

**Committee:** STANDARDS COMMITTEE  
**Date:** 4 OCTOBER 2004  
**Agenda Item No:** 4  
**Title:** CONSULTATION ON DRAFT MODEL CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES  
**Author:** Catherine Nicholson (01799) 510420

### **Summary**

- 1 Section 82 of the Local Government Act 2000 makes provision for the Secretary of State to specify, by order, a model code of conduct for local government employees. Such a code would form part of the Authority's standing orders and would become part of the employees' terms and conditions.
- 2 The Government have now issued a draft code for consultation and seeks comments on the scope and content of the Code. This report is to inform members of the proposed code with a view to a response being sent to the ODPM if members wish.
- 3 The employees have been consulted separately and will have the opportunity to produce a separate response.

### **Background**

- 4 The Government has already made orders setting out principles of conduct and a model code for elected members of local authorities. The Government is seeking to establish a common core of fundamental values to underpin standards of conduct in local government, and the model code of conduct for employees is part of that process.
- 5 The employees' code of conduct will apply to all local authority employees unless specifically excluded (fire-fighters and teachers who have their own codes of conduct and community support officers who will be given their own code). The draft code defines the minimum standards of conduct that employees will be expected to observe when carrying out their duties. Staff will still be expected to comply with the more detailed existing terms and conditions of their employment and with written or oral instructions in the same way.
- 6 Once the Order containing the code is made, the standards contained within the code will be deemed to be incorporated into the terms and conditions of employment of the employees. Any breaches of the code will then be able to be treated in the same way as any other breaches of employees' contracts or terms and conditions.

## **THE DRAFT CODE**

7 There are ten core principles included in the draft code as outlined below and the Government have raised specific questions on a number of them:-

1. An employee must perform his duties with honesty, integrity, impartiality and objectivity
2. An employee must be accountable to the authority for his actions
3. An employee must a) treat others with respect;  
b) not discriminate unlawfully against any person; and  
c) treat members and co-opted members of the authority professionally.
4. An employee must a) use any public funds entrusted to or handled by him in a responsible and lawful manner; and  
b) not make personal use of property or facilities of the authority unless properly authorised to do so

**Question - Are the provisions relating to the use of public funds and property adequate to ensure effective stewardship of resources?**

5. An employee must not in his official or personal capacity
  - a) allow his personal interests to conflict with the authority's requirements; or
  - b) use his position improperly to confer an advantage or disadvantage on any person
  - c)

The intention of this paragraph is to reflect the fact that the activities of an authority's employee outside the working environment are under public scrutiny in a way that private sector employees are not, and therefore the Code requires higher standards of conduct from them.

**Question – Is it appropriate for the code to impact on an employee's private life or should it only apply to an employee at work?**

6. An employee must comply with any requirements of the authority-
  - a) To register and declare interests; and
  - b) To declare hospitality, benefits or gifts received as a consequence of his employment.

### **Questions**

**As with the members' code, should there be a standard list of interests and/or hospitality/benefits/gifts that must always be registered?**

**If so, what should the list contain? Should it mirror part 3 of the Councillors' Code or be restricted to financial interests?**

**Should such a list be available to the public?**

**Alternatively, could the need for a list be restricted to officers above a certain salary, as applied, for example, to the current political restrictions regime?**

**Should this provision be explicitly linked to interests, gifts etc that may have a bearing on the way in which the functions of the authority are discharged by the employee?**

7. An employee must not treat another employee of the authority less favourably than other employees by reason that the other employee had done, intends to do, or is suspected of doing anything under or by reference to any procedure the authority had for reporting misconduct.

This provision is intended to protect employees who 'blow the whistle' from victimisation. The employee is already protected from detrimental treatment by the employer under the Public Interest Disclosure Act 1998, and this provision seeks to strengthen the protection afforded to employees who do report their concerns from victimisation from another employee.

### **Questions**

**Does the proposal on the reporting of misconduct provide suitable protection for employees?**

**Should the Code impose a duty on employees to report misconduct?**

8. An employee must a) not disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so: and  
b) not prevent another person from gaining access to information to which that person is entitled by law.
9. (1) An employee must not be involved in the appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee who is a relative or friend.  
(2) in this paragraph –  
"relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece or the spouse or partner of any of the preceding persons; and  
"partner" means a member of a couple who live together.

The Government included this provision to emphasise the need to ensure that decisions on appointment, promotion, discipline and terms and conditions are made impartially and objectively. The term 'friend' is not defined in the code. The Standard Board's guidance on the point in the context of the members' code is *'friendship connotes a relationship going beyond regular contact with colleagues in the course of employment... Social contact is likely to be a strong indicator of friendship but not necessarily the only one.'*

### **Questions**

**Is 'friend' the appropriate term to use in the draft code? If so, should it be defined, and what should the definition be? (for example, a person**

**with whom the employee spends recreational time outside the work environment, or actively shares a mutual interest?)  
Does the phrase 'relative or friend' adequately cover all relationships with which this part of the code should be concerned?**

10. An employee must, at all times, act in accordance with the trust the public is entitled to place in him.
- 8 Members might like to be aware that the Council has already drawn up its own Personnel Policy Notes on gifts and hospitality and confidential reporting, which form part of the employees' conditions of service, and the terms more or less mirror the proposals in the draft Code. The Council does also currently have an employee's interests register although its use is minimal and voluntary.
- 9 The Government intends to discuss with the Local Government Association, the Local Government Employers Organisation and the Unions as to the date on which the order will be brought into force and the date it will become part of the terms and conditions of employment. However, the employees themselves will also need to be properly informed of the content and effect of the code before it comes into force.

**Question – Do you have any comments on what arrangements might be appropriate for ensuring employees are informed of the Code?**

The Government seeks responses to the consultation document by 19 November 2004.

RECOMMENDED that the Committee determine what (if any) responses it wishes to make to the Government consultation paper.

Background Papers: Consultation paper, A Model Code of Conduct for Local Government Employees

**Committee: STANDARDS COMMITTEE**

**Date: 4 OCTOBER 2004**

**Agenda Item No: 5**

**Title: CONSULTATION ON REVIEW OF REGULATORY  
FRAMEWORK GOVERNING POLITICAL ACTIVITIES OF  
LOCAL GOVERNMENT EMPLOYEES**

**Author: Catherine Nicholson (01799) 510420**

### **Summary**

- 1 The Local Government and Housing Act 1989 imposes restrictions on political activities by local government staff. The Government is committed to the principle of political neutrality of local government employees. Following

the ruling of the European Court in 1998 that restrictions on political activities were compatible with human rights legislation, the Government undertook to review the regulatory framework to consider the detailed provisions that currently apply.

- 2 The Consultation Paper invites views on proposals, within the context of maintaining political neutrality, for modifications to the current detailed provisions, including the posts that should be subject to restrictions or the nature of the restrictions that should apply to them.

### **Background**

- 3 The Government is committed to the principle that at all levels in local government, employees should be appointed on merit and impartially serve all members of their Council. There is a regulatory framework under the Local Government and Housing Act 1989 and subsequent regulations, which currently provides restrictions on the political activities of Council employees.
- 4 The consultation paper seeks views on whether the current restrictions are proportionate and continue to deliver political impartiality within the workforce that commands the confidence of Members of all political persuasions. The Government are particularly concerned with ensuring that the restrictions bite at the right level of seniority amongst employees.

### **Current Framework**

- 5 Under the existing regulations the following posts are considered to be politically restricted – Chief Executive, Chief Officer, Deputy Chief Officer, Monitoring Officer, Political Assistant and any person whose post is specified in a list maintained by the Authority and whose annual remuneration currently is or exceeds the specified regulations (currently £32,127 (spinal point 44)), or whose duties involve giving advice to the authority on a regular basis or speaking on a regular basis to journalists or broadcasters on behalf of the authority.
- 6 The political activities that are restricted are provided for in regulations, and the restrictions are deemed to be incorporated into the terms of appointment and conditions of employment of every person in a restricted post. The regulations provide that the postholder cannot run for election to House of Commons, European Parliament or a local authority, must not act as a sub-agent or election agent, must not be an officer of a political party or a committee member if this involves general management of party or branch, must not canvas for a party or candidate at elections, must not speak to the public intending to affect support for a party and should not publish any work intending to affect support of a party.
- 7 Equally if an employee announces he wishes resign his posts to run for Parliament, his appointment shall terminate.

## **Changes to be considered**

- 8 The Government does not intend to change the primary legislation that provides the list of posts that are politically restricted. However, it might be that the salary threshold should be raised to reduce the number of posts affected.
- 9 The nature of the restrictions might change and examples are
- a. Allow local government officials to participate in national politics – to mirror the provision that allows civil servants to be involved in local politics. The Authority’s permission would be needed and consideration given to the exact nature and sensitivity of the post.
  - b. General exemption for holders of certain posts – again to mirror exemptions given to civil servants. However, it might prove difficult to define a post that would be covered by an exemption.
- 10 In considering whether any changes should be made the likely effects must be considered, particularly whether the perception might be that an officer’s neutrality is compromised. Equally, changes might mean that more officers fall within the restriction regime.

## **Questions –**

**Would reducing the number of officers covered by the restrictions be compatible with maintaining the apolitical nature of local government employees?**

**If a reduction in the number is considered desirable, how could this best be achieved? Would it be appropriate to raise the spine point threshold at which posts become politically restricted? Is so, to what level / by how many points?**

**Would broad exemptions from the restrictions based on job description be appropriate and workable? If so, what categories or work should be considered exempt and why? Conversely, are there areas of work not currently covered by restrictions that should be?**

**Should the nature of the restrictions on political activity be redefined and if so, how?**

## **Role of Independent Adjudicator**

- 11 The Local Government and Housing Act 1989 provides for the appointment of a person to consider applications from local authority employees for exemption from the political activity restrictions in respect of their posts, to issue directions where appropriate requiring a local authority to include a post in its list of politically restricted posts and to give general advice on the designation of a post as politically restricted. The Adjudicator is currently appointed by the Secretary of State and works through the Office of the Deputy Prime Minister.
- 12 The Adjudicator is entirely bound by the legislation in determining applications made to him and had no scope for discretionary approvals or exemptions. It is the post to which the exemption is given and not the post holder, although in practice it will be the post holder that wishes to carry out political activity.

## **Changes to be considered**

- 13 Local Government Monitoring Officers are responsible for maintaining the standards of conduct within local authorities. It might therefore be that a Monitoring Officer is best placed to decide whether a post should be exempt from political restrictions.
- 14 If the role of Independent Adjudicator is retained, should the Standards Board for England discharge the duties? The Standards Board is an independent body, which had a role of promoting and ensuring high standards of conduct among elected members of local authorities although it currently has no role in respect of employees.

## **Questions**

**Is there a need to change the current arrangements for independent adjudication? Should it continue to operate through the ODPM? Would it now be appropriate for Monitoring Officers to take over the role of determining whether posts should be exempt from political restrictions?**

**Should a local authority itself be able to authorise exemptions? Should officers or members make the decisions? What safeguards should there be to ensure standards are maintained? Would the Independent Adjudicator have a role in this?**

## **Political Assistants**

- 15 Political assistants undertake research and provide administrative support for the three main parties of an Authority. The 1989 Act makes provision for up to three persons to be employed as political assistants by a local authority. The political assistants are local government employees and, with two exceptions, the political restrictions regime applies to them. They are allowed to speak to the public with the intention of affecting support for a party and publish work or material to affect support for a party.
- 16 Political assistants' salaries are capped at a level that can only be raised by Statutory Instrument. It is currently set £25,044.00. There is no provision in Statute for the Secretary of State to link the pay cap to Spinal Points.

## **Changes to be considered**

- 17 It might be possible to change the basis on which political assistants are paid. For example, authorities be allowed to set their own rates of pay in line with other employees, or by recommendation from the panel responsible for looking at councillors' allowance, or link pay to the NJC salary scheme, or maintain the existing approach.
- 18 It might be argued that as the activities of political assistants are aimed at supporting political parties, the parties should pay for them or contribute towards their salaries. This would align with the approach for Members of Parliament, who receive allowances for support staff. However, it may be that this approach would undermine effective political activity in local

government. Alternatively, it might mean that things would improve as the parties could obtain the quality and level of assistance they need.

- 19 Changes to the restrictions on the activities of political assistants could also be made, including that they should not be covered by some or all of the restrictions to which other local government employees are subject.

### **Questions**

**Should political groups contribute to the salary of their assistants? Should pay continue to be regulated directly by the Government and Parliament? If not, what safeguards should be implemented? Should the method of amending political assistants' pay be changed? Should pay be set by local authorities or by reference to the NJC scale? Should the constraints on political activities of political assistants be varied and in what way?**

### **Employees as elected members**

- 20 The Employment Rights Act 1996 provides a right to reasonable time off for public duties and obliges every employer to permit an employee who is a councillor to take time off during working hours to perform his duties. No maximum or minimum amount of leave is set.
- 21 The 1989 Act however, restricts local authorities to giving their staff a maximum of 208 hours per year of unpaid leave for carrying out their duties as elected members of other authorities.
- 22 The Local Government Act 1972 specifically prohibits councillors from becoming employees of the same council. If they resign as councillors, they must wait 12 months before they can be employed. There is no mechanism for exemptions. Since these provisions came into effect, employment practices have changed. In some cases an authority may supply cross-boundary services to another authority, or may bring in house services that were contracted out. In such circumstances employees may find themselves working for an authority for which they are also a councillor.

### **Questions**

**Is it desirable to increase or decrease the number of paid hours given to an employee to function as a Councillor in another authority? IF so, what should the new limit be?**  
**Should the current rules prohibiting councillors from being officers of the same authority be revised or deleted, or are they necessary to ensure that members are not allowed to make decisions which impact on their own employment?**

RECOMMENDED that the Committee determine what (if any) response it wishes to make to the consultation paper.

Background Papers: Consultation document on A Review on the Political Activities of Local Authority Employees and Pay of Political Assistants.



**Committee:** STANDARDS COMMITTEE  
**Date:** 4 OCTOBER 2004  
**Agenda Item No:** 6  
**Title:** COMPLAINT TO THE STANDARDS BOARD FOR ENGLAND  
**Author:** Michael Perry (01799) 510416

### **Summary**

- 1 This report is to inform Members of the Committee of a complaint which has been made to the Standards Board and of the possible outcome thereof

### **Background**

- 2 The Monitoring Officer has been informed by the Standards Board that a complaint has been made that two Members of a parish council within the District have breached the Members Code of Conduct in that at a meeting of the parish council they failed to treat a person present at that meeting with respect.
- 3 The Standards Board considered that the allegation was one which warranted investigation. Accordingly the case has been referred to an Ethical Standards Officer who in turn has appointed an officer to assist him with the investigation.
- 4 It is not anticipated that the Monitoring Officer will hear anything further until after the conclusion of the investigation when it is likely that he will be sent a copy of the draft report. That report will be confidential and cannot be shared with the Committee (or indeed anyone else).
- 5 At the conclusion of the investigation the Ethical Standards Officer will reach one of a number of conclusions, namely:-
  - a. There has been no breach of the code
  - b. That there has been a breach of the code but that no further action needs to be taken
  - c. That the matter should be referred to the Monitoring Officer for local determination by this Committee
  - d. That the matter should be referred to the Adjudication Panel for England for determination.
- 6 The Standards Board suggest that Standards Committees should be given notice of complaints which have been made but not details of the nature of the allegations nor information which could lead to the identification of the complainant or the person or persons complained of, hence the vague nature of this report. No background documents are referred to in this report as the

letter from the Standards Board is confidential and is also exempt information under paragraph 17 Schedule 12A Local Government Act 1972 as amended.

RECOMMENDED that Members note this report

Background Papers: None.

**Committee:** STANDARDS COMMITTEE  
**Date:** 4 OCTOBER 2004  
**Agenda Item No:** 7  
**Title:** UPDATE ON TRAINING  
**Author:** Michael Perry (01799) 510416

### **Summary**

- 1 This report provides details of the training session to be held on Monday 18 October 2004.

### **Background**

- 2 Members will be aware that at the last meeting it was agreed that a training session involving role playing should be arranged in the autumn for the Standards Committee.
- 3 Members were advised on 3 September that a training session has been arranged on 18 October at 4.00 pm. The papers for this session are attached and Members are asked to read these in advance of the training session and prepare for their role.

## CAST LIST

Cllr South (Member subject of the complaint)	Phil O'Dell
Mrs B. Good (Ethical Standards Officer)	Carole Hughes
Mr Oddfellow (Monitoring Officer)	Michael Perry
Mr B. Flynn (Chairman of the Standards Committee)	Sean Brady
Mr S. Board (Committee Officer)	Mick Purkiss
Cllr Mrs Hathaway (Witness)	Catherine Nicholson (?)
Cllr Mrs Jones (Witness)	Christine Oliva (?)
The Standards Committee	Themselves

## REFERENCE ABOUT POSSIBLE FAILURE TO FOLLOW THE CODE OF CONDUCT

<b>RESPONDENT</b>	Cllr A South
<b>RELEVANT AUTHORITIES CONCERNED</b>	Paradise District Council and Heavenly Parish Council
<b>ESO</b>	Mrs B Good

- 1      1      The complainant
  - The Respondent used his position improperly to secure an advantage for his son and daughter-in-law in a licensing matter.
  - The Respondent brought his office and the authority into disrepute.
  - The Respondent failed to withdraw from a Council meeting despite having a prejudicial interest in an item under consideration at the meeting.

### 2      The facts of the case

The Respondent has been a member of Paradise District Council for eight years and a member of Heavenly Parish Council for twelve years. The Respondent also provided details of his financial and other interests in the Council's Register of members Interests on 15 March 2003.

The Respondent indicated in the Register of members' Interests that he had a substantial interest in a local company, which he registered under the name Roxy Entertainment and Leisure. The full name of this company is Roxy Entertainment and Leisure Limited.

Roxy Entertainment and Leisure Limited is a company incorporated in England and Wales, of which the Respondent and his son, Mr B South ("Mr South"), are registered as directors. Mr South is also the secretary of Roxy Entertainment and Leisure Limited. The registered address of Roxy Entertainment and Leisure Limited is The Roxy, Loose End, Paradise PA1 1AA.

Mr and Mrs South are the licensees of The Roxy (subsequently renamed the Remote Club). In the application to the Council's Licensing Committee of 4 July 2003, Mr South describes The Roxy as a venue providing musical and dancing entertainment.

The purpose of Mr and Mrs South's application, made under The Local Government (Miscellaneous Provisions) Act 1982, was to obtain the Council's consent to extend the hours that the premises would be used for licensed activities until 0100 on Thursdays, Fridays and Saturdays.

Councillor Lyn Jones is a member of Heavenly Parish Council. Councillor Jones was not a member of the Paradise District Council's Licensing Committee at the time of the alleged failure to comply with the code of conduct by the Respondent. Councillor Jones became a Member of the Council's Licensing Committee in October 2003.

## **Discussion prior to a District Council Meeting**

Councillor Jones said that the Respondent approached her after a District Council meeting and made 'off the cuff comments' concerning his son and daughter-in-law's application to the Licensing Committee. Whilst Councillor Jones cannot recall the exact date of the meeting, she stated that the discussion with the Respondent took place after the adoption of the code of conduct by Paradise District Council.

Councillor Jones says that the 'off the cuff comments' included that the Respondent believed The Roxy had been unfairly targeted by the Police and was upset that the Police were going to oppose his son and daughter-in-law's application. Councillor Jones stated that the Respondent asked her 'If you see Ann Hathaway, will you say that John hasn't done anything wrong?'

The Respondent said that while he may have spoken to Councillor Jones after a Council meeting (or meetings), he does not recall talking to her about his son and daughter-in-law's application to the Licensing Committee after either District or Town Council meetings. The Respondent denies asking Councillor Jones to speak to Councillor Hathaway on behalf of his son and daughter-in-law.

The ESO submits that Councillor Jones had no personal or financial interest in the application, and he can see no reason whatsoever as to why her testimony could not be safely relied on.

The ESO gives greater weight to the evidence of Councillor Jones, and considers that on the balance of probabilities, the Respondent did speak to her after a District Council meeting regarding his son and daughter-in-law's application, and did ask her to speak to Councillor Hathaway on their behalf.

Councillor Jones said she did not feel pressured by the Respondent's comments, but advised him that she did not consider it appropriate for him to be making comments of this kind to her.

## **Telephone call to Councillor Hathaway**

The Respondent telephoned Councillor Hathaway, Chairman of the Council's Licensing Committee, at her home during the evening of 7 August 2003. The Respondent had never previously telephoned Councillor Hathaway at her home.

Councillor Hathaway said that during the telephone call of 7 August 2003, the Respondent informed her that his son owned The Roxy, that he (the Respondent) was a partner in the business, and that he would be attending the Council's Licensing Committee meeting the following day, although he did not intend to speak.

Councillor Hathaway's opinion is that the purpose of the call was "to ask me to look favourably on an application from The Roxy to extend their public entertainment hours to 1.00 am on Thursday, Friday and Saturday nights". Councillor Hathaway said that during the telephone call, the Respondent said to her 'perhaps I shouldn't be doing this, with all this new standards business' or words to that effect.

The Respondent said that he telephoned Councillor Hathaway at her home on 7 August 2003 because he was concerned that the Council did not appear to be following the correct procedures in dealing with his son and daughter-in-law's application.

The Respondent said that he asked Councillor Hathaway why his son and daughter-in-law's application was the subject of an agenda item for consideration by the Licensing Committee rather than being dealt with by delegated authority. The Respondent said that Councillor

Hathaway told him that she did not know why this was the case, and assured him that the application would be dealt with on its legal merit.

The Respondent denies asking Councillor Hathaway “for help or support or anything whatsoever”.

The Respondent denies trying to lobby Councillor Hathaway to look favourably on his son’s application.

The Respondent said he thought Councillor Hathaway was the only person who could advise him on why his son and daughter-in-law’s application was being dealt with in the way it was by the Council.

The ESO prefers the evidence of Councillor Hathaway, on the balance of probabilities, in respect of the nature and purpose of the conversation between herself and the Respondent during the telephone call of 7 August 2003.

Councillor Hathaway is an experienced Member who had no personal or financial interest in the application, and the ESO can see no reason whatsoever as to why her testimony could not be safely relied on.

Councillor Hathaway reported the telephone call to the Monitoring Officer, Mr Oddfellow, the following day, and provided a written statement to Mr Oddfellow on 28 September 2003.

Although Councillor Hathaway described the telephone call from the Respondent as being “very informal and very chatty”, she said it “troubled” her and made her “feel a little uncomfortable”. Councillor Hathaway reported the telephone call from the Respondent to Mr Oddfellow prior to the Licensing Committee meeting the following day.

The Respondent said he had tried unsuccessfully to contact Mr Oddfellow, the Monitoring Officer, in the week prior to the Licensing Committee meeting of 8 August 2003 to ask for advice as to why the application was on the agenda for the Licensing Committee’s forthcoming meeting. The Respondent did not leave a message or request Mr Oddfellow or another staff member to return his call.

Mr and Mrs South’s application was considered at the Council’s Licensing Committee meeting of 8 August 2003. Councillor Hathaway chaired the meeting. The Respondent was present at the meeting, sitting at the very back of the Council Chamber, but did not speak. The Respondent did not seek the Monitoring Officer’s advice as to whether it was appropriate for him to be present during the meeting.

Prior to the meeting commencing, Councillor Hathaway advised Mr Oddfellow that the Respondent was present in the Council Chamber. Mr Oddfellow advised Councillor Hathaway that this was in order as the meeting was open to the press and public. This conversation was not heard by the Respondent.

The minutes of this meeting record that the Licensing Committee heard submissions from Inspector Morse, Mr R Kane, solicitor for Wessex Constabulary, Mr O Deer, solicitor for Mr South, and from Mr South.

Following deliberation in closed session, the Licensing Committee resolved to decline Mr and Mrs South’s application to extend the opening hours of The Roxy. The Licensing Committee provided reasons for its decision.

## RELEVANT PROVISIONS OF THE CODE OF CONDUCT

### Paragraph 4

A Member must not in his/her official capacity, or any other circumstance, conduct him/herself in a manner which could reasonably be regarded as bringing his/her office or the Council into disrepute.

### Paragraph 5

A Member must not in his/her official capacity, or in any other circumstance, use his/her position as a Member improperly to confer on or secure for him/herself or any other person, an advantage or disadvantage.

### Paragraph 8

A Member must regard him/herself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 13 and 14 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers, or inhabitants of the Council's area, the well-being or financial position of him/herself, a relative or friend or:-

- (a) any employment or business carried on by such persons;
- (b) any person who employs or has appointed such person, any firm in which they are a partner, or any company of which they are directors.

### Paragraph 10

A Member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

### Paragraph 11

A Member with a prejudicial interest in any matter must:-

- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he/she has obtained a dispensation from the authority's Standards Committee; and
- (b) not seek to improperly influence a decision about that matter.

**PARADISE DISTRICT COUNCIL AND HEAVENLY PARISH COUNCIL  
STANDARDS COMMITTEE DETERMINATION**

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**FORM F**

PRE-HEARING PROCESS SUMMARY

DATE OF SUMMARY: 1/10/04

**MEMBER SUBJECT OF ALLEGATION:**

COUNCILLOR A SOUTH

**PARADISE DISTRICT COUNCIL CASE REF:  
HEAVENLY PARISH COUNCIL CASE REF:-**

00001/PDC  
00001/HPC

**MONITORING OFFICER:**

Mr Oddfellow

**STANDARDS BOARD FRO ENGLAND CASE REF:**

TEST1

*The Standards Committee has received responses from the Member and the Ethical Standards Officer (ESO) – this is a summary of the main aspects of the case to be heard.*

**DETAILS OF THE ALLEGATION**

The name of the person who made the original allegation is:

ANON

The relevant section(s) of the Code of Conduct:

Paragraph 4, Paragraph 5,  
Paragraph 8, Paragraph  
10, Paragraph 11

Summary of the allegation:

- The Respondent used his position improperly to secure an advantage for his son and daughter-in-law.
- The Respondent brought his office and the authority into disrepute.
- The Respondent failed to withdraw from a council meeting despite having a prejudicial interest in an item under consideration at the meeting.



## DETAILS OF THE ETHICAL STANDARDS OFFICER & REPORT

The name of the ESO who referred this matter is:

Mrs B Good

The findings of fact in the ESO's report that are agreed:

The Respondent is a Director of Roxy Entertainment and Leisure Limited.

The Respondent disclosed this interest in the Council's Register of Member's interests.

The Respondent's son Mr John Alan Smith is a Director and Secretary of the same company.

The company's registered address is at The Roxy a venue providing musical and dancing entertainment.

The Respondent's son and daughter-in-law are joint licenses of the Roxy and applied to the Council for consent to extend the hours that the premises would be used for licensed activities until 0100 on Thursdays, Fridays and Saturdays.

The Company and the Applicants stood to gain a financial advantage by extended opening hours.

The Respondent had a personal and prejudicial interest in the application being considered by the Licensing Panel.

Councillor Lyn Jones was not a member of the Council's Licensing Committee at the time of the alleged failure to comply with the code.

Councillor Hathaway was Chairman of the Licensing Committee.

The Respondent telephoned Councillor Hathaway at her home on the evening of 7 August 2003.

The Respondent had never previously telephoned Councillor Hathaway at her home.

The application was considered at the licensing Committee meeting on 8 August 2003.

The Respondent did not seek the Monitoring Officer's advice as to whether it was appropriate for him to be present at the meeting.

The Respondent attended the Licensing Committee meeting but did not speak.

The Respondent did not hear the conversation between the Chairman and the Monitoring Officer at the meeting regarding his attendance.

**The findings of fact in the ESO's report that are not agreed:**

The Respondent spoke to Councillor Mrs Jones after a District Council meeting regarding his son and daughter-in-law's application and asked her to speak to Councillor Hathaway on their behalf.

The Respondent asked Councillor Hathaway for help and support on the application for the Roxy.

The Respondent tried to lobby Councillor Hathaway to look favourably on his son's application.

In attending the Council's Licensing Committee meeting on 8 August 2003, the Respondent sought to improperly influence the Committee's decision on the application.

It was possible for the Respondent to have influenced the Committee's consideration of the application by his mere presence at the meeting even from his position in the public gallery.

Will the ESO, or a representative, attend the Hearing: YES

**DETAILS OF THE HEARING**

Date of the Hearing:

18 October2004

Time of the Hearing:

4.00pm

Place of the Hearing

Council Offices, London Road, Saffron Walden

The name of the member of the Standards Committee  
Who will chair the hearing:

Mr B Flynn

The name of the clerk of the hearing (or other  
Administrative member):

Mr J Bostock

The name of the ESO, or representative, (if attending):

Mrs B.Good

The names of any witnesses who will be asked to give  
Evidence:

(1) Cllr Mrs Hathaway  
(2) Cllr Mrs Jones