornsey Ward Councillor & Leader of Liberal Democrat Group  
London Borough of Haringey

25/09/2009

# The Mail

ON SUNDAY

10 September 2009

John L Oakes  
Flat 18 Pastor Court  
56 Stanhope Road,  
Highgate  
London  
N6 5WB

Dear Mr Oakes

I am sorry to learn you are facing some difficulties regarding your position as a Haringey councillor, as a result of assistance you gave us last December.

The facts are as follows:

1. We were told about this story by another source and not by you.
2. It appeared to be a matter of strong public interest because of the allegation that a council employee had been paid from public funds, for a very long period without working.
3. We had received a good deal of information about the matter, including the employee's name.
4. Our reporter decided to contact you as the Liberal Democrat spokesman for community involvement and also because he remembered you had been a journalist and provided articles for The Mail on Sunday some years ago.
5. I am not aware of your having provided any information to this newspaper for some time before this enquiry.
6. There was no question of your being offered or receiving any payment for providing us with any comment or information on this matter. In the event, we reviewed all the information received and decided not to publish any story. If we had done so we would have considered carefully how much information to reveal and would, of course, have followed the Press Complaints Commission's Code of Practice regarding publication of information regarding a person's private life and health matters.
7. I am not aware of any approach to us by Haringey Council to check any allegations being made against you.

It is, of course, not our practice to disclose any information about confidential sources. However, since you have, yourself, requested it I am very happy for you to show this letter to anyone it may concern.

Yours sincerely



John Wellington  
Managing Editor

E-mail: [john.wellington@mailonsunday.co.uk](mailto:john.wellington@mailonsunday.co.uk)

Direct fax: 020 7795 6696

NOT FOR PUBLICATION

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

# APPENDIX 6

**Legal Services**  
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 DX 156930, Wood Green 5  
 Tel: 020 8489 5936 Fax: 020 8489 3835  
 www.haringey.gov.uk



Head of Legal Services John Suddaby

**Haringey Council**

Your ref: .....

Date: 14 August 2009

Our ref: LEG/TAM/17817

Direct 020 8489 5936  
 dial:

Email: Terence.Mitchison@haringey.gov.uk

Dear Cllr Oakes,

**COMPLAINT BY CLLR REITH – MEMBERS' CODE OF CONDUCT  
 REF. SC3/089 – HEARING ON 21 AND 22 OCTOBER 2009**

As promised, I am writing to you about the hearing provisionally fixed for Wednesday 21st and Thursday 22nd October to take place before the Standards Committee during normal office hours on those dates at a starting time still to be notified.

There are several issues that need be resolved well before the hearing itself in order to ensure that everything runs fairly and properly on the day. To facilitate this, I am attaching the following documents:

- (1) Procedure for hearing allegations of breach of the Code of Conduct;
- (2) Form A – your chance to respond to the investigation report stating where, if at all, you disagree with the findings;
- (3) Form B – your chance to ask for extra evidence to be admitted beyond that contained in, or appended to, the investigation report;
- (4) Form C – your chance to set out any representations you may wish to be considered if you are found to have breached the Code of Conduct;
- (5) Form D – Questionnaire about arrangements for the hearing, for example, your representation, your witnesses and any possible evidence to be heard in private;
- (6) Form E – details of the witness evidence you want to call; and
- (7) For ease of reference, I am also attaching the investigation report and its appendices which have already been sent to you.

I appreciate that this is a considerable amount of material to digest and it may be that not all of it turns out to be relevant to this hearing. But it is in your own interests, as well being necessary for the smooth running of the hearing, that you read all the attachments as soon as you can and let me have your responses to Forms A to E by Friday 11<sup>th</sup> September.

As you will see from the Hearing Procedure, there are essentially three stages to a hearing. The Committee will:

- (a) Reach its "findings of fact" after hearing all the evidence in dispute,
- (b) Decide whether you did, or did not, breach the Code, and
- (c) (if you are found to have breached it) Decide what penalty, if any, to impose.

The Committee can also make general recommendations to the Council on Members' Conduct matters, as a result of lessons learnt from the hearing.

The Hearing Procedure tries to ensure fairness between the three "parties" i.e. the two Members subject to the complaint, and the "investigator". The "investigator" is either the officer who conducted the investigation and completed the investigation report, or a representative appointed by the Monitoring Officer. Each party can make representations, put in documents, call witnesses and question the witnesses of the other parties. The Chair and members of the Committee will also be able to ask questions of the parties and their witnesses. This is all subject to rulings by the Committee, or its Chair, to maintain fairness, prevent surprises and avoid irrelevance or repetition.

The procedure will be adapted to ensure that both subject Members as individuals, i.e. Cllr Aitken and you, yourself, have a separate right to call evidence, ask questions and make representations where either of you consider this necessary.

The purpose of Form A is to narrow down the issues of fact in dispute between the parties. The investigator's case is already set out in the investigation report and its appendices. So you are now being asked to indicate where you disagree with the findings of fact in that report and, where you do disagree, to explain the reason(s) why as clearly as you can. If you do not identify these areas of disagreement before the hearing and by the deadline given, the Committee may prevent you from doing so at the hearing and may refuse to allow you to call evidence to support your case in respect of factual disputes not previously identified.

Form B is linked to Form A. It gives you the opportunity to indicate in advance any extra evidence you may want to call in addition to that contained in the investigation report and its appendices. You will usually want to do this because you disagree with some aspect of the investigation report. This extra evidence could be additional documents or witnesses not already interviewed by the investigator who, you consider, could give relevant evidence helpful to your case. As explained above, you must return Form B before the deadline or you may be prevented from calling or introducing any extra evidence at the hearing itself.

Form C is your opportunity to set out in writing in advance any representations or factors that you think the Committee should take into account if they have to consider imposing a penalty on you for a breach of the Code. Of course, this is only relevant if the Committee does find that you breached the Code. Providing your representations in advance does not, in any way, prejudice your arguments that you did not breach the Code.

Form D seeks information to help with practical arrangements for the hearing. Please note that questions 9 and 10 ask you to identify in advance any aspects of the hearing, whether witness evidence, documents or representations, that you would wish to be

heard confidentially in private session. There is a general presumption that the public interest favours hearing the complaint in public so as to demonstrate transparency. Therefore, there would need to be a good reason to justify hearing any evidence etc. in private. These reasons should be notified in advance so that they can be carefully considered and proper legal advice obtained before the hearing.

Form E asks you to provide details of all witnesses you propose to call to give oral evidence at the hearing. You are required to give an outline of the evidence you expect from each witness. This is to allow the Committee and its advisor to decide how many witnesses should reasonably be allowed to deal with the issues in dispute at the hearing and to plan timing for the hearing process.

If you have any concerns or comments about the contents of this letter or its attachments, then please let me know as soon as possible. It is particularly important that you tell me as soon as possible if you are likely to have any difficulty with the 11 September deadline for returning your responses to Forms A to E.

This letter and its attachments are being sent to your Council email address and personal email address and also in hard copy through the Council courier.

Yours sincerely,

Terence Mitchison  
For Monitoring Officer

**Mitchison Terence**

---

**From:** John Oakes [catslondon@hotmail.com]  
**Sent:** 06 October 2009 08:20  
**To:** Mitchison Terence  
**Subject:** RE: Standards Complaint ref SC3/089

Dear Terence Mitchison

That is much appreciated.

Cllr John Oakes

---

**Subject:** FW: Standards Complaint ref SC3/089  
**Date:** Mon, 5 Oct 2009 18:33:56 +0100  
**From:** Terence.Mitchison@haringey.gov.uk  
**To:** catslondon@hotmail.com  
**CC:** John.Oakes@haringey.gov.uk

Dear Cllr Oakes,

I had meant to attach the report and minutes of the "Lessons Learnt" item.

Terence Mitchison

---

**From:** Mitchison Terence  
**Sent:** 05 October 2009 18:28  
**To:** 'John Oakes'  
**Cc:** Cllr Oakes John  
**Subject:** RE: Standards Complaint ref SC3/089

Dear Cllr Oakes,

Thank you for your responses which I have considered.

As you know, Evelyne Jarrett has left Haringey and I am taking on the "investigating officer" role.

I note your disagreements with Evelyne Jarrett's investigation report and I accept what you say subject to the points below which continue to be disputed.

On the first page of your Form A you dispute several statements in the investigation report as "error of fact". It seems that you mean that you tried but did not succeed in sending the relevant email. While I accept that most of the emails you sent to journalists in December 2008 were intercepted and retained by the Council's IT security system, the first email sent to Tim Ross on 1 December at 13.21 did reach its recipient and this amounts to a breach of the Code of Conduct.

On the third page of Form A, at the top, you refer to page 21 of the investigation report where Evelyne Jarrett says "Cllr Oakes has not produced any information....to corroborate his public interest defence". You then refer to various reports and matters raised at Council/Committee meetings in the last column for this point on Form A. My position is that a general concern about the length of time staff remain on suspension was insufficient grounds for public disclosure of the exempt report to GPC about the employee - having regard to the Standards Board's guidance on disclosure which helps to interpret paragraph 4 of the Code.

I consider that there is a general disagreement between us on how to interpret or apply the "public interest test" as set out in the Standards Board guidance and I propose to ask you questions about this at the hearing.

08/10/2009

In the next box down, on the third page of Form A, you refer to page 21 of the investigation report where Evelyne Jarrett says that you do not "appear to realise the potential impact" of your actions. You say the potential impact has not been identified. My comment is that the potential impact was summarised in paragraphs 9.1 to 9.13 of the investigation report and especially at paragraph 9.12 which emphasised the importance of maintaining confidentiality in negotiating and settling disputes with employees.

It is apparent from the last 4 boxes of Form A that there is a general disagreement between us on the conclusions reached by Evelyne Jarrett at paragraphs 9.10 to 9.13 of her report. As you say, these are issues for the Panel to decide.

I am happy for the documents you include in Form B to be admitted in evidence but reserve the right to ask you questions on matters arising from them.

In the light of your responses, I am proposing to refer as part of the investigating officer's case to the report entitled "Lessons Learnt from Employment Termination" which went to the GPC on 25 June 2009. This contains some exempt information which I would ask you to keep confidential apart from the purpose of preparing for this Code of Conduct hearing.

I note that in Form E you are seeking to call Evelyne Jarrett as your witness. The Monitoring Officer will do his best to pass on your request but, as you know, it is not possible to compel a witness to attend a local determination hearing. Given the possibility that Evelyne Jarrett may be unable to attend in person, would you consider sending your questions to Rosemary Lansdowne so that she can forward them to Evelyne with a request for her replies before the hearing?

Having said this, I am not conceding that Evelyne Jarrett is a necessary witness given that she was not present during the events last December and her conclusions are now matters for the Panel to decide.

Finally, I agree with you that the Panel hearing should be in public subject to the following points:

- (i) the exempt report to the General Purposes Committee on 04/11/08 should continue to be treated as exempt/confidential from public disclosure because redaction of the information would not be practicable,
- (ii) the other hitherto exempt reports could be made available publicly subject to the redaction of any details tending to identify [REDACTED]
- (iii) the Panel and the parties should agree to conduct the oral hearing without express references to the individuals whose identities need to be protected e.g. [REDACTED] could be referred to as "the employee" and [REDACTED] as "the former Chief Officer".

Yours sincerely,

Terence Mitchison  
Principal Project Lawyer Corporate  
8489 5936

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**From:** John Oakes [mailto:catslondon@hotmail.com]  
**Sent:** 02 October 2009 16:02  
**To:** Mitchison Terence  
**Subject:** FW: Standards Complaint ref SC3/089

Terence Mitchison Esq  
Investigating Officer,  
Haringey Legal Services

Dear Terence Mitchison  
Please find forms A, B, D, and E attached in that order, followed by three pages of evidence, as detailed.

I hope that form C will also be with you shortly.

I am sorry that I was unable to return these sooner: IT Support will confirm that my output during the last week has been severely hampered by the lack of a computer because my council unit had to be replaced.

08/10/2009

I trust that you will not be unduly inconvenienced by this timing.

Yours sincerely

Councillor John Oakes

Member for Bounds Green 0208 340 9139

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Subject: Standards Complaint ref SC3/089  
Date: Mon, 28 Sep 2009 16:43:34 +0100  
From: Rosemary.Lansdowne@haringey.gov.uk  
To: catslondon@hotmail.com

Dear Cllr Oakes,

I am writing to ask when you are proposing to return Forms A to E which were sent to you on 14 August. An extension of time was granted for their return by Friday 18 th September. So far nothing has been received. Unless your responses are returned in a reasonably short space of time, the Monitoring Officer and Investigating Officer may be prejudiced in their preparation for this hearing.

I should therefore be obliged if you would return the forms to me.

I look forward to hearing from you.

Yours sincerely

**Rosemary J Lansdowne**  
Assistant Head of Legal Services [Commercial] &  
Deputy Monitoring Officer  
Corporate Legal Services  
Alexandra House  
10 Station Road  
London N22 7TR

Tel: 0208 489 5929  
Fax: 0208 489 3835  
DX: 156930 Wood Green 5

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