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The Rt. Hon Lord Falconer of Thoroton QC
Secretary of State for Constitutional Affairs
and Lord Chancellor
House of Lords
London SW1A 0PW

**OFFICE OF
THE CHIEF EXECUTIVE**

CHIEF EXECUTIVE Steve Watson

14 August 2006

Dear Lord Falconer

Major Crisis in Local Democracy - Bias

On the 13th July a resolution was passed by this Council, with the unanimous support of Members straddling all parties, about the serious consequences to local democracy of the developing legal rule of bias. All Members believe that it is necessary to write to you to address a situation that could cause irreparable damage to local democracy and the role of Members as community leaders.

This Council is aware of the importance that Ruth Kelly and her Cabinet colleagues are currently placing on the role of Councillors as Community leaders and in them playing a part to re-energise local democracy. However, Members feel that their traditional role of local representative and community leader is now almost impossible to discharge, and that they are rapidly losing credibility with their electorate. In the face of these difficulties, many Council Members are considering resigning and it will be difficult to find local replacements. There is consequently a severe risk that local democracy will be damaged irreparably unless this issue is tackled swiftly. I have set out the issue that is concerning our Members in the remainder of this letter so you can understand why this is causing so many difficulties.

You may know there has been a spate of cases recently concerning the issue of bias, not only in relation to local government decisions, but in a wider context as well. The legal rule of bias is something that Members understand but its application by the Courts has reached a level now where Members of this Council are feeling so "straight-jacketed" that they are not able to perform effectively the role they were elected to carry out. This Council believes the implications of the developing legal rule of bias are as follows:

1. A local Member cannot indicate to his electorate which way he is considering voting in relation to a regulatory matter without debarring himself from voting. A recent example of this at this Council related to a planning application for a windfarm. Several Members were informed by the Monitoring Officer that they should not participate in a vote because they had already expressed their concerns about the suitability of a windfarm in that locality.

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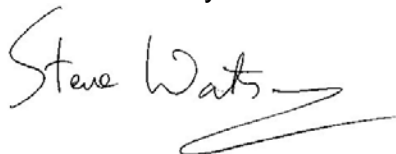
2. Those District Councillors, who are also Members of a local Parish Council, are prevented from participating in matters such as consultation on planning applications because they may be seen to have apparent bias. This appears to be in direct contradiction to the Model Code of Conduct which encourages a Member to remain in the debating chamber and vote if they are also a Member of another authority which has previously considered the matter. I refer you to the Case of Georgiou -v- Enfield LBC (2-004) LGR 497 which effectively prevents Members from acting in accordance with the Model Code of Conduct.
3. Members are now unable to set out an election manifesto about their views on local issues for fear that this may prejudice their active involvement in tackling such issues at Council level if elected. As Members are dealing with local issues at a local council level, it is important that the electorate know what candidates views are on forthcoming planning, licensing or other issues of a regulatory matter. The present state of the law prevents them from expressing these views and damages their credibility with potential voters at the ballot box. I particularly refer you to the case of Condrón -v- National Assembly of Wales (2005) EWHC at page 307 where the High Court Judge there found apparent bias in the uttering of seven words during a 90 second chance meeting between a member of the National Assembly of Wales and of the public. It was a casual remark genuinely made that resulted in the High Court having to quash the National Assembly's decision on a planning matter.

The consequences of all of this are serious because Members believe they are unable to function as representatives of their electorate and also as community leaders. This Council believes that you have a crisis of local democracy on your hands and, if you fail to deal with it in the near future, it will result in many local Councils being unable to function at a local level.

As you can see, this Council feels strongly and we believe that urgent action is needed to stem the tide of disinterest and remove the barriers to true community and democratic representation in local government. We believe legislation should be introduced that lessens significantly the impact of the legal rule of bias so that local members can carry out what they were elected to do and be the community leaders that your Government has so clearly indicated are needed for the future.

For your information, we intend to engage with other local authorities and ask them to write to you asking for your help in addressing this significant problem. We do hope that once you understand the depth of feeling about this issue across all local authorities within England you will act swiftly to address this blight on local democracy.

Yours sincerely

A handwritten signature in black ink that reads "Steve Watson". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Steve Watson
Chief Executive