



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 11TH NOVEMBER 2009 AT 6.00 P.M.

CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Independent Members: Mr. N. A. Burke (Chairman) and Ms. D. Roberts (Vice-Chairman)
Councillors: Miss D. H. Campbell JP, Mrs. A. E. Doyle and E. C. Tibby
Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

Observer: Mr. S. Malek (Non-voting Deputy Parish Councils' Representative)

AGENDA

HEARING PROCEDURE NOTES (Pages 1 - 4)

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meeting of the Standards Committee held on 23rd September 2009 (to follow)
4. Final Determination of an alleged failure to follow the Code of Conduct - Complaint Ref: 14/08 (Pages 5 - 54)

[To make a final determination in relation to an alleged failure by a Parish Councillor to follow the Code of Conduct.]

5. Monitoring Officer's Report (Pages 55 - 66)

[To receive a report from the Monitoring Officer on any matters of relevance to the Committee.]

6. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting
7. Exclusion of the Public

[Should it prove necessary, in the opinion of the Joint Chief Executive, to exclude the public from the meeting at any point during the proceedings in relation to any items of business on the grounds that either exempt and/or confidential information is likely to be divulged, the following resolution(s) will be moved:

"That under Section 100 I of the Local Government Act 1972, as amended, it/they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being (...to be specified by the Chairman at the meeting), and that it is in the public interest to do so.", and/or

"That under Section 100 A of the Local Government Act 1972, as amended, it/they involve the likely disclosure of confidential information which would be in breach of an obligation of confidence."]

K. DICKS
Joint Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

30th October 2009

Standards Committee

Final Determination – Hearing Procedure

Representation

1. The Subject Member who is the subject of the allegation (“the Subject Member”) may be represented or accompanied during the meeting by a solicitor, counsel or another person; the permission of the Standards Committee is required to allow the Subject Member to be represented or accompanied by a non-legal representative. The Committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing.

Legal Advice

2. 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 announced to the meeting.

Introduction

3. The Chairman will introduce the members of the Committee, the Investigating Officer and the officers present. The Subject Member will introduce any person who is acting as his or her representative and any witnesses to be called on his or her behalf. The Investigating Officer will introduce any witnesses to be called.
4. The Chairman will outline the procedure to be followed.

Preliminary Issues

5. The Committee will then consider and decide on any preliminary issues which have not been resolved as part of the pre-hearing process.
6. The Committee may formally exclude the public from its deliberations and move to another room to consider those issues. On its return, the Chairman will announce the Committee’s decision.

Facts in Dispute

7. The Committee will then identify whether there are any significant disagreements about the facts contained in the Investigating Officer’s report.
8. If there are no disagreements about the facts, the Committee will move to the next stage of the hearing – **Did the Subject Member fail to follow the Code** at paragraph 16 below.
9. If there is a disagreement, the Investigating Officer, if present, will be invited to make representations to support the relevant findings of fact in the report. The Investigating Officer may call witnesses to give evidence. The Committee will give the Subject Member an opportunity

to challenge any evidence put forward by any witness called by the Investigating Officer.

10. The Subject Member may then make representations to support his or her version of the facts and call any necessary witnesses to give evidence.
11. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Investigating Officer to challenge any evidence put forward by witnesses called by the Subject Member.
12. If the Subject Member disagrees with most of the facts, the Investigating Officer may make representations on all the relevant facts, instead of discussing each fact individually.
13. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Committee will consider whether or not it would be in the public interest to continue in the Investigating Officer's absence. 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 Investigating Officer's report;
 - b) allow the Subject Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.
14. The Committee will usually formally exclude the public from its deliberations and move to another room to consider the representations and evidence in private.
15. On its return, the Chairman will announce the Committee's findings of fact.

Did the Subject Member fail to follow the Code?

16. The Committee will then consider whether or not, based on the facts it has found, the Subject Member has failed to follow the Code of Conduct.

17. The Subject Member will be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.
18. The Committee will then consider any oral or written representations from the Investigating Officer.
19. The Committee may, at any time, question anyone involved on any point they raise in their representations.
20. The Subject Member will be invited to make any final relevant points.
21. The Committee will formally exclude the public from its deliberations and move to another room to consider the representations.
22. On its return, the Chairman 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

23. If the Committee decides that the Subject Member has not failed to follow the Code of Conduct, the Committee will consider whether it should make any recommendations to the relevant authority.

If the Subject Member has failed to follow the Code

24. If the Committee decides that the Subject Member has failed to follow the Code of Conduct, it will consider any oral or written representations from the Subject Member as to whether or not the Committee should set a penalty and what form any penalty should take.
25. The Committee may question the Subject Member, and take legal advice to ensure it has the information it needs in order to make a decision.
26. 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.
27. On its return, the Chairman will announce the Committee's decision.

Recommendations to the authority

28. After considering any oral or written representations from the Investigating Officer the Committee will consider whether or not it should make any recommendations to the relevant authority, with a view to promoting high standards of conduct among Members.

The written decision

29. The Committee will announce its decision on the day and provide a short written decision on that day. A full written decision will be issued shortly after the hearing.

Making the Findings Public

30. The Committee must arrange for a summary of the decision and reasons for that decision to be published in one or more newspapers. If the 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 these cases, the Subject Member is entitled to ask that no summary of the decision should be passed to local newspapers.
31. If the Committee finds that the Subject Member failed to follow the Code of Conduct but that no action is needed, the public summary must say that the Subject Member failed to follow the Code, outline what happened and give reasons for the Committee's decision not to take any action.
32. If the Committee finds that the Subject Member failed to follow the Code and it sets a penalty the public summary must say that the Subject Member failed to follow the Code of Conduct, outline what happened, explain what penalty has been set and give reasons for the decision made by the Committee.

Appeal

33. The Subject Member may appeal against the decision within 21 days from the date of the full written decision.

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

11TH NOVEMBER 2009

FINAL DETERMINATION OF AN ALLEGED FAILURE TO FOLLOW THE CODE OF CONDUCT - COMPLAINT REF: 14/08

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Non-Key Decision	

1. SUMMARY

An allegation was made that a Parish Councillor (“the Subject Member”) had failed to follow the Parish Council’s Code of Conduct. The Standards Assessment Sub-Committee referred the matter for local investigation. The investigation has been completed and the Investigating Officer has made a finding of failure to comply with the Code of Conduct. The Standards Committee considered the Investigating Officer’s report on 23rd September 2009 and decided that the matter was suitable for determination by the Standards Committee. The Committee is therefore requested to determine the matter.

2. RECOMMENDATION

2.1 Members are requested to consider the Investigating Officer’s report at Appendix 1. Members may reach one of the following decisions:

2.1.1 that the Subject Member has not failed to comply with the relevant Code of Conduct; or

2.1.2 that the Subject Member has failed to comply with the relevant Code of Conduct but that no action needs to be taken; or

2.1.3 that the Subject member has failed to comply with the relevant Code of Conduct and that a sanction should be imposed; sanctions which can be imposed are:

2.1.3.1 censure;

2.1.3.2 restriction for a period not exceeding 6 months of the Subject Member’s access to the premises of the authority or the Subject Member’s use of the resources of the authority, provided that those

restrictions are reasonable and proportionate to the nature of the breach and that they do not unduly restrict the Subject Member's ability to perform the functions of a member;

- 2.1.3.3 partial suspension of the Subject Member for a period not exceeding 6 months;
- 2.1.3.4 suspension of the Subject Member for a period not exceeding 6 months;
- 2.1.3.5 that the Subject Member submits a written apology in a form specified by the Committee;
- 2.1.3.6 that the Subject Member undertakes such training as the Committee specifies;
- 2.1.3.7 that the Subject Member participates in such conciliation as the Committee specifies;
- 2.1.3.8 partial suspension of the Subject Member for a period not exceeding 6 months or until such time as the Subject Member submits a written apology in a form specified by the Committee;
- 2.1.3.9 partial suspension of the Subject Member for a period not exceeding 6 months or until such time as the Subject Member has undertaken such training or has participated in such conciliation as the Committee specifies;
- 2.1.3.10 suspension of the Subject Member for a period not exceeding 6 months or until such time as the Subject Member has submitted an apology in a form specified by the Committee; or
- 2.1.3.11 suspension of the Subject Member for a period not exceeding 6 months or until such time as the Subject Member has undertaken such training or has participated in such conciliation as the Committee specifies.

2.1.2 If by the date of the Committee meeting the Subject Member has ceased to be a member of the relevant authority, the only sanction available to the Committee is censure.

3. BACKGROUND

- 3.1 The Standards Assessment Sub-Committee considered an allegation about the Subject Member on 23rd January 2009 and decided to refer the matter to the Monitoring Officer for local investigation having identified that the Subject Member might have failed to comply with the Code of Conduct by failing to register interests.
- 3.2 Following the Subject Member's completion and delivery to the Monitoring Officer of a Register of Interests form on 3rd February 2009, the Monitoring Officer referred the matter back to the Assessment Sub-Committee for reconsideration under Regulation 16 of the Standards Committee (England) Regulations 2008 ("the Regulations"). On 20th February 2009 the Assessment Sub-Committee decided again to refer the matter to the Monitoring Officer for local investigation having identified that the Subject member might have failed to comply with the code of Conduct by failing to register interests. The Monitoring Officer appointed an Investigating Officer who has investigated the allegation and her report is at Appendix 1.
- 3.3 The Investigating Officer has made a finding that the Subject Member has failed to comply with the Code. The Standards Committee considered the report at its meeting on 23rd September 2009 and decided:
- 3.3.1 that the matter was suitable for determination by the Standards Committee; and
- 3.3.2 that the matter should not be treated as exempt business.
- 3.4 Therefore, in accordance with the Regulations the allegation has been referred to the Standards Committee for final determination.

Pre-Hearing Process

- 3.5 Standards for England (SfE) advises that a pre-hearing process should be followed before a final determination hearing to try to allow matters at the hearing to be dealt with more fairly and economically by alerting the parties to possible areas of difficulty and, if possible, allowing them to be resolved before the hearing itself. A questionnaire has been sent to the Subject Member to identify:
- if the Subject Member disagrees with any of the findings of fact in the investigation report, and if so whether they are likely to be relevant to the issues to be determined;
 - 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;

- any factors the Subject member wishes the Standards Committee to take into account if it finds that the Subject member has failed to follow the Code of Conduct;
- whether the Subject Member will be represented at the hearing;
- whether the Subject member intends to call any witnesses; and
- whether any special arrangements need to be made.

3.6 In this instance the Subject Member has not responded to the questionnaire and it is not known whether or not he intends to attend the hearing. No reply has been received to any correspondence sent to the Subject Member since the matter was referred for investigation.

Procedure for the Hearing

3.7 The procedure to be followed at the hearing is set out in the agenda papers.

Non-attendance of the Subject Member

3.8 SfE guidance is that the Committee may consider the report in the Subject Member's absence if the Subject member does not attend the hearing. If the Committee is satisfied with the Subject Member's reasons for not being able to attend the hearing, it should arrange for the hearing to be held on another date.

Determining the Complaint

3.9 SfE guidance is that the hearing is a formal meeting of the Council and not a court of law. Evidence is not given under oath but the Committee is required to decide factual evidence on the balance of probabilities. The Committee should work in a demonstrably fair, independent and politically impartial way.

Sanctions

3.10 If the Committee finds that a Subject Member has failed to comply with the Code of Conduct the sanctions which it may apply are set out in paragraph 2.

3.11 The Adjudication Panel for England has produced advice for its own case tribunals which the SfE suggests should be considered by Standards Committees. This advises that in deciding what action to take, the 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 Committee should be designed both to discourage or prevent the particular Subject Member from any future non-compliance and also to discourage similar action by others. Tribunals should take account of the actual consequences which have followed as a result of the Subject Member's actions while at the same time bearing in mind what the possible consequences might have been even if they did not come about.

3.12 SfE guidance provides that when deciding on a sanction the Committee should ensure that it is reasonable and proportionate to the Subject Member's behaviour. Before deciding what sanction to issue, the 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 he was 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?
- 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 relevant authority's information technology resources, the Committee may consider withdrawing those resources from the Subject member.

3.13 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; or
- Bullying.

Aggravating and mitigating factors when deciding sanctions

3.14 The Adjudication Panel for England has published guidance on aggravating and mitigating factors it takes into account when assessing an appropriate sanction and these include:

- An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the Code of Conduct, particularly when 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;

- 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;
- Actions which may have involved a breach of the Code may nevertheless have had some beneficial effect for the public;
- 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; and
- Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

Decision

- 3.15 The Committee should announce its decision at the end of the hearing and SfE advises that it is good practice to make a short written decision available on the day of the hearing. The 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 2 weeks of the hearing. The Committee must arrange for a summary of the decision and reasons for it to be published in at least one newspaper circulating in the area of the authority involved. If the Committee finds that the Subject member did not fail to follow the Code of Conduct the Subject member is entitled to decide that no summary of the decision should be passed to local newspapers.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

The Local Government Act 2000 ss60-67 as amended provides the statutory framework for the investigation of complaints against Members. The Standards Committee (England) Regulations 2008 as amended govern the conduct of these proceedings. The Committee should also take account of the guidance published by Standards for England on Standards Committee Determinations.

6. COUNCIL OBJECTIVES

Improvement – it is vital for the reputation and credibility of the Council that complaints against elected Members are seen to be robustly investigated.

7. RISK MANAGEMENT

The main risk associated with the details included in this report is loss of reputation. This risk is being managed as follows:

Risk Register: Legal, Equalities and Democratic Services
Key Objective Ref No: 3
Key Objective: Effective ethical governance

8. CUSTOMER IMPLICATIONS

None.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

None.

10. VALUE FOR MONEY IMPLICATIONS

None

11. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	Adherence to the Code of Conduct is a key element of sound governance
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	No
Chief Executive	No
Corporate Director (Services)	No
Assistant Chief Executive	No

Head of Service	No
Head of Financial Services	No
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards

14. APPENDICES

Appendix 1 Investigating Officer's Report

15. BACKGROUND PAPERS

- Standards Board for England guidance on Standards Committee Determinations
- Standards Board for England guidance on Local Investigations
- Adjudication Panel for England's guidance on decisions to be made by a Case Tribunal where a Respondent has been found to have failed to comply with a Code of Conduct

CONTACT OFFICER

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INVESTIGATION : ref 14/08

FINAL REPORT

14th August 2009

This report has been prepared in relation to an investigation conducted under Section 59 of the Local Government Act 2000 by Vanessa Brown, Litigation Solicitor (appointed by the Monitoring Officer) into an allegation concerning Parish Councillor Dale Carter a member of the Catshill and North Marlbrook Parish Council who it is alleged has failed to complete and submit a Register of Interest Form within the statutory time limit.

CONTENTS:

1. Summary of the allegation.
2. Parish Councillor Dale Carter's official details
3. Relevant sections of the Code of Conduct.
4. Evidence gathered.
5. Findings of Fact.
6. The Issues.
7. Reasoning as to whether there has been a Breach of the Code.
8. Findings as to whether there has been a failure to comply with the Code of Conduct.

APPENDICES:

Schedule of evidence taken into account.

- A.** Code of Conduct implemented by the Catshill and North Marlbrook Parish Council 26th June 2008
- B.** Copy of the meeting notes prepared by Vanessa Brown following a meeting on 3rd June 2008 with Mrs. Deborah Warren - Deputy Monitoring Officer and Senior Solicitor.
- C.** Copy of the meeting notes prepared by Vanessa Brown following a meeting 21st May 2009 with Ms. Gill Lungley, Parish Clerk for Catshill & North Marlbrook.

- D. Copy of the Agenda and Minutes from the Catshill and North Marlbrook Parish Council meeting on the 26th June 2008.
- E. Copy correspondence from the Mrs. Warren – (Deputy Monitoring Officer and Senior Solicitor), dated 8th September 2008, and 9th December 2008, and from Mrs. Felton (Monitoring Officer) dated 6th January 2009.
- F. Copy of the Register of Interest form signed on the 28th January 2009 received by the Monitoring Officer on the 3rd February 2009.
- G. Decision Notice: Referral for Investigation.
- H. Chronology.
- I. Schedule of Unused Material.

1. SUMMARY OF THE ALLEGATION

It is alleged that following the implementation by the Catshill & North Marlbrook Parish Council of the new Code of Conduct on the 26th June 2008 that Councillor Dale Carter failed to complete and return his Register of Interests Form in accordance with the statutory requirement to do so within 28 days. It is therefore alleged that Councillor Carter has failed to comply with the Code of Conduct.

The Code of Conduct relevant to this investigation is provided at **Appendix A** and is the new Code of Conduct implemented by the Catshill and North Marlbrook Parish Council on the 26th June 2008.

The allegation was reported to the Standards Assessment Sub-Committee for consideration and was referred to the Monitoring Officer for local investigation and determination, pursuant to Section 57A (2) of The Local Government Act 2000 as amended.

There is one distinct part to the allegation:

- (i) At the Catshill and North Marlbrook Parish Council meeting held on the 26th June 2008 the Parish Council adopted the new Code of Conduct (**Appendix A**). All Parish Councillors were aware of the statutory

requirement that a Register of Interest Form needed to be completed and return to the Monitoring Officer within 28 days of the Code being adopted.

It is alleged that Councillor Carter was aware of this requirement yet failed to provide a completed Register of Interests Form within the statutory time. That time period ended on the 24th July 2008 and it is alleged that Councillor Carter failed to complete and return his Register of Interest Form until 3rd February 2009 which is the date it was received by the Monitoring Officer.

2. PARISH COUNCILLOR DALE CARTER – OFFICIAL DETAILS

The information obtained in relation to this section of the report has been obtained from the internet and from the Parish Clerk to Catshill and North Marlbrook as Councillor Carter has chosen not to contribute in the preparation of this report.

Councillor Dale Carter became a Parish Councillor in Catshill and North Marlbrook in May 2007. He sits on the committees for Planning, Events, Youth Groups and Appeals.

3. RELEVANT SECTIONS OF THE CODE OF CONDUCT

The new Code of Conduct was introduced in 2007 and on the 26th June 2008 the Catshill & North Marlbrook Parish Council adopted the full Code of Conduct **(Appendix A)**.

The allegation made against Councillor Carter is covered by the section of the Code of Conduct detailed below:-

Part 3 of the Code – Register of Member’s Interests

13. (1) Subject to paragraph 14, you must, within 28 days of:

- (a) this Code being adopted by or applied to the authority; or
- (b) your election or appointment to office (where that is later),

register in your authority’s register of member’s 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 the authority’s monitoring officer.

- (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 the 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 the 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 the any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information notify the authority's Monitoring Officer asking that the information be included in the 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 an person who lives with you may be subjected to violence or intimidation.

4. EVIDENCE GATHERED

In the course of this investigation I have had regard to the following evidence: -

- 4.1 The Code of Conduct **Appendix A**.
- 4.2 A meeting was held with Mrs. Deborah Warren, Deputy Monitoring Officer and Senior Solicitor. The attendance note is found at **Appendix B**.
- 4.3 A meeting was held with Ms. Gill Lungley the Parish Clerk for Catshill & North Marlbrook. The attendance note is found at **Appendix C**.
- 4.4 Documents provided by Ms. Lungley, include the Agenda and Minutes of the meeting held on the 26th June 2008 and they can be found at **Appendix D**.
- 4.5 There are three letters dated 8th September 2008, 9th December 2008 and 6th January 2009 which were sent to Councillor Carter from the Monitoring Officer and Deputy Monitoring Officer. These three letters are provided at **Appendix E**.
- 4.6 The completed Register of Interest Form signed by Councillor Carter on the 28th January 2009 and received by the Monitoring Officer on the 3rd February 2009. **Appendix F**.

- 4.7 The Decision Notice provided with instructions to commence the investigation is provided at Appendix G.
- 4.8 Chronology of events is provided at **Appendix H**.
- 4.9 Schedule of Unused Material is provided at **Appendix I**.

5. SUMMARY OF THE MATERIAL FACTS

- 5.1 The allegation faced by Councillor Carter, centres on the implementation of the new Code of Conduct which was introduced in 2007.
- 5.2 Parish Councils were required to adopt the Code and could do so either in its entirety or they could exclude paragraph 12 (2) relating to “Effect of Prejudicial Interest on Participation”.
- 5.3 With the implementation of the Code of Conduct came the statutory requirement that all members return a completed Register of Interests Form to the Monitoring Officer within 28 calendar days of the adoption the Code of Conduct. In this instance the 28 days expired on the 24th July 2008.
- 5.4 The Minutes held by the Catshill & North Marlbrook Parish Council indicate that a copy of the new Code was distributed to the parish councillors at a meeting held in October 2007 although there was nothing noted to say the new Code had been adopted at the same time.
- 5.5 In early 2008 Ms. Lungley took up the position of parish clerk and in reviewing the records noted that the new Code did not appear to have been formally adopted. Therefore at a meeting held on the 26th June 2008 the adoption of the new Code of Conduct was included on the Agenda.
- 5.6 The Agenda item is specific with regards to the completion of the Register of Interests Form and a blank form for completion was included with the papers for the meeting. **(Appendix D)**.
- 5.7 The Agenda item states:
 - “ ...members were required to complete a new Register of Interests form at the same time to comply with the conditions of the Revised (2007) Code, despite having already completed one only a few months earlier. These forms are retained at Bromsgrove District Council and can be viewed by any member of the public who so requests to see them. BDC have been in touch

recently asking for the Register of Interest forms, of which only six have been fully completed by members of this parish council.

A blank form is being sent with these papers to those members who do not yet appear to have completed a form- and apologies to those who receive a form herewith and have already completed one, however BDC do not have them on record. If BDC do not receive these forms they are obliged to inform the local Standards Committee, who will be obliged to bar such a member from office.”

- 5.8 The Minutes prepared following the meeting confirmed that it had been agreed that the parish council would adopt the revised (2007) Members’ Code of Conduct with paragraph 12 (2). It is also noted that councillors were reminded of the need to complete the Register of Interest form.
- 5.9 The Minutes also confirm that Councillor Carter was present at the June 2008 meeting. **(Appendix D)**.
- 5.10 Whilst the parish clerk provided the blank Register of Interest Form to the parish councillors, responsibility for completing the form and ensuring it reached the Monitoring Officer rested entirely with the individual councillors.
- 5.11 Once completed, the forms could be either given to the parish clerk who would forward them to the Monitoring Officer or the councillor could send them directly to the Monitoring Officer at Bromsgrove District Council.
- 5.12 Mrs. Warren (Deputy Monitoring Officer) was able to confirm that over the last two years requests have been made of parish clerks to provide copies of their adopted Code of Conduct and also Register of Interests Forms for parish councillors so that a central record could be kept at the Council House. Additionally, completed forms received directly from the councillors would generally be copied and forwarded to the parish clerks to enable them to hold their own records
- 5.13 On the 8th September 2008 Mrs. Warren was contacted by the Parish Clerk for Catshill and North Marlbrook who was missing Register of Interests Forms for two parish councillors. The same day Mrs. Warren wrote to both councillors, one of whom was Councillor Carter, to request the completed Register of Interests Form and advising that failure to provide the completed form within 28 days of the Code being adopted could amount to a breach of the Code of Conduct. **(Appendix E)**
- 5.14 In November 2008 the Ms. Lungley the Parish Clerk also wrote to Councillor Carter and sent him another blank Register of Interests Form for completion. A short time later in the course of a conversation Councillor Carter confirmed to the Ms. Lungley that he “had not got round to completing the form”. Councillor

Carter declined a further form stating that he had still the one previously provided.

5.15 The parish clerk notified Mrs. Warren (Deputy Monitoring Officer) of the conversation with Councillor Carter and this resulted in a further letter being sent to Councillor Carter on the 9th December 2008 again to requesting a completed Register of Interests Form. **(Appendix E)**

5.16 There was no response to this letter and so the matter was referred to the Monitoring Officer, Mrs. Felton who wrote to Councillor Carter on the 6th January 2009 to again request the completed form. **(Appendix E)**

5.17 The lack of response to any of the letters of request resulted in the matter being referred to the Standards Assessment Sub-Committee for consideration. It was determined that the matter should be referred the Monitoring Officer for investigation. **(Appendix G)**

5.18 On the 3rd February 2009 the Monitoring Officer received the completed Register of Interests Form from Councillor Carter. **(Appendix F)**. It was sent in by the parish clerk.

5.19 In discussion with Mrs. Warren (Deputy Monitoring Officer and Senior Solicitor) and the Ms.Lungley (Parish Clerk) it has been established that there are no training sessions available for parish councillors on either the implementation of the new Code or the Register of Interests Form.

5.20 Councillor Carter has been written to on three occasions asking him to meet with me to discuss the allegation made against him. There has been no response to these requests nor has Councillor Carter taken up the offer to provide written representations to be included in this report.

5.21 From information provided by the parish clerk and from information available on the internet, I am able to confirm that Councillor Carter has been a councillor since May 2007 and sits on committees for Planning, Events and Appeals. Ms. Lungley (Parish Clerk) describes Councillor Carter as an active member who willingly participates in all aspects of parish council work. I am unable to expand on this information having not had the opportunity to meet with Councillor Carter or to discuss this matter with him.

5.22 A chronology of events is at **Appendix H**.

6. **REASONINGS AS TO WHETHER THERE HAS BEEN A BREACH OF THE CODE**

- 6.1 The new Code of Conduct was adopted by the Parish of Catshill and North Marlbrook at a meeting held at the village hall on the 26th June 2008.
- 6.2 The Code of Conduct includes under Part 3, Register of Interest paragraph 13 (1) a requirement that members must, within 28 days of the Code being adopted provide written notification of their personal interests. The Register of Interests Form should have been completed and provided to the Monitoring Officer within the statutory time period specified. In this case that time period expired on the 24th July 2008.
- 6.3 At an earlier Parish Council meeting held in October 2007 guidance copies of the Code were distributed to parish councillors. I am unable to establish whether or not Councillor Carter received a copy of the guidance at this time.
- 6.4 I am able to establish from the Minutes obtained (**Appendix D**), that Councillor Carter was present at the meeting held on the 26th June 2008 when it was resolved to adopt the full Code of Conduct. I am satisfied that Councillor Carter was provided with a copy of a blank Register of interests form and I am equally satisfied that both the Agenda and Minutes reflect the clear need for the Register of Interests Form to be completed within the 28 day statutory period.
- 6.5 Ms. Lungley (Parish Clerk) was able to advise me that at the beginning of the meetings attended by Councillor Carter that he always made a Declaration of Interest that he was a member of NWWA. (**Appendix D**). This demonstrates Councillor Carters' understanding of the need for transparency when attending meetings and it is therefore surprising that the same attention to detail was not exercised when required to complete the Register of Interests Form.
- 6.6 Ms.Lungley (Parish Clerk) contacted Mrs. Warren (Deputy Monitoring Officer) to assist in her attempts to obtain the completed forms from two councillors who by September 2008 had still not completed the forms and submitted them to the Monitoring Officer. On the 8th September 2008 Mrs. Warren (Deputy Monitoring Officer) wrote to the councillors and not only requested the form be returned but also gave clear advice that failure to do so could amount to a breach of the Code.
- 6.7 In November 2008 Ms. Lungley, the parish clerk, also wrote to the Councillor Carter requesting the form be completed and submitted. There was no response to this letter or to the letter sent by Mrs. Warren (Deputy Monitoring Officer) in September 2008.

- 6.8 Shortly after this time Ms. Lungley (parish clerk) saw Councillor Carter at a parish council meeting and when asked about the form he confirmed he “had not got round to it”.
- 6.9 On the 9th December 2008 Mrs. Warren (Deputy Monitoring Officer) was again alerted to the fact the forms had not been received and a further letter was sent making the same request. Again there was no response.
- 6.10 The matter was then referred to Mrs. Felton, the Monitoring Officer who on the 6th January 2009 wrote to Councillor Carter again requesting the completed form.
- 6.11 There was a total lack of response from Councillor Carter up until this time and even then it was only on the 28th January 2009 that the form was signed. It was received by the Monitoring Officer on the 3rd February 2009 having been forwarded by the parish clerk.
- 6.12 I have had particular regard to the fact Councillor Carter was present at the meeting at which the Code was adopted and it is clear from his regular declaration this he is aware of the importance of considering possible conflicting interests at the beginning of all meetings. In my opinion such factors compound his failure to complete the form within the time limit
- 6.13 I have considered and have had significant regard to the four letters sent to Councillor Carter requesting the completed form. It is regrettable that the first letter did not prompt a response and that three further letters making the same request was necessary.
- 6.14 I have considered the comments made to Ms. Lungley (Parish Clerk) in November 2008 in which Councillor Carter stated he “had not got round to it”. By this time there had been attempts by both Mrs. Warren (Deputy Monitoring Officer) and Ms. Lungley (Parish Clerk) to obtain the form yet it still took a further letter from Mrs. Warren on the 9th December 2008 (**Appendix E**) and the intervention of the Monitoring Officer on the 6th January 2009 (**Appendix E**) to secure the completed Register of Interests Form. (**Appendix F**)
- 6.15 Mrs. Warren (Deputy Monitoring Officer) at one stage thought the form may have been received but upon checking the records it was apparent that the form remained outstanding. This is supported by the comments made by Councillor Carter to Ms. Lungley (Parish Clerk) in November and the lack of response from him to the contrary.
- 6.16 I am unable to include comments/representation from Councillor Carter as he has declined to contribute to the investigation and ultimately to the preparation of this report.

- 6.17 Upon reviewing the completed Register of Interests Form I have noted that it contains little information and I doubt would have taken more than a few minutes to complete. Yet the amount of time and effort afforded by others to obtain this form is extensive and could have been avoided had Councillor Carter addressed his mind to any of the numerous requests made of him
- 6.18 The Parish Clerk made it very clear in the Agenda and is reflected in the Minutes of the June 2008 meeting, that it was imperative for the Register of Interests Form to be completed and submitted. The Code was adopted by the Parish Council and I take the view that all councillors irrespective of their attendance at the meeting are bound by the Code and the obligations it places upon them as individuals.
- 6.19 The Code of Conduct is agreed and adopted by all councillors and as such, in my opinion, should be viewed as carrying the same weight as legislation. I see the Code of Conduct as the only true way in which the public can measure the trust it places in those representing their interests as it represents the standard against which the public will judge the conduct of the any councillors. Its purpose is to ensure transparency in all work carried out in the name of the council.
- 6.20 I anticipate that only a relatively small percentage of the public ever come into direct contact with their parish councillor. Unless there is a personal issue that directly affects them, most will never need to examine the Code of Conduct or look at the Register of Interests. It is therefore absolutely essential that those who do examine the Register of Interests have access to the information in accordance with the Code of Conduct and the time limits attached to it.
- 6.21 It must therefore follow that had a member of the public wished to look at the Register of Interests they would have been deprived of any relevant information pertaining to Councillor Carter.
- 6.22 It is without doubt solely the responsibility of the individual councillors to ensure that they complete the Register of Interests Form and submit it to the Monitoring Office within the statutory time limit. In the absence of any comments or representations from Councillor Carter it is difficult to explain why it took almost 7 months for him to complete such a simply task.

7. **FINDINGS AS TO WHETHER THERE HAS BEEN A FAILURE TO COMPLY WITH THE CODE OF CONDUCT**

- 7.1 With regard to the allegation that Councillor Carter failed to comply with the Code of Conduct in that he did not return a completed and signed Register of

Interest Form within 28 days of the new Code of Conduct being adopted I find as follows:

The new Code of Conduct was adopted by Catshill and North Marlbrook Parish Council on the 26th June 2008. There is a statutory requirement that all Councillors complete a Register of Interest Form and return it to the Monitoring Officer within 28 days of the Code being adopted.

For the reasons set out at paragraph 6 I find that Councillor Carter failed to comply with Part 3 paragraph 13 (1) of the Code of Conduct as he did not provide the Monitoring Officer with the completed Register of Interests Form within 28 days of the Code of Conduct being adopted by the parish council and I therefore find that Councillor Carter has breached the Code of Conduct.

Councillor Carter has not contributed to the preparation of this report despite being given opportunity to do so. I am therefore unable to assess whether this breach of the Code is a mere oversight or a blatant disregard to the Code of Conduct and the obligations attached to it.

The evidence collated in the course of this investigation has been carefully considered and assessed and my findings are based on the balance of probability burden of proof.

This is the final report prepared by Vanessa Brown which represents the findings and conclusions of the investigation into an allegation made against Parish Councillor D Carter.

This final report will be presented to the Standards Committee

Signed

Dated

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 STATUTORY INSTRUMENTS

2007 No. 1159

LOCAL GOVERNMENT, ENGLAND AND WALES**The Local Authorities (Model Code of Conduct) Order 2007**

<i>Made</i> - - - - -	<i>2nd April 2007</i>
<i>Laid before Parliament</i>	<i>4th April 2007</i>
<i>Coming into force</i> - - -	<i>3rd May 2007</i>

The Secretary of State for Communities and Local Government makes the following Order in exercise of the powers conferred by sections 50(1) and (4), 81(2) and (3), and 105(2), (3) and (4) of the Local Government Act 2000(a).

The Secretary of State has consulted in accordance with section 50(5) of that Act.

The Secretary of State is satisfied that this Order is consistent with the principles for the time being specified in an order under section 49(1) of that Act(b).

Citation, commencement and application

1.—(1) This Order may be cited as the Local Authorities (Model Code of Conduct) Order 2007 and comes into force on 3rd May 2007.

(2) This Order applies—

- (a) in relation to police authorities in England and Wales; and
- (b) in relation to the following authorities in England—
 - (i) a county council;
 - (ii) a district council;
 - (iii) a London borough council;
 - (iv) a parish council;
 - (v) the Greater London Authority;
 - (vi) the Metropolitan Police Authority;
 - (vii) the London Fire and Emergency Planning Authority;
 - (viii) the Common Council of the City of London;
 - (ix) the Council of the Isles of Scilly;
 - (x) a fire and rescue authority;
 - (xi) a joint authority;
 - (xii) the Broads Authority; and

(a) 2000 c.22.

(b) See the Relevant Authorities (General Principles) Order 20001 (S.I. 2001/1401).

(c) the National Park and Broads Authorities (Model Code of Conduct) (England) Order 2001(a); and

(d) the Police Authorities (Model Code of Conduct) Order 2001(b).

(2) The Orders referred to in paragraph (1) continue to have effect for the purposes of and for purposes connected with—

(a) the investigation of any written allegation under Part 3 of the Local Government Act 2000, where that allegation relates to conduct which took place before the date when, pursuant to section 51 of that Act—

(i) the authority adopts a code of conduct incorporating the mandatory provisions of the Code in the Schedule to this Order in place of their existing code of conduct;

(ii) the authority revises their existing code of conduct to incorporate the mandatory provisions of the Code in the Schedule to this Order; or

(iii) the mandatory provisions of the Code in the Schedule to this Order apply to members or co-opted members of the authority under section 51(5)(b) of that Act;

(b) the adjudication of a matter raised in such an allegation; and

(c) an appeal against the decision of an interim case tribunal or case tribunal in relation to such an allegation.

(3) Any order made under section 83 of the Local Government Act 1972(c) shall have effect for the purpose of prescribing the form of a declaration of acceptance of office in relation to a county council, district council, London borough council and a parish council.

Signed on behalf of the Secretary of State for Communities and Local Government

Phil Woolas
Minister of State

2nd April 2007

Department for Communities and Local Government

(a) S.I. 2001/3577.

(b) S.I. 2001/3578.

(c) Orders made under section 83 of the Local Government Act 1972 were disappplied, by the Orders mentioned in article 4(1)(a) and (b) of this Order, and are here being revived.

- (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(a));
- (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.

(3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

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—

(a) 2006 c.3.

- (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
 - (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(a).

(a) See the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations (S.I. 2000/3272).

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.

(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.

Paragraph 4 of the Code provides that members must not without consent disclose confidential information they have acquired and must not prevent others from gaining access to information to which they are entitled.

Paragraph 5 of the Code provides that a member must not conduct himself or herself in a manner which could bring his or her authority into disrepute.

Paragraph 6 of the Code provides that a member must not use his or her position improperly to gain an advantage or confer a disadvantage and that when using or authorising the use of the authority's resources, he or she must act in accordance with the authority's reasonable requirements, must not permit those resources to be used for political purposes and must have regard to the Local Authority Code of Publicity.

Paragraph 7 of the Code provides that a member must have regard to advice given by the chief finance officer and monitoring officer and must give reasons for decisions made.

Paragraph 8 of the Code provides a list of matters which constitute a personal interest.

Paragraph 9 of the Code provides that generally a member with a personal interest in any business of his or her authority must disclose that interest at any meeting at which the business is considered.

Paragraph 10 of the Code provides that generally a member with a personal interest also has a prejudicial interest if the interest could be regarded by a member of the public as so significant that it is likely to prejudice his or her judgement of the public interest. The paragraph provides that in specified circumstances a member may regard himself as not having a prejudicial interest.

Paragraph 11 of the Code provides that a member who was involved in making a decision or taking action on a matter must not be involved in the overview and scrutiny committee's consideration of that decision or action.

Paragraph 12 of the Code provides that a member with a prejudicial interest must, unless, for example, he or she is making representations and members of the public are also allowed to make representations on that matter, or he or she has obtained a dispensation, withdraw from any meetings at which the business is being considered, and must not improperly influence decisions in relation to the business.

Paragraph 13 of the Code provides that a member must notify the monitoring officer of his or her personal interests and any change to those interests must also be notified.

Paragraph 14 of the Code provides that a member may notify the monitoring officer of any sensitive information the availability of which to the public creates, or is likely to create, a serious risk that the member or a person who lives with him or her may be subjected to violence or intimidation.

Meeting Notes

Reference: Local Investigation ref 14/08

Date of meeting: 3rd June 2009

Attendees: Mrs Deborah Warren (Senior Solicitor and Deputy Monitoring Officer) and Vanessa Brown (Investigating Officer)

Purpose: to establish the process used to collate the Register of Interest forms for Parish Councillors.

Meeting notes recorded by Vanessa Brown

The following matters were discussed:-

1. Mrs. Warren confirmed that it is only in the last 2 years that requests have been made of Parish Councils to send their Register of Interest forms and a copy of their Code of Conduct to the Monitoring Officer. Up until this time no such records were kept at the Council House office.
2. In 2007 a new Code of Conduct was introduced and each Parish Council was required to adopt the new Code. A copy of the adopted Code of Conduct and the Register of Interest forms were requested from the Parish Councils to enable a central record to be kept by the Monitoring Officer.
3. Mrs Warren also confirmed that whilst there was no set format for the Register of Interest forms, she provided the Parish Councils with a blank copy of the form used by District Councillors for the Parish Clerk to use should they wish.
4. The Register of Interest forms would be made available to the Parish Councillors by the Parish Clerk.
5. It is the responsibility of all Councillors to ensure they have completed the Register of Interest form and submitted it to the Monitoring Officer within the statutory time limit.
6. Parish Councillors' Register of Interest forms were either received directly from the Parish Councillor or would be sent to the Monitoring Officer via the Parish Clerk.

7. It is now general practice for Parish Clerks to be notified that completed Register of Interests forms have been received by the Monitoring Officer. If required a copy would be forwarded to the Parish Clerk, to be retained with the Parish Councils records.
8. Mrs Warren was able to confirm that on the 8th September 2008 she received an email from the Parish Clerk to Catshill & North Marlbrook Parish Council saying that she was missing Register of Interest form for two of the Parish Councillors and asking if they could be written to requesting the completed forms. Mrs Warren confirmed that she would write to the relevant Parish Councillors as requested.
9. The same day Mrs. Warren sent a letter to both Councillors, (one of whom was Councillor Carter), enclosing a Register of Interests form and requesting that it be completed and returned as soon as possible. Mrs. Warren's letter also stated that there was a statutory requirement that the form should have been completed within 28 days of the adoption of the new Code of Conduct and that by failing to do so this amounted to a breach of the code of conduct.
10. On the 13th October 2008 the Parish Clerk for Catshill & North Marlbrook emailed Mrs. Warren asking whether the two outstanding forms had been received.
11. Mrs. Warren responded confirming the details of those she had received and also that she thought she may have received the two outstanding forms and that she would check her records to verify the position.
12. A check of the records confirmed the Register of Interest form for both councillors remained outstanding.
13. Mrs. Warren received a further letter from the Parish Clerk in which she said she had seen Councillor Carter at a meeting and he mentioned that he had not signed his form. The letter further confirmed that the Parish Clerk had spoken to the Standards Board for England who had advised that the Parish Council could be held potentially responsible for the missing R of I forms.
14. In the same letter the Parish Clerk asked Mrs Warren if she could again contact Councillor Carter to complete and return the Register of Interest Form.
15. On the 9th December 2008 Mrs. Warren sent a further letter to Councillor Carter requesting the completed Register of Interests form. A copy of the letter was also forwarded to the Parish Clerk.

16. On the 15th December 2008 Mrs. Warren received an email from the Parish Clerk as the outstanding Register of Interests form had still not been received. The email confirmed that the Parish Clerk had referred the matter to the Monitoring Officer.
17. Mrs. Warren confirmed that she had seen the letter from the Parish Clerk of the 15th December 2008 addressed to the Monitoring Officer in which the Parish Clerk asked for the Monitoring Officer to take action to resolve the difficulty with the outstanding Register of Interest Forms.
18. Mrs. Warren was able to confirm that on the 3rd February 2009 a completed Register of Interests form was received from Councillor Carter.

I, Deborah Warren, Senior Solicitor and Deputy Monitoring Officer confirm that I have read the above and agree it is an accurate note of the discussions that took place on the 6th June 2008.

..... Dated.....
Deborah Warren. (Senior Solicitor and Deputy Monitoring Officer)

..... Dated.....
Vanessa Brown (Investigating Officer)

Meeting Notes

Reference: Local Investigation ref 14/08

Date of meeting: 21st May 2009

Attendees: Ms Gill Lungley, (Clerk to Catshill & North Marlbrook Parish Council) and Vanessa Brown (Investigating Officer)

Purpose: to establish the background information and details surrounding Councillor Carter's alleged failure to complete and return a Register of Interests Form.

Meeting notes recorded by Vanessa Brown

The following matters were discussed:-

1. Ms. Lungley confirmed that the parish of Catshill and North Marlbrook has a total of thirteen Councillors and that she has been the Parish Clerk for just over twelve months.
2. The new Code of Conduct was introduced in 2007 (before Ms. Lungley was the Parish Clerk), and from minutes taken at a meeting in October 2007 Ms. Lungley was able to confirm that guidance copies of the Code were distributed to the Parish Councillors although there did not appear to be any recorded minutes that the full Code of Conduct was adopted. It was a requirement that if by November 2007 any Parish Councils had not acted to adopt the revised Code of Conduct and had not advised the Standards Board for England (SBE), of their decision then the SBE would assume they had adopted the default version of the Code which excluded paragraph 12 (2) relating to "Effect of Prejudicial Interests on Participation".
3. The adoption of the Code of Conduct to either include or exclude paragraph 12 (2) was placed on the agenda for the meeting on the 26th June 2008 held at Catshill Village Hall. A copy of the agenda has been provided, and at Agenda item 8, it clearly identifies the issues for discussion.
4. The agenda also included a separate paragraph under the same agenda item to specifically require Parish Councillors to complete a new Register of Interests form to comply with the new Code of Conduct. Additionally Parish Councillors were reminded of the consequences of failing to comply with this requirement and a blank Register of Interests form was attached for completion.


5. Ms. Lungley also provided Mrs. Brown with a copy of the minutes of the June 2008 meeting in which it confirmed that the Parish Councillors agreed that the revised (2007) Members' Code of Conduct with paragraph 12(2) should be adopted. Specific reference was also made to Parish Councillors being reminded of the need to complete their new Register of Interests forms.
6. The minutes confirmed that Councillor Carter was present at the June 2008 meeting and also that he had made a Declaration of Interest. Ms. Lungley advised that Councillor Carter always made the same declaration at the beginning of all meetings that he was a member of NWWA which is a charitable organisation.
7. Ms. Lungley confirmed that she would make available the blank Register of Interest forms and the Parish Councillors would either return the form to her and she would forward it to the Monitoring Officer or the Parish Councillor would send the form directly to the Monitoring Officer. In the case of the latter the Parish Clerk would have no knowledge of the form being completed.
8. Ms. Lungley was able to confirm that when she became the Parish Clerk there was only a copy of the Register of Interests forms for those Parish Councillors who had completed their forms and had returned them to the Monitoring Officer via the Parish Clerk. Councillor Carter's form did not appear in the records held at that time.
9. As the obligation to complete the Register of Interests form rests entirely with the Parish Councillors and as they could be sent directly to the Monitoring Officer any records kept by the Parish Clerk may be incomplete. The Monitoring Officer did not provide details of the completed forms to the Parish Clerk.
10. Whilst there is no requirement for the Parish Clerk to retain a record of the Register of Interest forms Ms. Lungley confirms that towards the end of 2008 she approached the Deputy Monitoring Officer to establish which of the Register of Interest forms had been received and which remained outstanding. Ms. Lungley's enquires revealed that two of the Parish Councillors had yet to submit their Register of Interest forms. The Deputy Monitoring Officer confirmed that she would write to the two Parish Councillors to request their completed forms.

11. In November 2008 Ms. Lungley also wrote to Councillor Carter sending him another blank form for completion. A short time later Ms. Lungley saw Councillor Carter and asked if he had completed and submitted his Register of Interests Form. He confirmed that he had "not got round to it", and declined a further blank form stating he still had the previous one.
12. In the minutes of the meeting of the 26th June 2008, there is a note of Parish Councillors training. Ms. Lungley confirms that one source of training is available via the Local Council Service which is an independent organisation. Ms. Lungley is not aware of any training offered via the Bromsgrove District Council for Parish Councillors and specifically she is not aware of any offer of training on the new Code of Conduct.
13. As a Parish Councillor, Ms. Lungley describes Councillor Carter as an active member who willingly participates in all aspects of parish council work. Specifically he attends Planning and Events meetings and has a good working knowledge of the area and is genuinely interested in the community and supportive of the work undertaken by the Parish Council.

Ms. Lungley provided a copy of the following documents:-


- Copy Agenda for the meeting held on the 26th June 2008.
- Copy Minutes following on from the meeting of the 26th June 2008.

I, Gill Lungley, Clerk for Catshill and North Marlbrook Parish Council confirm that I have read the above and agree it is an accurate note of the discussions that took place on the 21st May 2009.



 Gill Lungley.
 (Parish Clerk)

Dated 15.06.2009.....



 Vanessa Brown (Investigating Officer)

Dated 16.06.2009.....

CATSHILL AND NORTH MARLBROOK PARISH COUNCIL

Papers included with this Agenda:

- Minutes of Annual Parish Meeting held 29/05/08
- Minutes of Annual Parish Council Meeting held 29/05/08
- Minutes of Planning Committee meetings held 29/05/08 and 12/06/08
- Copy of e-mail from Pat Edwards, LCS regarding councillor training (agenda item 11)
- Copy of Community Transport Review (agenda item 12)
- List of correspondence received via post and e-mail not otherwise included in the meeting
- For those for whom no Register of Interests form has been lodged with BDC, a blank copy for completion

Papers to follow:

- The minutes of the Environment & Highways group meeting on 29th June to be circulated via e-mail in advance of the parish council meeting, with paper copies available at that meeting.

Agenda Item 8 : Members' Code of Conduct

A revised Code of Conduct was introduced last year and guidance copies issued by the Standards Board for England (SBE) were distributed to members during the October 2007 meeting (minute no. 80/07(d)). If by November 2007 Parish Councils had not acted to adopt the revised code and had not advised the SBE of their decision, then the SBE would assume the council had adopted the default version of the code ie WITHOUT the adoption of paragraph 12, sub-paragraph 2.

As you know, if a member has a prejudicial interest in any business of the authority then that member must withdraw from the meeting whilst that business is discussed. However, para 12-{2} states that 'Where you have a prejudicial interest in any business of your authority, you may attend a meeting ... 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.' The member is required to withdraw immediately after making representations, answering questions or giving evidence, before there is any further discussion of the business. The member will rejoin the meeting upon conclusion of any discussion on the matter.

This information was not made known to members at the time, and the Council is now asked to consider whether to adopt the revised Code of Conduct with or without para 12-{2}.

Additionally members were required to complete a new Register of Interests form at the same time to comply with the conditions of the Revised (2007) Code, despite having already completed one only a few months earlier. These forms are retained at Bromsgrove District Council and can be viewed by any member of the public who so requests to see them. BDC have been in touch recently asking for the Register of Interest forms, of which only six have been fully completed by members of this parish council.

A blank form is being sent with these papers to those members who do not yet appear to have completed a form - and apologies to those who receive a form herewith and have already completed one, however BDC do not have them on record. If BDC do not receive these forms they are obliged to inform the local Standards Committee, who will be obliged to bar such a member from office.

In conclusion it is recommended to:

- Recognise the requirements of the revised Code of Conduct;
- Decide which version of the revised Code to adopt (ie with or without para 12-{2})
- Complete the Register of Interests form if not already held by BDC.

Catshill & North Marlbrook Parish Council, Catshill Village Hall, Golden Cross Lane, Catshill B61 0JZ
Tel: 07813 671899 / e-mail: clerk@catshillandnorthmarlbrook-pc.gov.uk

copy -

**CATSHILL AND NORTH MARLBROOK PARISH COUNCIL
PARISH COUNCIL MEETING HELD THURSDAY 26th JUNE 2008, 7.30PM
CATSHILL VILLAGE HALL, GOLDEN CROSS LANE, CATSHILL**

Present : Cllrs G Witcomb (Chairman), P Masters (Vice-Chairman)
G Blackmoor (arrived #), D Carter, M Knight, A Pugh, M Shephard, M Tingle (arrived *)

In attendance : Clerk, G Lungley

08/021 Apologies

Apologies for absence were accepted from Cllr P Baker (personal), J Brown (holiday)

08/022 Declarations of Interest Cllr D Carter – member of NWWA

08/023 Adjournment of Meeting for Open Forum

Points of discussion as attached. (*# Cllrs Tingle and Blackmoor arrived)

08/024 Approval of minutes of previous meeting

The minutes of the Annual Parish Council meeting held 29/05/2008 were amended to show:
min no. 08/005 : Cllr D Carter, declared interest as member of NWWA
min no. 08/007 : Environment & Highways Committee to include Cllr G Blackmoor;
min no. 08/013 : Re removal of BT payphones, add - from 'adjacent to' this parish -; and were approved.

08/025 Chairman's Report

As attached

08/026 Questions from councillors

None put forward

08/027 Committee / Group / Representation Reports

- a) **Finance Committee:** No report
- b) **Planning Committee:** Meeting held 12/06/08 had considered the latest notifications including the application for change of use from retail to restaurant & take-away at 129/131 Golden Cross Lane and had submitted comments to the Planning Authority. Also advice received from BDC relating to temporary reduction of Planning Enforcement Officers.
- c) **Environment & Highways:** As per minutes 23/06/08, including judging of hanging baskets/containers to take place week commencing 14/07/2008 by PM, AP, GW.; the horse course balancing pools are designed to work unaided; drainage improvements have taken place in Wildmoor Lane and by the War Memorial; the Lengthsman scheme to be reviewed.
- d) **Youth Group:** No report
- e) **Personnel:** No report
- f) **Website & IT Support:** PM – many improvements to the website with e-mail situation having been sorted and the draft Parish Plan now down-loadable as PDF; the latest minutes are to be uploaded; What's On has been updated; hanging basket competition and Fun Day publicised. PM to call a meeting re: host provider for website.

- g) **Parish Plan Group:** The draft plan had been printed and distributed at the Fun Day; follow-up sessions will be held at the Village Hall on Saturdays 20th and 27th September.
- h) **Fun Day:** The annual Fun Day was held 21/06/08; this council's stall included the draft Parish Plan, energy conservation representative & samples, sales for duck race (funds to NWWA), leaflets relating to health and safety + free give-aways in environmentally friendly bags and refreshments; members agreed it went well despite poor weather.
- i) **Worcs CALC Bromsgrove Area Committee, 04/06/08:** GW and GL attended.
- j) **Bromsgrove Parish Forum, 24/06/08:** GW and GL attended, included a presentation on 'Smartwater', a burglary deterrent. It was agreed to include this on the next agenda.



08/028 Members' Code of Conduct

It was agreed to adopt the revised (2007) Members' Code of Conduct with paragraph 12(2) which allows council members with a prejudicial interest the same rights as members of the public to speak on the subject in which they have an interest before withdrawing from the meeting.

The members who had yet to complete their form relating to the Register of Interests were reminded to do so.

08/029 Co-option of members

It was agreed to co-opt Mrs A Glendenning to the Catshill Ward.

A notice for the Marlbrook Ward notice board would invite applicants for co-option.

08/030 Committee / group structure

It was agreed as follows:

- a) retain the existing Finance and Planning Committees;
- b) convert the existing Environment & Highways, Personnel, and Appeals groups into Parish Council committees;
- c) retain the Website and IT Support Working Party, to meet when necessary and liaise regularly with the council administration;
- d) encourage the setting up of an independent Youth group, with the parish council-appointed members providing updates to the parish council when appropriate;
- e) support the establishment of an independent Parish Plans Group, with start-up funding, publicity, grant-aid etc. whilst retaining the intention to adopt the Plan on completion;
- f) consider the setting up of ad hoc working parties as and when required, with clear guidelines, for the purpose of research, or completion of a specific parish council project, working through the council administration;
- g) establish an Events Committee;
- h) review the Terms of Reference of all the above.

08/031 Councillor Training

It was agreed to take up the offer of training via Local Council Services, but at some time in September, not July. Other parish councils would be invited to attend.

08/032 Community Transport Review

BDC's review of community transport provision was completed, with preference expressed for the option of an independent body providing facilities such as dial-a-ride; strong support for public transport/community transport links between the parish and Bromsgrove railway station (or nearest railway station) and also between Catshill & North Marlbrook and Redditch Hospital.

08/033 Finance Report and bills for payment

The report, including bills for payment, was approved.

Members were notified of the new mileage rates for travelling allowances 2008/09, as advised by BDC.

08/034 Items for consideration at next meeting not already mentioned

For consideration by Parish Plan Group – to ensure the historic nature of the parish is clearly outlined, eg reference to nail-makers' cottages.

08/035 Date and time of next meeting

The next Parish Council meeting will be held on Thursday 31st July 2008 at 7.30pm.

This meeting ended at 9.30pm

Signed..... Date.....
Chairman of Catshill & North Marlbrook Parish Council 31st July 2008

Your Ref:

Our Ref: DW

If telephoning please ask for
Debbie Warren (01527) 881609
Email: d.warren@bromsgrove.gov.uk

Councillor D Carter



8 September 2008

Dear Councillor Carter,

Register of Interests Form

It has been brought to my notice that you have not yet completed a Register of Interests form following the adoption last year of the new Code of Conduct by Catshill & North Marlbrook Parish Council.

May I remind you that it is a statutory requirement that all councillors complete a Register of Interests form within 28 days of the adoption of the new Code, and that not doing so amounts to a breach of the Code of Conduct.

I enclose a copy of a form and would be grateful if you would please complete it and return it to either me or to your parish council clerk as soon as possible.

Yours sincerely,


Deborah Warren
Deputy Monitoring Officer

Your Ref:

Our Ref: DW

If telephoning please ask for
Debbie Warren (01527) 881609
Email: d.warren@bromsgrove.gov.uk

Councillor D Carter

[REDACTED]

8 September 2008

Dear Councillor Carter,

Register of Interests Form

Further to my earlier letter I enclose the form which was omitted.

Yours sincerely,

[REDACTED]

Deborah Warren
Deputy Monitoring Officer

Your Ref:

Our Ref: DW

If telephoning please ask for
Debbie Warren (01527) 881609
Email: d.warren@bromsgrove.gov.uk

Councillor D Carter



9 December 2008

Dear Councillor Carter,

Register of Interests Form

I wrote to you in September asking you to complete a Register of Interests form. I have no record of having received this, and I would be grateful if you could complete the enclosed form and return it to your Parish Council Clerk.

It is possible that your form was received here but misplaced, and if that was the case I apologise for asking you to complete this form again.

Yours sincerely,

Deborah Warren
Deputy Monitoring Officer

Your Ref:

Our Ref: CF

If telephoning please ask for
Claire Felton (01527) 881429
Email: c.felton@bromsgrove.gov.uk

Councillor D Carter



6 January 2009

Dear Councillor Carter

Register of Interests Form

Further to Deborah Warren's letter to you of 9 December 2008, I note that the Council has still not received a completed Register of Interests form.

As a Parish Councillor you are obliged to submit a completed form to me as Monitoring Officer and until you do so you are in breach of the Code of Conduct.

In the circumstances I would be obliged if you could arrange for the form to be returned to me by return of post.

If you require any advice or assistance please do not hesitate to contact me.

Yours sincerely

Claire Felton
Monitoring Officer

BROMSGROVE DISTRICT COUNCIL

REGISTER OF MEMBERS' INTERESTS

LOCAL GOVERNMENT ACT 2000 section 81(1)
The Local Authorities (Model Code of Conduct) Order 2007

Note: "Member" includes a co-opted member of an authority. Numbering follows numbering in Code of Conduct

I, (full name) (capitals) DAVE GEORGEY CARTER.

a Member of the Council/co-opted Member of the Council [delete as appropriate]

GIVE NOTICE, as I am required to do under paragraph 13 of the Code of Conduct, that I have the following interests:

(please state "None" where appropriate)

(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
NOTE: This will include, for example, outside body appointments by the Council

BRANDISH GUARDS ASSOCIATION

(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;

NOTE:

- (bb) Freemasonry – the Standards Board for England advice is:-
Freemasons who are members of the Grand Charity must register membership of the Grand Charity in their Register of Members' Interest. If an individual lodge is one which has charitable status or could be described as a body directed towards charitable purposes, then membership of that lodge would also need to be registered.
- (cc) This will include membership of a political party as well as membership of any pressure group or other organisation which includes lobbying as one of its principal purposes.

NONE

(iii) Any employment or business carried on by you;

NOTE:

Give a short description of every employment, office, trade, profession or vocation that you have to declare for income tax purposes, for example "Plasterer" or "Nurse"

SALES MANAGER

(iv) Any person or body who employs or has appointed you;

NOTE:

If you are an employee, you should give the name of your employer. If employed by a company, give the name of the company paying your wages or salary, not that of the ultimate holding company. Where you hold an office, give the name of the person or body which appointed you. IN the case of a public office, this will be the authority which pays you. In the case of a teacher in a maintained school, the local education authority; in the case of an aided school, the school's governing body

EUROTEK OFFICE FURNITURE LTD

(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;

NOTE:

You should declare the name of any person(s) who has/have made any payments to you towards your expenses as a councillor or towards your election expenses. You do not need to declare the amounts of any payments; only the name of the person or body making them.

You do not need to include payment of Members' allowances by Bromsgrove District Council

N/A

(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);

NOTE:

"Person or body" includes firms, partnerships, companies and other organisations.

1. Name the person or body.
2. You do not need to show the actual amount of your beneficial interest. Please note that the nominal value is the value on the face of the security and not its value at the time acquired nor its current market value.
3. If there are several classes of shares or securities, the fraction of 1/100th applies to any of those classes. These limits also apply to deposits with industrial and provident societies, and co-operative societies.
4. The requirement also covers shares and securities held in the name of other people in which you have a beneficial interest

N/A

(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);

NOTE:

You need not say what the financial arrangements are, but should state briefly the Contractor, what the Contract is and for how long.

N/A.

(viii) The Interest of any person from whom you have received a gift or hospitality with an estimated value of at least £25.

NOTE:

You must register any gifts or hospitality worth £25 or over that you receive in connection with your official duties as a Member, and the source of the gift or hospitality. (An accumulation of small gifts received over a short period that add up to £25 or over should also be registered).

You automatically have a personal interest in a matter under consideration if it is likely to affect a person who gave you a gift or hospitality that is registered. If that is the case, you must declare at the meeting the existence and nature of the gift or hospitality, the person who gave it to you and how the business under consideration relates to that person.

Once three years have passed since you registered the gift or hospitality in your Register of Interest, your obligation to disclose that interest to any relevant meeting ceases.

N/A.

(ix) Any land in your authority's area in which you have a beneficial interest;

NOTE:

1. You should include any land in the Council's area in which you have a beneficial interest (that is, in which you have some proprietary interest for your own benefit). You should give the address or a brief description to identify it. If you live in the Council's area you should include your home under this heading as owner, lessee or tenant.
2. You should also include any property from which you receive rent, or of which

you are the mortgagee.

3. "Land" includes any buildings or parts of buildings (and eg. allotments).
4. When the information to be recorded relates to a house or flat, this does not present any difficulty in providing an address. However, the registration of other land interests such as farm land, or other land with no address, is not as easy. In these circumstances you should include enough information with this form so that landholdings can be identified (eg. a map should be attached to the form)

47.1 STURABIDGE ROAD
CASSIN

MY HOME

- (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:

NOTE:

"Land" includes any buildings or parts of buildings (attach a map if appropriate)

N/A

- (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;

NOTE:

1. You should include land in the Council's area which you have a right to occupy or use, but neither own nor have a tenancy of. You should give the address or a brief description to identify it.
2. "Land" includes any buildings or parts of buildings (attach a map if appropriate)

N/A

FURTHER INTERESTS

Note: Numbering does not relate to the Code of Conduct

I further **VOLUNTARILY GIVE NOTICE** (acknowledging that I am not required to do so under the Code) of the following other interests (please state "None" where appropriate):


(a)	I am a member or hold a position of general control or management of the following private clubs or organisations

(b)	I have the following other interest that I desire to bring to the public's attention through the Register

OTHER

Sensitive Interests under paragraph 14 of the Code of Conduct – seek the advice of the Monitoring Officer


MEMBER'S SIGNATURE

Date	28/1/2009
Member's Name (Capitals – in full)	DAVIS GEORGIOS CARTER
Member's signature	

NOTIFICATION OF CHANGE OF CIRCUMSTANCES

A Member must, within 28 days of becoming aware of any change to the interests specified above, provide written notification to the Monitoring Officer of that change at the Council House, Burcot Lane, Bromsgrove B61 1AA

RECEIPT BY MONITORING OFFICER

Date received by the Council	3rd February 2009
Signature of the Monitoring Officer	

Bromsgrove District Council

Standards Assessment Sub-Committee

**Decision Notice:
Referral for Investigation**

Reference: 14/08 Councillor D Carter

This Decision Notice is sent to the person or persons making the allegation, the Member against whom the allegation was made and the clerk to the parish council.

Complaint

On 20 February 2009 the Bromsgrove District Council Standards Assessment Sub-Committee considered a complaint from the Clerk to Catshill and North Marlbrook Parish Council concerning the alleged conduct of Councillor D Carter, a Member of Catshill and North Marlbrook Parish Council.

A general summary of the complaint is that Councillor Carter has failed to complete and return his Register of Interests form within the required 28 days of the adoption of the new Code of Conduct by Catshill and North Marlbrook Parish Council.

Decision

In accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Standards Assessment Sub-Committee decided to refer the allegation to the Monitoring Officer for investigation.

Potential breaches of the Code of Conduct identified

The Standards Assessment Sub-Committee identified the paragraphs of the Code of Conduct which may apply to the alleged conduct as being:

- failing to register interests

What happens now?

The complaint will be investigated by a person appointed by the Monitoring Officer.

The Standards Board for England has published a guide to the investigation process which is available on its website at <http://www.standardsboard.gov.uk/TheCodeofConduct/Guidance/Investigations/filedownload.16685.en.pdf>

Signed Date
Chairman of the Standards Assessment Sub-Committee

Appendix H

Local Investigation ref:14/08

CHRONOLOGY

<u>Date</u>	<u>Description</u>
October 2007	At a meeting of the Catshill and North Marlbrook Parish Council the minutes show that a copy of the new Code of Conduct was distributed to the councillors.
26 th June 2008	At a parish council meeting held on the 26 th June 2008 the Parish Council resolved to adopt the full version of the new Code of Conduct. The minutes show that Councillor Carter was present at that meeting.
8 th September 2008	Parish Clerk contacts the Deputy Monitoring Officer as there are two outstanding Register of Interests forms. The same day the Deputy Monitoring Officer sends a letter to Councillor Carter requesting a completed form.
November 2008	The Parish Clerk also writes to Councillor Carter to complete the form. At about the same time the Parish Clerk speaks to Councillor Carter who confirms that he had not yet completed his form.
9 th December 2008	The Deputy Monitoring Officer again writes to Councillor Carter to request the completed form.
6 th January 2009	The matter was referred to the Monitoring Officer who writes to Councillor Carter to request the completed form.
3 rd February 2009.	The completed Register of Interests Form was received by the Monitoring Officer on the 3 rd February 2009.

SCHEDULE OF UNUSED MATERIAL**INVESTIGATION: ref 14/08**

<u>Item number</u>	<u>Description</u>	<u>Comment</u>
<u>i</u>	Routine emails and letters between the Deputy Monitoring officer and the Parish Clerk. Various dates.	Routine correspondence that add nothing to the investigation.
<u>ii</u>	Routine emails and letters between the Monitoring Officer and the Parish Clerk. Various dates.	"

In the course of this investigation I have been provided with some documents that I have considered but which do not advance the investigation. They are detailed above and can be made available if requested.

Signed _____

Vanessa Brown (Investigating Officer)

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

11TH NOVEMBER 2009

MONITORING OFFICER'S REPORT

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Non-Key Decision	

1. SUMMARY

- 1.1 The Standards Committee has requested the Monitoring Officer to report to each meeting of the Standards Committee on a number of items, and this report sets out the latest position in relation to key items.
- 1.2 Any further updates will be reported on orally at the meeting.

2. RECOMMENDATION

Members are requested to note the report and to comment on any aspects of this as appropriate.

3. BACKGROUND

Member Investigations and Associated Matters

- 3.1 The final determination of the complaint considered by the Standards Committee at its last meeting will be considered by the Committee at this meeting.
- 3.2 Two related complaints in relation to which the Assessment Sub-Committee decided to take no further action were reviewed by the Review Sub-Committee on 13 October 2009 and a decision was reached to refer the complaints to the Monitoring Officer for Other Action.

Complaints for Local Assessment

- 3.3 Since the last meeting of the Standards Committee 88 complaints have been received all of which have been assessed by the Assessment Sub-Committee. A table showing the cumulative totals is attached to this report as Appendix 1. Requests for reviews of a number of those decisions have been received but at the date of writing this report those reviews have not been undertaken.

Meeting with Standards for England

- 3.4 A meeting was held with Standards for England's (SfE) Relationship Manager and one of its investigators on 14 October 2009, and as a result SfE have written confirming the outcome of the meeting. A copy of that letter is attached to this report as Appendix 2 for the Committee's consideration.

Standards for England's Annual Review

- 3.5 Standards for England has published its Annual Review. This is available on its website at:
<http://www.standardsforengland.gov.uk/media/Annual%20Review%202008-09.pdf>
Bromsgrove District Council features in this Review as a case study of good practice. A copy of the feature is attached to this report as Appendix 3.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

The Local Government Act 2000 introduced primary legislation to enable the implementation of a Members' Code of Conduct, and this was amended by the Local Government and Public Involvement in Health Act 2007 insofar as it related to the application of the Members' Code of Conduct to their private lives. Further details have been provided by the Local Authorities (Model Code of Conduct) Order 2007 and the Relevant Authorities (General Principles) Order 2001. The local assessment regime was introduced by the LGPIHA 2007, and further expanded in the Standards Committee (England) Regulations 2008 which also set out the rules and procedures governing the investigation and determination of complaints.

6. COUNCIL OBJECTIVES

This item does not link directly with any Council objectives.

7. RISK MANAGEMENT

- 7.1 The main risk associated with the details included in this report is:

- *Risk of challenge to Council decisions; and*
- *Risk of complaints about elected members.*

- 7.2 These risks are being managed as follows:

- Risk Register: *Legal, Equalities and Democratic Services*
Key Objective Ref No: 3
Key Objective: *Effective ethical governance*

8. **CUSTOMER IMPLICATIONS**

None

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

None

10. **VALUE FOR MONEY IMPLICATIONS**

None

11. **OTHER IMPLICATIONS**

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

12. **OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Executive Director - Partnerships and Projects	No
Executive Director - Services	No
Assistant Chief Executive	No
Head of Service	<u>Yes</u>
Head of Financial Services	No

Head of Legal, Equalities & Democratic Services	<u>Yes</u>
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards

14. APPENDICES

Appendix 1 Local Assessment Statistics
Appendix 2 Letter from Standards for England
Appendix 3 Standards for England Annual Review 2008/09 - Bromsgrove District Council Case Study

15. BACKGROUND PAPERS

None

CONTACT OFFICER

Name: Claire Felton and Debbie Warren
E Mail: c.felton@bromsgrove.gov.uk and d.warren@bromsgrove.gov.uk
Tel: (01527) 881429 and (01527) 881609

Local Assessment Statistics

Appendix 1

Period ¹	Number of complaints assessed	Reviews conducted	No further action	Referred for other action	Referred for local investigation	Joint referred for local investigation / no further action	Joint no further action / referred for other action	Referred to Standards for England for investigation	Final determinations
Total	107²	2³	23³	3³⁺⁴	72⁵	3	1	5⁶	0⁵

Nature of complaints	Number of complaints
Register of Members' Interests (failure to declare in full/failure to complete and return within required 28 days of adoption of the Code of Conduct)	2
Failure to treat others with respect	1
Acted in a manner which brought office/the Council into disrepute	4
Bullying / intimidation of Council officers	2
Combined: brought office into disrepute / improper use of position / prevention of access to information to which a person is entitled by law	1
General inappropriate behaviour relating to actions at a meeting of the Council's Planning Committee	5
Inappropriate articles appearing in Parish Council newsletter	2
Disclosure of confidential information	2
Inappropriate remarks about another elected Member in local press	1
Various matters relating to inappropriate behaviour during meeting Full Council meeting of 29 July 2009	87

¹ - The statistics detailed cover the period since the introduction of local assessment in May 2008 to 30 October 2009 (the date of preparation of this report).

² - In 1 case the Monitoring Officer's discretion under Regulation 16(1)(a)(ii) of the Standards Committee (England) Regulations 2008 was used to refer the matter back to the Assessment Sub-Committee for reconsideration (which has been counted as 1 complaint for statistical purposes).

³ - A request for review on 2 related complaints for which the Assessment Sub-Committee decided to take no further action were reviewed by the Review Sub-Committee and a decision was reached to refer the complaints to the Monitoring Officer for other action. A number of requests for review of recent Assessment Sub-Committee decisions have been received for which the reviews have not yet been undertaken.

⁴ - Other action has been completed by one Subject Member and is currently due to be completed by the Monitoring Officer in relation to 2 parish council complaints.

⁵ - The final determination of 1 of the complaints referred for local investigation will take place at the meeting of the Standards Committee on 11th November 2009. The remaining investigations are yet to be completed.

⁶ - All 5 cases referred to Standards for England were accepted for investigation. It was the Ethical Standards Officer's finding in each case that there had been no failure on the part of the Subject Member to follow the Code of Conduct.

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Ms Claire Felton
Monitoring Officer
Bromsgrove District Council
The Council House
Bromsgrove
B60 1AA

23 October 2009

Dear Claire

SBE-07165-43728

Jonathan Wigmore and I enjoyed our visit to Bromsgrove last week. It was a pleasure to meet you and your colleagues as well as Mr Burke and Councillor Cypher. Thank you for making us so welcome and inviting us to stay for lunch.

We found it useful to review the political and ethical history of the authority and to gain an appreciation of the issues facing the district. We acknowledge the improvements that have been made since you took the helm as monitoring officer. We have recognised this publicly in our annual review, and I hope this will encourage you in your efforts. These have already borne fruit in raising awareness of ethical standards as the springboard for effective community leadership, and the appointment of a full-time ethical standards officer is an impressive commitment. We congratulate you on what has been achieved.

We discussed the council meeting of 29 July 2009 and the cause and aftermath of the events of that night. We are pleased to hear that the chief executive is in touch with IDeA and that these matters are under discussion, and I do not think that Standards for England should add to your regulatory burden in this respect. If however you feel that we can help you either directly or by leveraging in appropriate external support, please let me know.

The assessment sub-committee that dealt with the 87 or so complaints appeared to be well-prepared and administered. Part of our role is sharing good practice, and I hope you would not object if we referred any other authority facing a similar challenge to you for advice. I indicated to you that Standards for England would seriously have considered accepting the cases had they been referred to us. I should also add that if you or the committee need advice and support during the course of the current investigations and any reports and hearings that may follow, this will be available in person from one of our principal investigators.

We are also mindful of the standards committee's questioning of the outcome of cases that have been sent here for investigation in the past. As ethical standards officer, Jon Wigmore explained our approach to these cases. Although resulting in findings of no breach, this does not imply that we condone the behaviour, and the final reports contained criticism. Taken singly, the evidence presented in each case was not sufficient to reach the threshold for a breach, let alone a sanction. It is true that when allegations are taken together, a pattern of behaviour might reinforce the view that a breach is disclosed. It is inevitable in this setting that interpretations of the individual paragraphs of the Code are guided by legal considerations, but I accept that there is a danger that the General Principles of Public Life can be overshadowed by these. Of course in a disciplinary context we have to prosecute the letter rather than the spirit of the Code, although it may be that there is a debate to be had about the way the principles inform this. In any case, I hope the standards committee is assured that referral of matters to Standards for England should be an option open to them in future if they consider it is the right course of action, and we are happy to discuss this with you on a case-by-case basis.

I am sorry to hear that you encountered problems entering the relevant data for the quarterly return. Colin Bardsley has spoken to Debbie Parker-Jones and explained that our system was not designed to cope with such an unprecedented number of complaints on a single occasion. Our monitoring team are working to make adjustments to the system should other authorities have the same challenge in future. The team will also provide you with dedicated support as you process the referred complaints through their course, and will be able to enter the information for you if it is emailed to us. Please let us know if you would like us to do this.

Jon has emailed you separately on the question of deferral of other action. Our legal opinion is that your committee's intentions in a referral for other action are key. Any consultation that took place before the direction to the monitoring officer would be relevant, for instance as required under reg.13(2) of the Standards Committees (England) Regulations 2008. I am sure you are conversant with our recent guidance on other action. If an assessment sub-committee believes at assessment stage that a case merits an investigation (and by which we mean - by implication - that it would merit a sanction if the allegation were to be proven as the complainant said it happened), then the guidance is clear that an investigation should occur. Rather than looking for circumstances to avoid an investigation, the investigation is merited without further ado.

Other action applies in different circumstances. We have been clear, even though a potential breach of the Code must be disclosed before it can be used, that there must be no implication of culpability or other action that looks like a sanction, for example an apology, or in certain instances singling out an individual member for training. As a rule of thumb, other action is more suitable for groups of members and tit-for-tat situations that clearly lend themselves to mediation or training. If the situation points to misconduct potentially meriting a sanction, then an investigation follows, not other action.

In other words investigation and other action are not alternatives. They are determined by the situation. Standards committees should also be aware that they may identify a potential breach of the Code in an allegation, but they may decide that it is insufficiently serious to merit further action of any kind, and offer the complainant a review. A potential breach may be trivial, tit-for-tat or politically motivated, and does not oblige the committee to take action.

We touched on the issue of consistency and divergence in decision-making by local standards committees. This gets us into the central/local debate which dominates local government, and the question of how "local" can local government be in a judicial setting such as this. But within the context of overall fairness and justice, we believe that local authorities should reflect their own area and the people who live there, and therefore there is bound to be some diversity on the ethical issues that concern them most, and which issues are the most pressing. You made representations to us on the need to have a consideration meeting in advance of a hearing. I would be glad if you could put these into writing so that we can take them into account when our guidance is next reviewed.

I am glad that we have had the opportunity to meet after many conversations with you over the years. I do hope that our dialogue with Bromsgrove will continue, and that you feel you can approach us at any time.

Yours sincerely

A handwritten signature in blue ink that reads "John Williams". The signature is written in a cursive, flowing style.

John Williams
Relationship Manager

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Case study

Bromsgrove District Council



L-R:

Claire Felton

Monitoring officer

Councillor Ted Tibby

Standards committee member

Debbie RobertsStandards committee
independent member

Bromsgrove District Council is proud of the improvements it has made in its approach to standards and ethics.

To coincide with the start of the new local assessment system, Bromsgrove published articles in its own publication, 'Together Bromsgrove', delivered to every household in the area. They also issued press releases to the local media.

The standards committee's annual report is circulated to the district's libraries and parish councils as well as the council's Customer Services Centre and Planning reception. Automatic updates on related matters are emailed to key internal and external contacts, including the local press, and the council's website is also used to promote the standards committee's work.

Much of Bromsgrove's publicity around standards has highlighted the positive role that members have in working to improve communities, while at the same time reminding the public what to do should their councillor appear to be falling short of the high ethical standards expected of them.

Importantly, Bromsgrove District Council is also making sure that its successes in raising awareness are measurable. An annual performance indicator has been set based around responses in the council's annual survey, with a benchmark set for the percentage of respondents who know how to raise issues under the local standards framework.

With the emphasis on development, training has included small workshops on the Code of Conduct and informal one-to-one meetings

with the monitoring officer and deputy monitoring officer, which have not only proved useful in reminding members of their obligations under the Code, but also in building good working relationships. Development needs for parish councils – Bromsgrove has 21 – were identified through face-to-face meetings. It is a pre-emptive approach which aims to prevent potential pitfalls rather than waiting for complaints to come in.

A demonstrable commitment to promoting and maintaining standards at Bromsgrove was made when a full-time officer was appointed to deal specifically with standards and ethics related work within the council.

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