



**ISLINGTON**

**DRAFT**

**PROCEDURE FOR LOCAL  
STANDARDS HEARINGS**

**December 2003**

## **Introduction**

All councillors, co-opted and independent members of Islington Council have to abide by a Code of Conduct which they have all signed up to when first appointed. The Code is based on a model issued by central government and sets out standards and principles governing ethics, probity and behaviour which they should follow. A copy of the Code is available on the Council's website [www.islington.gov.uk](http://www.islington.gov.uk).

All Councils have established independent Standards Committees whose role, among other things, is to be responsible for monitoring and updating their Code of Conduct.

If anyone considers that a member has breached the Code in any way, they may write to the Standards Board for England (which is the body set up to investigate such complaints) setting out how they think it has been breached. The Board has produced an information leaflet, which outlines how you can make a complaint. Contact details are as follows:

Standards Board for England  
P.O. Box 36656  
London SE1 0WN  
Phone: 0800 107 2001  
E-mail: [referrals@standardsboard.co.uk](mailto:referrals@standardsboard.co.uk)  
Web : [www.standardsboard.co.uk](http://www.standardsboard.co.uk)

Upon receipt of a complaint, the Standards Board will decide whether it requires further investigation and, if so, will refer it to an Ethical Standards Officer (ESO). In certain circumstances, the ESO may, following the investigation, refer the matter to the local Standards Committee for consideration.

The Local Authorities (Code of Conduct)(Local Determination) Regulations 2003 cover those situations where the ESO has already completed the investigation into a complaint. Later this year, further regulations will provide for complaints to be referred at an earlier stage, for the Monitoring Officer to arrange for local investigation before reporting to the Standards Committee. The Standards Board for England has now published statutory guidance on how local authorities should implement the new regulations.

### **Which cases will be referred for local determination?**

On completing their investigation of a complaint, the ESO has to decide which of the following descriptions the matter comes within:

#### **(a) There is no evidence of a failure to comply with the Code of Conduct**

In this case the ESO simply sends a copy of his/her report with that conclusion to the member, the complainant and the Monitoring Officer and the Monitoring Officer would report to the Standards Committee that the complaint had not been upheld. The Standards Committee then has no role in relation to the matter

**(b) No action needs to be taken in respect of the matters which are the subject of the investigation.**

This would normally be the case where the failure has been very minor and has not caused any loss or damage to any person. It does not mean that there has not been a failure to comply. In this case the ESO sends a copy of his/her report with that conclusion to the member, the complainant and the Monitoring Officer and the Monitoring Officer will report to Standards Committee that there is no action to be taken. The Standards Committee then has no role in respect of the matter.

**(c) The matters which are the subject of the investigation should be referred to the Monitoring Officer of the relevant authority concerned.**

This will be the case where the ESO concludes that there has been a significant failure to comply with the Code of Conduct but that it is likely that the appropriate action to be taken is within the range of actions which are available to the Standards Committee of the authority concerned, namely:

- i. Censure
- ii. Withdrawal or partial withdrawal of Council-provided facilities for up to 3 months
- iii. Suspension as a member of that Council, in whole or in part, for up to 3 months, and/or
- iv. Recommendations as to consequent withdrawal or partial withdrawal of allowances for up to 3 months

In this case, the Monitoring Officer is required to report the matter to the Standards Committee and the Standards Committee is required to determine the matter within 3 months of the ESO referring the matter to the Monitoring Officer.

**(d) The matters which are the subject of the investigation should be referred to the President of the Adjudication Panel for England for adjudication by a Case Tribunal**

This will normally be the case where the ESO considers that there has been a significant failure to comply with the Code of Conduct and either:

- i. it is likely that the appropriate action to be taken is in excess of that which can be imposed by a Standards Committee (a Case Tribunal can suspend a member in whole or in part for up to a year, or can disqualify a member from membership of any local authority for up to 5 years), or
- ii. the nature of the failure to comply is such that it would be inappropriate for it to be dealt with by the Standards Committee, for example where it affects broader national issues or would be difficult to resolve locally.

In this case, the Monitoring Officer will report to the Standards Committee that the matter is to go to a Case Tribunal and will report the final decision of the Case Tribunal. Where the Case Tribunal decides to disqualify the member, that disqualification takes effect as soon as

the Case Tribunal writes to the member and the authority to that effect. Where the Case Tribunal decides that the member should be suspended, it will write to the Monitoring Officer to instruct the Standards Committee to suspend the member, and the Standards Committee must then meet and suspend the member as instructed. In addition, the Case Tribunal can make recommendations to the Standards Committee, for example about improving systems or providing further training for members, and the Standards Committee must consider those recommendations and report back to the Standards Board.

### **The Pre-Hearing Procedure**

The Standards Committee will conduct an extensive pre-hearing procedure in preparation for the hearing. This pre-hearing procedure is designed to identify any disputes of fact between the member and the Ethical Standards Officer's report, and to identify any witnesses and evidence to be presented, so that the necessary documents and witnesses can be organised to ensure that there are no surprises at the hearing and that the Standards Committee has everything which it needs in order to determine the complaint.

### **Format**

The pre-hearing process will usually be carried out in writing, although occasionally a face-to-face meeting between the Chair, the people involved and their representatives may be necessary.

### **The member's response**

The Committee Support Officer, in consultation with the Chair of the Committee, will write to the member concerned to propose a date for the hearing, outline the hearing procedure and the member's rights. They will also ask for a written response from the member, within 14 days to find out whether or not s/he:

- Disagrees with any of the findings of fact in the ESO's report, including the reasons for any disagreements;
- Wants to be represented at the hearing by a solicitor, barrister or any other person;
- 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 to produce any documents in support of his/her case;
- Wants any part of the hearing to be held in private;
- Wants any part of the ESO's report or any other relevant documents to be withheld from the public; and
- Can come to the hearing.

Members will be asked to make clear all the disagreements with the finding of fact in the ESO's report during this pre-hearing process. This will allow the Committee to decide what witnesses will be needed. The Standards Committee will not allow members to raise new disagreements over findings of fact in the ESO's report at the hearing unless there are good reasons for doing so, such as new evidence becoming available.

There are model forms to help the member respond to the Standards Committee in Appendix 1. These include forms to identify any findings of fact that s/he disagrees with (Form A) and outline any further evidence for the Standards Committee (Form B).

### **The ESO's response**

The Committee will also invite the relevant ESO to comment on the member's response, within 14 days, to say whether or not s/he:

- Wants to be represented at the hearing;
- Wants to call relevant witnesses to give evidence to the Standards Committee;
- Wants any part of the hearing to be held in private; and
- Wants any part of the ESO's report or other relevant documents to be withheld from the public.

### **Other witnesses**

The Standards Committee may also arrange for any other witnesses to be present if it feels they may help in determining the case, including the person who made the original allegation. However, the Committee cannot order witnesses to appear or give evidence.

### **The pre-hearing process summary**

When the Standards Committee has received a response from the member concerned and the ESO, the Chair of the Standards Committee, in consultation with the members, should then write to everyone involved at least two weeks before the hearing:

- Confirming the date, time and place for the hearing;
- Enclosing a report from the Monitoring Officer which:
  - Summarises the allegation;
  - Outlines the main facts of the case that are agreed;
  - Outlines the main facts which are not agreed;
  - Notes whether the member concerned or the ESO will go to or be represented at the hearing;
  - Lists those witnesses, if any, who will be asked to give evidence; and
- Outlining the proposed procedure for the hearing.
- Enclosing the investigator's report and any documents which the member has indicated s/he wishes to rely on.

### **Interpretation**

- (a) 'Member' means the member of the authority who is the subject of the allegation being considered by the Committee, unless stated otherwise. It also includes the member's nominated representative.
- (b) 'Investigator' means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative.

- (c) "The Matter" is the subject matter of the investigator's report.
- (d) 'The Committee' refers to the Standards Committee.
- (e) "The Committee Support Officer" means an officer of the authority responsible for supporting the Committee's discharge of its functions and recording the decisions of the Committee.
- (f) 'Monitoring Officer' means the Council's the Monitoring Officer or other legally qualified officer of the authority, or someone appointed for this purpose from outside the authority.
- (g) "The Chair" refers to the person presiding at the hearing.

### **Modification of Procedure**

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

### **Representation**

The member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the committee, another person. Note that all councillors, co-opted and independent members are covered by an insurance policy to cover legal costs they may incur in defending themselves in such cases. However, the insurers will normally reserve the right to appoint a suitably qualified person to represent the member and members will be unlikely to be able to choose someone to represent them other than the person appointed by the insurers.

### **Legal Advice**

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

### **Setting the Scene**

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

### **Preliminary procedural issues**

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

#### **(a) Disclosures of interest**

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

**(b) Quorum**

The Chair shall confirm that the Committee is quorate. The quorum for a meeting of the Committee is 3 (one of whom must be an independent member).

**(c) Hearing procedure**

The Chair shall confirm that all present know the procedure which the Committee will follow in determining the matter. The Chair shall be responsible for regulating the proceedings and his/her ruling on any point shall be final.

**(d) Proceeding in the absence of the member**

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

- (i) the Chair shall ask the Monitoring Officer whether the member has indicated his/her intention not to attend the hearing;
- (ii) the Committee shall then consider any reasons which the member has provided for not attending the hearing and shall decide whether it is satisfied that there is sufficient reason for such failure to attend;
- (iii) if the Committee is satisfied with such reasons, it shall adjourn the hearing to another date;
- (iv) if the Committee is not satisfied with such reasons, or if the member has not given any such reasons, the Committee shall decide whether to consider the matter and make a determination in the absence of the member or to adjourn the hearing to another date.

**(e) Exclusion of Press and Public**

The Chair shall ask the member, the investigator and the Monitoring Officer to the Committee whether they wish to ask the Committee to exclude the press or public from all or any part of the hearing. If any of them so request, the Chair shall ask them to put forward reasons for so doing and ask for responses from the others and the Committee shall then determine whether to exclude the press and public from all or any part of the hearing. Guidance on how to reach such a decision is set out on pages 10-11.

**A failure to comply with the Code of Conduct?**

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

**(a) Introduction by the Monitoring Officer**

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

- (i) If the member admits that s/he has failed to comply with the Code of Conduct in the manner described in the investigator's report, the Committee may then make a determination that the member has failed to comply with the Code of Conduct in the manner described in the investigator's report and proceed directly to consider whether any action should be taken.
- (ii) If the member identifies additional points of difference, the Chair shall ask the member to explain why s/he did not identify these points as part of the pre-hearing process. S/he shall then ask the Investigator (if present) whether s/he is in a position to deal with those additional points of difference directly or through any witnesses who are in attendance or whose attendance at the hearing can conveniently be arranged. Where the Committee is not satisfied with the member's reasons for failing to identify each additional point of difference as part of the pre-hearing process, it may decide that it will continue the hearing but without allowing the member to challenge the veracity of those newly contested findings of fact, or it may decide to adjourn the hearing to allow the investigator and/or any additional witnesses to attend the hearing.

**(b) Presenting the investigator's report**

- (i) If the investigator is present, the Chair will then ask the investigator to present his/her report, having particular regard to any points of difference identified by the member and why s/he concluded, on the basis of the findings of fact, that the member had failed to comply with the Code of Conduct. The investigator may call witnesses as necessary to address any points of difference.
- (ii) If the investigator is not present, the Committee shall only conduct a hearing if they are satisfied that there are no substantial points of difference or that any points of difference can be satisfactorily resolved in the absence of the investigator. In the absence of the investigator, the Committee shall determine on the advice of the Monitoring Officer which witnesses, if any, to call. Where such witnesses are called, the Chair shall draw the witnesses attention to any relevant section of the investigator's report and ask the witness to confirm or correct the report and to provide any relevant evidence.
- (iii) The member or his/her representative may ask questions of the investigator or witnesses. The Chair shall ensure that the questioning does not become overly adversarial and may intervene if s/he considers that this is the case.
- (iv) At the conclusion of the investigator's report and/or the evidence of each witness, members of the committee should be able to ask direct questions of them to clarify any issues.

**(c) The member's response**

- (i) The Chair shall then invite the member to respond to the investigator's report and to call any witnesses as necessary to address any points of difference.



- (ii) At the conclusion of the member's evidence and/or of the evidence of each witness, members of the committee should be able to ask direct questions of them to clarify any issues.
- (iii) The member or his/her representative may ask questions of the investigator or witnesses. The Chair shall ensure that the questioning does not become overly adversarial and may intervene if s/he considers that this is the case.

**(d) Witnesses**

- (i) The Committee shall be entitled to refuse to hear evidence from the investigator, the member or a witness unless they are satisfied that the witness is likely to give evidence which will assist them to determine whether there has been a failure to comply with the code of conduct.

**(e) Determination as to whether there was a failure to comply with the Code of Conduct**

- (i) At the conclusion of the member's response, the Chair shall ensure that each member of the Committee is satisfied that s/he has sufficient information to enable him/her to determine whether there has been a failure to comply with the code of conduct as set out in the investigator's report.
- (ii) The Committee shall then retire to another room to consider in private whether the member did fail to comply with the Code of Conduct as set out in the investigator's report. The Monitoring Officer for the Council and the Committee Support Officer may accompany the Committee.
- (iii) The Committee shall take its decision on the balance of probability based on the evidence which it has received at the hearing.
- (iv) The Committee's function is to make a determination on the matter. It may, at any time, return to the main hearing room in order to seek additional evidence from the investigator, the member or a witness, or to seek legal advice. If it requires any further information, it may adjourn and instruct an officer or request the member to produce such further evidence to the Committee.
- (v) At the conclusion of the Committee's consideration, the Committee shall consider whether it is minded to make any recommendations to the authority with a view to promoting high standards of conduct among members.
- (vi) If the Committee considers that the alleged breach of the Code has taken place, it may form an initial view on the appropriate sanction.
- (vii) The Committee shall then return to the main hearing room and the Chair will state the Committee's principal findings of fact and their determination as to whether the member failed to comply with the Code of Conduct as set out in the investigator's report. It shall indicate which sanction it is considering and shall invite the member to make representations on the question of the sanction if s/he so chooses. The Committee shall then retire, to make a final

decision on the sanction to be imposed and shall return to the room to inform those present of the outcome of its deliberations.

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

- (a) The sanctions which are available to the Committee under the Local Authorities (Code of Conduct)(Local Determination) Regulations 2003, Regulation 7, are any, or any combination, of the following :
- (i) censure of that member;
  - (ii) restriction for a maximum period of three months of that member's access to the premises of the authority and that member's use of the resources of the authority, provided that such restrictions imposed upon the member –
    - (a) are reasonable and proportionate to the nature of the breach; and
    - (b) do not unreasonably restrict the member's ability to perform his functions and duties as a member.
  - (iii) partial suspension of that member for a maximum period of three months;
  - (iv) partial suspension of that member for a maximum period of three months or until such time as they submit a written apology or undergoes any training or conciliation specified by the Standards Committee;
  - (v) suspension of that member for a maximum period of three months;
  - (vi) suspension of that member for a maximum period of three months or until such time as they submit a written apology or undergoes any training or conciliation specified by the Standards Committee.
  - (vii) recommend to the Corporate Services Committee that they consider withdrawal or partial withdrawal of allowances to that councillor for a period of up to three months.
- (b) Any sanction imposed shall commence immediately unless the Committee direct (for any sanction other than censure) that it shall commence on any date specified by the Committee within six months of the date of the hearing.

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

- (i) If the Committee determines that the member has not failed to follow the Code of Conduct in the manner set out in the investigator's report they shall set out their reasons for not agreeing with the investigators report.
- (ii) If the Committee finds, from the evidence which they have received during the hearing, that a member has failed to comply with the Code of Conduct in some other respect but which has not been part of the original investigation the Chair shall outline the Committee's concerns and shall then refer this additional or alternative failure to the Monitoring Officer with a view to a further allegation being made to the Standards Board for England.
- (iii) The Chair should then set out any recommendations which the Committee is minded to make to the authority with a view to promoting high standards of conduct among members and seek the views of the member, the investigator

and the Monitoring Officer before the Committee finalises any such recommendations.

**The close of the hearing**

- (a) The Committee will announce its decision on the day of the hearing and provide the Committee Support Officer with a short written statement of their decision, which the Committee Support Officer will deliver to the member as soon as practicable after the close of the hearing;
- (b) The Chair will thank all those present who have contributed to the conduct of the hearing and formally close the hearing;
- (c) Following the close of the hearing, the Committee Support Officer will agree a formal written notice of the Committee's determination with the Monitoring Officer and shall arrange for the distribution and publication of that notice (or a summary of that notice, where required) in accordance with Regulation 8 of the Local Authorities (Code of Conduct)(Local Determination) Regulations 2003.

**Standards Committee determinations**  
Guidance for monitoring officers and Standards

**FORM A**

**Member's response to the evidence set out in the ESO's report**

Please enter the number of any paragraph where you disagree with the findings of fact in the ESO's report, and give your reasons and your suggested alternative.

Paragraph number from the ESO's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Please attach separate sheets if necessary

**FORM B**

**Other evidence relevant to the allegation**

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

Paragraph number	Details of the evidence
1	
2	
3	
4	
5	

Please attach separate sheets if necessary

**Standards Committee determinations**  
Guidance for monitoring officers and Standards

**FORM C**

**Representations to be taken into account if a member is found to have failed to follow the Code of Conduct**

Please set out below, using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that a member has failed to follow the Code of Conduct.

Please note that no such finding has been made yet.

Paragraph number	Factors for the Standards Committee to take into account when deciding whether or not to order any censure, restriction of recourses or allowances, Suspension or partial suspension
1	
2	
3	
4	
5	

Please attach separate sheets if necessary

**FORM D**

**Arrangements for the Standards Committee hearing**

Please tick the relevant boxes.

<p><b>1</b></p> <p>The proposed date for the Standards Committee hearing is given in the accompanying letter. Are you planning to go to the hearing?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If 'No', please explain why.</p>	<p><b>Reason:</b></p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>2</b></p> <p>Are you going to present your own case?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p><b>3</b></p> <p>If you are not presenting your own case, will a representative present it for you?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If 'Yes', please state the name of your representative</p>	<p><b>Name:</b></p> <p>.....</p>
<p><b>4</b></p> <p>Is your representative a practising solicitor or barrister?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If 'Yes' please give his or her legal qualifications. Then go to question 6.</p> <p>If 'No' please go to question 5.</p>	<p><b>Qualifications:</b></p>
<p><b>5</b></p> <p>Does your representative have any connection with the case?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If 'Yes', please give details.</p>	<p><b>Details:</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

6	<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 <input type="checkbox"/></p>	
7	<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 <input type="checkbox"/></p>	<p><b>Details:</b></p> <p>.....</p>
8	<p>Do you, your representative or witnesses have any special needs (for example, is an interpreter needed)?</p> <p>If 'Yes', please give details.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p><b>Details:</b></p> <p>.....</p> <p>.....</p> <p>.....</p>
9	<p>Do you want any part of the hearing to be held in private?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p><b>Reasons:</b></p> <p>.....</p> <p>.....</p> <p>.....</p>
10	<p>Do you want any part of the Relevant documents to be Withheld from public inspection?</p> <p>If 'Yes', please give reasons.</p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p><b>Reasons:</b></p> <p>.....</p> <p>.....</p> <p>.....</p>

Please attach separate sheets if necessary.



**FORM E**

**Details of proposed witnesses to be called**

<p><b>Name of witness or witnesses</b></p> <p>1</p> <p>2</p> <p>3</p>	
<p><b>WITNESS 1</b></p> <p><b>a</b></p> <p>Will the witness give evidence about the allegation?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If 'Yes', please provide an outline of the evidence the witness will give.</p>	<p><b>Outline of evidence</b></p> <p>.....</p> <p>.....</p>
<p><b>b</b></p> <p>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?</p> <p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p><b>Outline of evidence</b></p>

<p><b>WITNESS 2</b></p> <p><b>a</b> Will the witness give evidence about the allegation? <input type="checkbox"/> Yes</p> <p>If 'Yes', please provide an outline of the evidence the witness will give. <input type="checkbox"/> No</p>	<p><b>Outline of evidence</b></p> <p>.....</p> <p>.....</p>
<p><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? <input type="checkbox"/> Yes</p> <p>If 'Yes', please provide an outline of the evidence the witness will give. <input type="checkbox"/> No</p>	<p><b>Outline of evidence</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>WITNESS 3</b></p> <p><b>a</b> Will the witness give evidence about the allegation? <input type="checkbox"/> Yes</p> <p>If 'Yes', please provide an outline of the evidence the witness will give. <input type="checkbox"/> No</p>	<p><b>Outline of evidence</b></p> <p>.....</p> <p>.....</p>
<p><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? <input type="checkbox"/> Yes</p> <p>If 'Yes', please provide an outline of the evidence the witness will give. <input type="checkbox"/> No</p>	<p><b>Outline of evidence</b></p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

Please attach separate sheets if necessary.

## Appendix 2

### **Admission of Press and Public to Standards Committee 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.

- (a) 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.
- (b) The Committee also has the discretion 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 bear in mind 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.
- (c) Article 6 says that the public may be excluded from all or part of the hearing if it is in the interest of:
  - (i) morals;
  - (ii) public order;
  - (iii) justice;
  - (iv) natural security in a democratic society; or
  - (v) protecting young people under 18 and the private lives of anyone involved.
- (d) There should be a public hearing unless the Committee decides that there is a good reason, which falls within one of the five categories above (3a to e), for the public to be excluded.
- (e) 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:-
  - (i) in line with the law; and
  - (ii) necessary in a democratic society in the interests of:
    - (a) national security;

- (b) public safety;
- (c) the economic well-being of the country;
- (d) preventing crime or disorder;
- (e) protecting people's health and morals (which would include protecting standards of behaviour in public life); or
- (f) 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.

The Standards Board for England recommends that a Standards Committee should move to a private room when considering its decisions. Provided reasons for those decisions are given, and the content of any legal advice given in private is shared with the member and investigator, it is not considered that this will conflict with the rights under the *European Convention on Human Rights* or the duty to act fairly.

### 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).

1. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder under, the authority.
2. Information relating to a particular employee, former employee or applicant to become an employee of, or a particular office-holder, former office-holder or applicant to become an office-holder appointed by:
  - (i) a magistrates' court committee;
  - (ii) a probation committee within the meaning of the Probation Service Act 1993;  
or
  - (iii) a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.
- 2A. Information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.
3. Information relating to any particular occupier or former occupier of, or applicant for, accommodation provided by or at the expense of the authority.
4. Information relating to any particular applicant for, or recipient or former recipient of, any service provided by the authority.
5. Information relating to any particular applicant for, or recipient or former recipient of, any financial assistance provided by the authority.
6. Information relating to the adoption, care, fostering or education of any particular child.
7. Information relating to the financial or business affairs of any particular person (other than the authority).
8. The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.
9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.
10. The identity of the authority (as well as of any other person, by virtue of paragraph 7 above) as the person offering any particular tender for a contract for the supply of goods or services.

11. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority.
12. Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with:
  - (i) any legal proceedings by or against the authority; or
  - (ii) the determination of any matter, affecting the authority.(whether in either case, proceedings have been commenced or are in contemplation).
13. Information which, if disclosed to the public, would reveal that the authority proposes:
  - (i) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (ii) to make an order or direction under any enactment.
14. Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
15. The identity of a protected informant.
16. Information relating to the personal circumstances of any person.
17. Information which is subject to any obligation of confidentiality.
18. Information which relates in any way to matters concerning national security.
19. The deliberations of a Standards Committee or a sub-committee of a Standards Committee established under the provisions of Part III of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 64(2) or 71(2) of the Local Government Act 2000.