

# Public Document Pack



Chairman and Members of the  
Standards Sub-Committee

Your contact: Jeff Hughes  
Ext: 2173  
Date: 13 December  
2012

cc. All other recipients of the  
Standards Sub-Committee agenda

Dear Councillor

## **STANDARDS SUB-COMMITTEE - 18 DECEMBER 2012: SUPPLEMENTARY AGENDA NO 1**

Please find attached an additional document (Essential Reference Paper  
'D') relating to Agenda Item 6 for the above meeting:

6. Complaint in Respect of a Parish Councillor, Reference HORM/01/2012  
(Pages 237 - 262)

Please bring these papers with you to the meeting next Tuesday

Yours faithfully

Jeff Hughes  
Head of Democratic and Legal Support Services  
Democratic Services  
[jeff.hughes@eastherts.gov.uk](mailto:jeff.hughes@eastherts.gov.uk)

**MEETING** : STANDARDS SUB-COMMITTEE  
**VENUE** : MEETING ROOM A AND B - CHARRINGTONS  
HOUSE, BISHOP'S STORTFORD  
**DATE** : TUESDAY 18 DECEMBER 2012  
**TIME** : 2.30 PM

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## **PRIVATE AND CONFIDENTIAL REPORT**

**REPORT OF AN INVESTIGATION UNDER s60 OF THE LOCAL  
GOVERNMENT ACT 2000 INTO ALLEGATIONS CONCERNING  
COUNCILLOR JOHN KILBY OF HORMEAD PARISH COUNCIL**

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- 7. Finding**

## **1.0 Executive Summary**

### **1.1 Allegation**

The complaint is that Councillor John Kilby, as a Councillor of Hornead Parish Council (HPC), conducted himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.

I have investigated the complaints made and in doing so have examined the documents submitted to the Assessment Sub Committee.

### **1.2 Finding**

My finding is that there is no evidence that Councillor Kilby failed to comply with the Code of Conduct adopted by Hornead Parish Council.

## **2.0 Councillor John Kilby's official details**

- 2.1 Councillor Kilby is an elected member of Hornead Parish Council. He was originally co-opted to fill a vacancy in September 2006 and was elected to be a Parish Councillor in May 2007 and again in May 2011. There is no record of Councillor Kilby attending a training course for the Code of Practice.

## **3.0 Summary of allegations and conclusions on whether there have been failures to comply with the Code of Conduct**

- 3.1 The complaint was that Councillor John Kilby failed to comply with the Code of Conduct as follows:
- 1) through comments made and reported in a local newspaper has acted in a manner that has brought his position as a Councillor into disrepute in relation to the Standards Committee's finding and decision on a separate complaint concerning his behaviour
  - 2) the action taken by Councillor Kilby to comply with the Standards Committee decision on that complaint also brings his office into disrepute

- 3.2 This report investigates whether by his conduct Councillor John Kilby has brought his office into disrepute. It is alleged that in the Newspaper report he was making light of the Standards Committee judgment.

#### **4.0 The Code of Conduct**

- 4.1 Hormead Parish Town Council has adopted the model Code of Conduct for Parish and Town Councils under the Local Authorities (Model Code of Conduct) Order 2007.
- 4.2 The relevant part of the Code of Conduct is as follows:
- Paragraph 5 of the Code states that a Member must not 'conduct himself in a manner which could reasonably be regarded as bringing his office into disrepute'.

#### **5.0 Investigating Officer's findings of fact**

- 5.1 I have relied upon evidence produced to the Standards Assessment Sub Committee in particular a copy of a report by Ciaran Gold in the Hertford Mercury apparently dated 23<sup>rd</sup> March 2012.
- 5.2 At the Standards Committee meeting held on 14<sup>th</sup> March 2012 Councillor Kilby was required to write to Mr Marks, apologising for the form of words used and making clear that no imputation of fraudulent conduct had been intended. Further, given that the matter was now a matter of public record, the letter of apology should be copied to the Parish Council and written into its minutes at the first opportunity and should be published in the Parish Newsletter. The letter should also be copied to the Chairman of the Standards Committee.
- 5.3 I can find no evidence to contradict that Councillor Kilby has done all that was required of him. To the contrary he has written a letter of apology to the Clerk to the Council, who has confirmed its receipt and who one would expect to publish the letter as required and include in the relevant minutes. I also have confirmation that a copy was sent to the Chairman of Standards Committee. In terms of publication sending the letter to the Clerk to the Council should be sufficient and it is doubtful if Councillor Kilby could arrange for publication himself.

- 5.4 Following on from that meeting, Councillor Kilby appears to have been interviewed by Ciaran Gold and a report subsequently appeared in the Hertford Mercury. It is my view that he would have no control over what was subsequently published, nor as to the truth of it.

## 6.0 Reasoning

- 6.1 I must now consider whether the actions of Councillor Kilby failed to comply with paragraph 5 of the Code of Conduct.
- 6.2 Paragraph 1 of the Code states that it is the responsibility of a Councillor to comply with the provisions of the Code and paragraph 2 confirms that this is whenever a Councillor conducts the business of the Authority in an official capacity.
- 6.3 This paragraph is not intended to stand in the way of lively debate as such discussion is a crucial part of the democratic process. A very clear line has to be drawn between the Code of Conduct and the freedom to disagree with the views and opinions of others. I have taken account of the recent decision of (*R (Calver) v Public Services Ombudsman for Wales [2012] EWHC 1172 (Admin) (03 May 2012).*) This case related to council members and politicians who use social media as a way of commenting on other members and the way that a council is run and although it was found that the comments directed towards other councillors were "sarcastic and mocking" they were not found to amount to "political expression". The Judge Beatson J stated that it was necessary to bear in mind "the traditions of robust debate" which may include "some degree of lampooning of those who place themselves in public office" which would necessarily require politicians to have "thicker skins than others".
- 6.4 As regards item 1) in 3.1 above I do not find the comments made in the newspaper article to be a breach of the Code but rather the expression of a point of view. This is particularly so in that it is a report of something allegedly said by the Councillor and there is no verification that these were the exact words spoken or that they were not taken out of context.

- 6.5 As regards item 2) in 3.1 above I have found that this complaint is without foundation in fact.

## **7.0 Finding**

My finding on all the circumstances of this case is that in accordance with the Local Government Act 2000 there is no evidence of a failure to comply with the code.

# **APPENDIX A**

## **Schedule of evidence taken into account**

<b><u>Document Number</u></b>	<b><u>Description</u></b>
1.	Written Decision Notice 14 <sup>th</sup> March 2012 Standards Committee
2.	Decision Notice – Referral for Investigation 12 <sup>th</sup> June 2012
3.	Letter from Councillor Kilby of 19 <sup>th</sup> April 2012
4.	Email from Councillor Kilby of 13 <sup>th</sup> September 2012
5.	Code of Conduct adopted by Hormead Parish Council
6.	Newspaper Report 23 <sup>rd</sup> March 2012
7.	Not attached
	<i>(R (Calver) v Public Services Ombudsman for Wales [2012] EWHC 1172 (Admin) (03 May 2012).)</i>
	Various emails



**EAST HERTFORDSHIRE DISTRICT COUNCIL  
STANDARDS COMMITTEE - WRITTEN DECISION**

**Case ref:** HORM/03/2011

**Hearing date:** 14 March 2012

**Matter:**

Report of the Investigating Officer in relation to a finding of failure to follow the Code of Conduct

**Name of Member Concerned:** Councillor J Kilby

**Complainant:** Mr C Marks

**Authority concerned:** Hornead Parish Council

**Investigating Officer:** Ms M Bett

**Member's representative:** Mrs M Kilby

**Committee Members:**

District Councillors:

Councillors M G Carver, N C Poulton, M Wood.

Independent Members

Mr S Bouette, Mr D Farrell, Mr J Morphew, Mr T Vickers

Parish Councils' Representative:

Mr J Jones

Town Councils' Representative:

Mrs E Woods

**Chairman:** Mr T Vickers

**Legal Adviser to the Committee:** Mr S Drinkwater

**Clerk:** Mr J Hughes

**1 Preliminary documents**

Report of Investigating Officer dated 1 February 2012  
Councillor Kilby's submission

**2 Procedural matters:**

None

**3 Summary of the complaint/allegation**

Councillor J Kilby had accused the Clerk, Mr C Marks, of fraud in respect of an expenses claim during a meeting of Hormead Parish Council held on 13 October 2011. This accusation had subsequently been recorded in Minutes, as an amendment, when they were submitted for confirmation as a correct record at the Parish Council meeting held on 10 November 2011.

**4 Findings**

The following material fact was not disputed:

The Minutes of Hormead Parish Council meeting held on 13 October 2011 had been confirmed as a correct record of the proceedings subject to an amendment to reflect a remark by Councillor J Kilby accusing the Clerk of fraud in respect of an expense claim.

Councillor J Kilby was present at the Hormead Parish Council meeting held on 10 November when the Authority had resolved to confirm the Minutes of its October meeting as a correct record subject to the aforementioned amendment.

**5 Councillor Kilby's official details**

Councillor Kilby was a Member of Hormead Parish Council.

Councillor Kilby had signed a written undertaking to observe the Code of Conduct.

**6 The relevant legislation and protocols**

Hormead Parish Council adopted a Code of Conduct under the Local Authorities Model Code of Conduct Order 2007. The following paragraphs of the Code state:

General obligations -

Clause 3 - you must treat others with respect.

Clause 5 - you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

**7 List of agreed facts taken from the Investigating Officer's report**

As set out above.

**8 List of disputed facts**

The context and accuracy of the Minute, as amended, recording the allegation.

**9 Summary of the evidence considered and the representations made:**

The Investigating Officer's report was considered together with the submissions of the Investigating Officer and Councillor Kilby and his representative.

**10 Findings on the material facts and reasons for the findings**

The Committee noted the vagueness, common in varying degrees to all the witness statements, about what was actually said to constitute the alleged conduct complained of and at what point or points in the agenda of the meeting of the Parish Council. That uncertainty was considered to be understandable given the failure of anyone to react at the time and the delay first in proposing an amendment to the minutes of the meeting and subsequently in agreeing (or disputing) the accuracy of the minute as amended. What was clear was that something untoward had been said. In the circumstances, the Committee judged it best to accept the subject member's admission that he had used the form of words: 'If this was an MP's expenses then he could have been accused of fraud.' The subject member acknowledged that the remark had been unwise and ill-expressed.

The Committee's finding of fact was that, on the balance of probability, this remark, or something very like it, had been made.

**11 Whether the material facts disclose a failure to comply with the Code of Conduct**

The Investigating Officer made submissions at the hearing to support the view that Councillor Kilby had failed to comply with Clause 3, but not Clause 5 of the Code of Conduct.

**12 Committee decision**

There had been a failure to comply with the Members' Code of Conduct amounting to a breach of Clause 3: a failure to treat others with

respect. The offence might well have been a marginal one if in vigorous discussion with and about another member, but the remark was seriously inappropriate when made about an officer and in the documented circumstances of this particular case.

### **13 Submissions as to the action to be taken**

The Investigating Officer's submission that Councillor Kilby should submit a written apology, in a form specified by the Committee, to the complainant.

### **14 Committee's decision**

The Committee took into account the current guidance published by Standards for England.

The Committee noted all the submissions made both orally and in writing.

Councillor Kilby should write to Mr Marks, apologising for the form of words used and making clear that no imputation of fraudulent conduct had been intended. Further, given that the matter was now a matter of public record, the letter of apology should be copied to the Parish Council and written into its minutes at the first opportunity and should be published in the Parish Newsletter. The letter should also be copied to the Chairman of the Standards Committee.

### **15 Right of Appeal**

Where a standards committee decides that a Member has failed to comply with the Code of Conduct, the Member may within 21 days of being notified of that decision, seek permission to appeal to the First Tier Tribunal and if appropriate, apply to the First Tier Tribunal for the suspension of any sanction imposed until such time as any appeal is determined.

Contact details of the First Tier Tribunal:

First-tier Tribunal (Local Government Standards in England)  
4th Floor City Exchange  
11 Albion Street  
Leeds  
LS1 5ES  
Tel: 0113 236 6545  
Fax: 0113 242 8843  
Email: [ap-enquiries@tribunals.gsi.gov.uk](mailto:ap-enquiries@tribunals.gsi.gov.uk)

Appeal forms can be downloaded from:  
<http://www.justice.gov.uk/forms/hmcts/local-government-standards>

## **16 Additional Help**

If you have difficulty reading this notice, for example because English is not your first language, the Council can make reasonable adjustments to assist you in line with statutory requirements. Please contact the officer named below for assistance and guidance.

Contact: Jeff Hughes – Deputy Monitoring Officer (tel: 01279 655261; 'e'-mail: [jeff.hughes@eastherts.gov.uk](mailto:jeff.hughes@eastherts.gov.uk)).

Contact address: Wallfields, Pegs Lane, Hertford, Herts., SG13 8EQ

T Vickers  
Chairman of the Committee

15 March 2012

## **DECISION NOTICE: REFERRAL FOR INVESTIGATION**

Reference: HORM/01/2012

### **COMPLAINT**

On 12 June 2012, East Hertfordshire District Council's Assessment Sub-Committee considered a complaint from Mr S Hossack concerning the alleged conduct of Parish Councillor J Kilby, a Member of Hornead Parish Council.

Detailed below is a general summary of the complaint:

Councillor Kilby has failed to register, in Hornead Parish Council's Register of Members' Interests, details of his personal interest in relation to several companies, in particular Byrne and Kilby Developments Ltd.

Councillor Kilby has acted in a manner that has brought his position as a councillor (of Hornead Parish Council) into disrepute in relation to statements, some of which are alleged to be misleading, and actions concerning Hornead Village Hall and development proposals associated therewith.

Councillor Kilby, through comments made and reported in a local newspaper, has acted in a manner that has brought his position as a councillor (of Hornead Parish Council) into disrepute in relation to the Standards Committee's finding and decision on a separate complaint concerning his behaviour. Further, the action taken by Councillor Kilby to comply with the Standards Committee decision on that complaint also brings his office into disrepute.



## **DECISION**

In accordance with the provisions of the Local Government Act 2000, as amended, the Assessment Sub-Committee has decided to refer the element of the allegation concerning the subject member's comments and actions and inactions on a separate complaint concerning his conduct to the Monitoring Officer for investigation for the following reason:

the alleged conduct, if proven, might represent a breach of the Code of Conduct.

(Note: The Assessment Sub-Committee decided that no action be taken on that element of the complaint relating to Councillor Kilby's actions and statements concerning Hornead Village Hall as those actions and statements do not obviously relate to his office as a parish councillor and are therefore not a matter for the Standards Committee. They relate to Mr Kilby's role and actions as Chairman of the Village Hall Management Committee and to questions of law, or building design. If they are to be pursued, then they should be dealt with through the appropriate channels, for example at a general meeting of the residents to whom the Village Hall Trustees are answerable or by reference to the Charity Commission.

The Assessment Sub-Committee further decided that the complainant be advised of the details of the new standards regime that applies from 1 July 2012 and, in particular, the new statutory requirements for local authority members to register Disclosable Pecuniary Interests. Failure to register any such interests will then be a criminal offence. In the Sub-Committee's view, no useful purpose would be served by launching, at this late stage, an investigation of alleged failures under the present code and legislation. That does not imply a judgement whether there was a case to answer. Insufficient evidence was provided to allow an assessment. The complainant may wish to consider whether or not the future registration of interests by the subject of the complaint might represent a breach of the new regulations.

Some of the detailed complaints seem to relate to alleged conduct that is already the subject of an on-going

investigation into another complaint and are therefore not being assessed on this occasion.

### **POTENTIAL BREACHES OF THE CODE OF CONDUCT IDENTIFIED**

The Assessment Sub-Committee identified the following provisions of the Hornead Parish Council's Code of Conduct which may apply to the alleged conduct:

- the requirement to treat others with respect
- the prohibition of conduct which could reasonably be regarded as bringing the office of councillor into disrepute.

This decision notice is sent to the person making the allegation (Mr S Hossack), the Member (Parish Councillor Kilby) against whom the allegation is made, and to the Clerk to the Parish Council. All parties should take care when passing on information that is in this notice or about the notice.

### **WHAT HAPPENS NOW?**

The Council's Monitoring Officer, in accordance with the Assessment Sub-Committee's decision, will now conduct an investigation of the allegation. At the conclusion of the investigation, the Monitoring Officer must make one of the following findings and write a report for consideration by the Council's Standards Committee:

- there has been a failure to comply with the Code of Conduct, or
- there has not been a failure to comply with the Code.

A guide to the investigation process is attached.

Signed: \_\_\_\_\_  
T Vickers  
Chairman of the Assessment Sub-Committee

Date: 18 June 2012

### **ADDITIONAL HELP**

If you have difficulty reading this notice, for example because English is not your first language, the Council can make reasonable adjustments to



assist you in line with statutory requirements. Please contact the officer named below for assistance and guidance.

Contact: Jeff Hughes – Deputy Monitoring Officer (tel: 01279 655261;  
'e'-mail: [jeff.hughes@eastherts.gov.uk](mailto:jeff.hughes@eastherts.gov.uk)).

Contact address: East Herts Council, Wallfields, Pegs Lane, Hertford,  
Herts., SG13 8EQ.

[REDACTED]

19<sup>th</sup> April 2012

[REDACTED]

Dear Mr Marks

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**HORMEAD PARISH COUNCIL**

I am writing to you following your complaint to the Standards Committee, of which you are a member, and the hearing that took place on 14<sup>th</sup> March.

You raised a complaint following the meeting of Hormead Parish Council on 13<sup>th</sup> October, the day after the Village hall obtained planning permission for the new hall, where your expenses were discussed. You had claimed expenses relating to hours and mileage for attending the September East Herts Rural Conference and an EHAPTC meeting as a Standon Parish Councillor.

I accept that you withdrew the claim for the East Herts Rural Conference and that any suggestion I made comparing this to members of parliament fraudulently claiming expenses was inappropriate.

As requested by the Standards Committee, I apologise if you were in any way offended by this remark.

Yours sincerely

[REDACTED]

John D Kilby

(4)

**Bett Monica**

**From:** John Kilby [REDACTED]  
**Sent:** 13 September 2012 13:08  
**To:** Bett Monica  
**Subject:** Standards

Dear Monica Bett

I was not aware that anyone was investigating my compliance with the Standards Commission decision on 14th March 2012. Please could you let me know why my compliance is being investigated, who requested such an investigation, and why I was not informed immediately when any question of compliance first arose.

As required I wrote on 19 April 2012 to Colin Marks, Clerk of Hornead Parish Council. I sent a copy of this letter to the Chairman of the Standards Committee (Tony Vickers) - or rather I sent it to East Herts Council asking that it be forwarded to the Chairman because I did not have his home address. Clearly East Herts Council received this letter because you state you have a copy. If East Herts did not forward this to the Chairman of the Standards Committee as requested, perhaps you could investigate why this did not happen and ensure that such an oversight does not happen in future.

Colin Marks, Clerk of Hornead Parish Council, acknowledged and accepted my letter at a parish council meeting on 19<sup>th</sup> April. You will have to discuss with the Clerk and the Chairman of the Parish Council why they did not put a copy of the letter in the minutes. It is not within my ability to make the Chairman or Clerk physically insert the previously acknowledged letter in the minutes. If they chose not to so do, then I suggest you ask why they decided to ignore the decision of the Standards Committee. It cannot be the content of the letter because the Clerk accepted my apology and I have received no adverse comment or response from him.

I sent a copy of the letter to the editor of the Hornead & Hare Street Parish Newsletter as requested by the Standards Committee. The Parish Newsletter is an independent newsletter which publishes items of interest relating to Hornead and Hare Street. The Editors refused to publish the letter because East Herts Council had not contacted them asking if they would publish such a letter and it was, and is not, within the remit of East Herts Council to instruct editors of independent publications to publish anything at all. I understand from the newsletter editors that if East Herts Council/Standards Committee did not have the courtesy of discussing with them directly publication of such a letter in the parish newsletter, then such non-appearance is for East Herts Council to discuss with the parish newsletter editors directly.

I have complied exactly with the Standards Committee decision made on 14th March 2012. Any non-compliance is for you to investigate with the Parish Clerk, who has not published my acknowledged letter, and with the Editors of the Parish Newsletter who have never been contacted by East Herts Council at any time regarding this matter.

If this investigation has been requested by Hornead Parish Council Chairman or Clerk, then the Standards Committee should seriously consider the motives behind such a request. For a Parish Clerk or Chairman not to publish an apology letter, as required by the Standards Committee, and then attempt to put the blame of such non-publication on the councillor who did comply with the decision, could be regarded as victimisation.

As the Chairman of the Standards Committee stated in the meeting on 14 March 2012 - Hornead Parish has a dysfunctional Parish Council. This has been endorsed by parishioners at a parish meeting last night, where they passed a vote of "no confidence in the parish council". This motion was particularly aimed at the chairman and vice chairman who were barracked by an audience of over 100.

Yours sincerely

John D Kilby

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**From:** Bett Monica [<mailto:Monica.Bett@eastherts.gov.uk>]

**Sent:** 11 September 2012 20:01

**To:** John Kilby

**Subject:** Standards

Dear Councillor Kilby,

As you may be aware I am investigating your compliance with the Standards Committee decision on 14<sup>th</sup> March 2012. This required you

to write a letter of apology to the Clerk of Hornead Parish Council apologising for the form of words used and making it clear that no imputation of fraudulent conduct had been intended. Further the letter of apology should be copied to the Parish Council and written into its minutes at the first opportunity and should be published in the Parish Newsletter. The letter should also be copied to the Chairman of the Standards Committee.

You did not exercise your right of appeal and these instructions should by now have been complied with.

I have a copy of the letter that you sent to the Clerk to the Council expressing your apologies, but I understand that a copy did not appear in the minutes of the Parish Council or in the Parish Magazine. Will you therefore please advise me why this part of the requirement does not seem to have been met, and whether or not you also sent a copy of the letter to the Chairman of the Standards Committee.

Your early response would be appreciated.

Regards

Monica Bett  
Adviser to Legal Services  
East Herts DC

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**Hormead Parish Council, Herfordshire**

**Local Authorities (Model Code of Conduct) Order 2007 No.1159**

**THE MODEL CODE OF CONDUCT  
FOR PARISH AND TOWN COUNCILS**

**Part 1**

**General provisions**

**Introduction and interpretation**

**1.—** This Code applies to **you** as a member of an authority.

(1) You should read this Code together with the general principles prescribed by the Secretary of State (see Annexure to this Code).

(2) It is your responsibility to comply with the provisions of this Code.

(3) In this Code—

“meeting” means any meeting of—

(a) the authority;

(b) any of the authority’s committees or sub-committees, joint committees or joint sub-committees;

“member” includes a co-opted member and an appointed member.

(4) References to an authority’s monitoring officer and an authority’s standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under section 55(12) of the Local Government Act 2000.

**Scope**

**2.—** Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

(a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or

(b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct, or



- (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

#### **3.— You must treat others with respect.**

##### **(1) 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<sup>(\*)</sup>);
- (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.

#### **4. You must not—**

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
  - (i) you have the consent of a person authorised to give it;
  - (ii) you are required by law to do so;
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is—
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
- (b) prevent another person from gaining access to information to which that person is entitled by law.

#### **5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.**

#### **6. You—**

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority—
  - (i) act in accordance with your authority's reasonable requirements; and
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

#### **7. Paragraph 7 does not apply to your authority.**

<sup>a</sup> (\*) 2006 c.3.

## Part 2

### Interests

#### Personal interests

8.— You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

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

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

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

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

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of—

(i) (in the case of authorities with electoral divisions or wards) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

(ii) (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.— 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.

(1) 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.

(2) 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.

(3) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(4) 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.

### **Prejudicial interest generally**

10.— Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(1) You do not have a prejudicial interest in any business of the authority where that business—

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of—
  - (i) this sub-paragraph does not apply to your authority;
  - (ii) this sub-paragraph does not apply to your authority;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

11. Paragraph 11 does not apply to your authority.

### **Effect of prejudicial interests on participation**

**12.—** Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee; and

(b) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **Part 3**

### **Registration of Members' Interests**

#### **Registration of members' interests**

**13.—** 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.—** 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.

(1) 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.

(2) 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.

## Annexure - The Ten General Principles

The general principles governing your conduct under the *Relevant Authorities (General Principles) Order 2001* are set out below:

### *Selflessness*

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

### *Honesty and Integrity*

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

### *Objectivity*

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

### *Accountability*

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

### *Openness*

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

### *Personal Judgement*

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

### *Respect for Others*

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### *Duty to Uphold the Law*

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### *Stewardship*

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

### *Leadership*

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.



Apology to be included in minutes of next meeting and printed in newsletter

# Parish councillor must say sorry for comment to clerk

A PARISH councillor must write an apology letter to the parish clerk after a comment landed him in hot water with East Herts Council's standards committee.

Hormead Parish Council member John Kilby was found guilty of disrespectful behaviour towards Colin Marks at a committee hearing on Wednesday last week.

But Cllr Kilby, who runs his accountancy firm from his home in Hare Street, has dismissed the ruling as another attempt to derail plans for a new village hall in Great Hormead.

## ■ CIARAN GOLD

He said: "I'll accept it and carry on, but it's a complete farce. They couldn't have given a lighter touch."

"Everything about the [parish] council is a farce at the moment."

The apology letter must be included in the minutes of the next parish council meeting and must also be printed in the next edition of the *Hormeads and Hare Street Newsletter*.

Cllr Kilby was found not guilty of breaching clause five, bringing the office into disrepute.

Mr Marks did not want to comment, but a source said: "A lot of

people felt they should have gone further."

Cllr Kilby heads up the Hormead Village Hall Management Committee, which has planning permission to knock down the ageing hall and replace it with a two-storey barn-style building.

Controversial plans to finance it involve selling a portion of the car park off for housing. Opponents fear a parking overspill on the B1038.

There have also been plans for an alternative parish hall building mooted.

The result has been months of infighting between councillors and

parishioners who cannot agree on the way forward.

Cllr Kilby felt the complaint served to entrench the difference of opinion over the plans.

He added: "I've no idea where we go from here - there doesn't seem to be any chance of reconciliation [between the parish council and village hall committee] in this climate."

"But this isn't going to stop us. We've had a good valuation of the land and we are looking for a buyer."

"We've got a couple of technicalities we've got to sort out and then we're off."

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