

A G E N D A

Standards Committee

Date: **Friday, 1st April, 2005**

Time: **2.00 p.m.**

Place: **The Council Chamber,
Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

*Heather Donaldson, 35 Hafod Road,
Hereford*

Tel: 01432 261829; Fax: 01432 260286;

Email:

hdonaldson@herefordshire.gov.uk

AGENDA

for the Meeting of the Standards Committee

To: Robert Rogers (Independent Member)(Chairman)

Councillors P.E. Harling and J.W. Edwards
 David Stevens (Independent Member)
 Richard Gething (Parish Council Representative)
 John Hardwick (Parish Council Representative)

	Pages
1. APOLOGIES FOR ABSENCE To receive apologies for absence.	
2. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.	
3. MINUTES To approve and sign the minutes of the meeting held on 4 February 2005.	1 - 6
4. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS To consider any applications for dispensations received from town or parish councils. Wards: County-Wide	
5. DRAFT PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS To consider a revised draft protocol to guide Members in their use of Council resources. Wards: County-Wide	7 - 16
6. " A CODE FOR THE FUTURE": STANDARDS BOARD FOR ENGLAND CONSULTATION ON THE CODE OF CONDUCT FOR MEMBERS To consider the Committee's submission to the Standards Board for England. Wards: County-Wide	17 - 22
7. LOCAL INVESTIGATIONS AND DETERMINATIONS To agree an approach to the new powers of local investigations of complaints. Wards: County-Wide	23 - 26

8.	PARISH COUNCILS	27 - 38
	To note the work of the Standards Board for England in relation to supporting the local parish council sector in compliance with the Code of Conduct.	
	Wards: County-Wide	
9.	NOTIFICATION OF FINANCIAL AND OTHER INTEREST FORM	39 - 44
	To review the forms associated with Local Authority, Town and Parish Councillors' registrations of interest.	
	Wards: County-Wide	
10.	DATES OF NEXT AND FUTURE MEETINGS	
	To note the following programme of meetings, and agree to change the date of the June 2005 meeting:	
	<ul style="list-style-type: none"> • Friday 3 June 2005 (It was informally agreed in the margins of the last hearing that 10 June would probably be convenient. 17 June is an alternative if not.) • Friday 7 October 2005 • Friday 2 December 2005 	
	EXCLUSION OF THE PUBLIC AND PRESS	
	In the opinion of the Proper Officer, the next items will not be, or are likely not be, open to the public and press at the time that they are considered.	
	<p style="text-align: center;">RECOMMENDATION</p> <p style="text-align: center;">That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12 (A) of the Act, as indicated below.</p>	
11.	DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND 2004/05	45 - 48
	To update the Committee about determinations by the Standards Board for England on 2004/2005 concerning the County.	
	This item discloses information relating to the financial or business affairs of a particular person (other than the Authority).	
12.	REVIEW OF STANDARDS COMMITTEE HEARINGS	
	To reflect on the first two hearings held on 14 January and 4 March 2005.	
	This item discloses information relating to the financial or business affairs of a particular person (other than the Authority).	

COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

MINUTES of the meeting of Standards Committee held at COMMITTEE ROOM 1, SHIRE HALL, ST OWEN STREET, HEREFORD on Friday, 4th February, 2005 at 2.00 p.m.

Present: Robert Rogers (Independent Member)(Chairman)

Councillor Peter Harling, Councillor John Edwards,
Richard Gething (Parish Council Representative),
John Hardwick (Parish Council Representative),
David Stevens (Independent Member)

In attendance: Councillor Mike Wilson and Mr Paul Hoey, Head of Policy and Guidance at the Standards Board for England

32. APOLOGIES FOR ABSENCE

There were no apologies for absence.

33. MINUTES

RESOLVED: That the minutes of the meeting held on 3 December 2004 be approved as a correct record and signed by the Chairman.

34. DECLARATIONS OF INTEREST

There were no declarations of interest

35. DISCUSSION WITH MR P. HOEY OF THE STANDARDS BOARD FOR ENGLAND

Mr Paul Hoey, Head of Policy and Guidance at the Standards Board for England, provided information on the following:

- **The Role of the Standards Board:** The Board's primary role was to promote high standards of conduct in Local Government, and provide support and guidance to Standards Committees. The Board received an average of 3.5 thousand allegations per year, and its target was to resolve up to 75% of these through means other than investigation. The decision to investigate or not was now taken within ten days in 90% of cases.

Frequent problems had arisen regarding the speed at which investigations were referred to local authorities, with some taking well over a year to reach local hearing. This was largely due to the Board dealing with the bulk of them until the final stages. The Board had improved its resources to counteract the problem, and the backlog was now clearing. The introduction of Local Investigations Regulations in September 2004 would have an increasingly significant impact on the way that complaints were managed, because they would enable up to 60% of the Board's investigative work to be referred back to local authorities gradually over a three-year period. The Board would then deal only with those matters which required a

higher level of sanction to be imposed by the Adjudication Panel or involved senior members (because of potential conflicts of interest with Monitoring Officers), and 'test cases' which would be used to set precedents for good working practices.

- **The Role of Standards Committees:** Mr Hoey envisaged that each Standards Committee would present a mini version of the Board at local level. As it shed its caseload, the Board's primary function would become to strengthen the role of Standards Committees and Monitoring Officers in order to develop a 'prevention rather than cure' strategy. In addition, part of its role would be to develop tools to assist local authorities, and its resources would be re-directed to reflect this new emphasis.
- **Code of Conduct Review:** The Standards Board was conducting a comprehensive review of the Code of Conduct and would be consulting widely and referring any recommendations to the Office of the Deputy Prime Minister (ODPM). In particular, views would be sought on four key areas, namely: 1.) The application of the Code to councillors' private lives. 2.) Confidential information. Mr Hoey commented that although the Freedom of Information Act provided some clarity on this issue, there were still too many instances when information deemed confidential could in fact have been disclosed. 3.) Whistle Blowing. The intention behind the Code was that the provision for Whistle Blowing was there for cases of serious misconduct. The Board had found, however, that a large number of frivolous complaints had been received in addition, and it was necessary to narrow the principle as a result. 4.) Declarations of Interest. The Board would address any remaining unsatisfactory areas in respect of interests. It was proposing that a new category called 'Public Service Interest' be added to the Code, to provide a tighter protocol for those who held more than one public office.

The consultation would also request views on extending the Code to officers, such as Parish Clerks, although it was for the ODPM to regulate such an extension, and this would have significant implications for Parish Councils.

The consultation document was available on the Standards Board website and would be posted to all local authorities and councillors. Comments were required by 17 June 2005.

In response to a question, Mr. Hoey indicated that the Standards Board would be shifting its resources out of investigations and into training. He acknowledged that there might be resource implications for local authorities that experienced an increase in the number of hearings. He estimated that each local authority was currently holding an average of one hearing a year, which would have little impact. He added that he would counsel against passing any filtering of complaints to local authorities, however, because this would be far more resource-heavy, and he felt that such a process would not be conducive to independence and the Public's perception of probity.

The Committee thanked Mr. Hoey for his full and frank contribution, and commented that the Standards Board had responded very constructively and positively to suggestions from members.

36. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS

There were no applications for dispensations received.

37. COMMITTEE ON STANDARDS IN PUBLIC LIFE 10TH REPORT: "GETTING THE BALANCE RIGHT"

The County Secretary and Solicitor presented a report and circulated an executive summary about the Committee on Standards in Public Life's tenth report entitled 'Getting the Balance Right: Implementing Standards of Conduct in Public Life'. The report concluded that the system for determining complaints should be locally based with the exception of the most serious cases.

The Committee considered the recommendations on the ethical standards framework for local government, and made the following comments:

R20 suggested that, prior to the introduction of the locally based system, all complaints assessed by the SBE as not requiring investigation should also be sent to the local Monitoring Officer and Standards Committee. Members felt that this was a positive development which would enable the Committee to be fully aware of all local complaints and would be a useful monitoring tool;

R30 related to reviewing the Code of Conduct to amend the duty to report a possible breach of the Code so that it becomes a "duty to report a possible breach to the Monitoring Officer and the Standards Committee Chair" – who would then be responsible for deciding whether a formal complaint to the SBE should be made. The County Secretary and Solicitor reported that there were approximately fifty referrals to the Standards Board annually from Herefordshire. She suggested that Herefordshire's Code of Conduct might benefit from a review to clarify when a matter should reasonably be reported. She felt that local ward councillors could play a greater role in addressing complaints about town and parish councils, because they would usually attend the meetings and would be a point of regular contact;

R31 stated that all local authorities should consider using the Audit Commission/Standards Board Ethical Governance Audit Tool and facilitated workshop to self-assess their arrangements for ensuring ethical standards. The Committee felt that this required further examination, and agreed to consider a report on this at its next meeting.

RESOLVED (unanimously) that (a) the Committee note the publication of the Tenth Report of the Committee on Standards in Public Life and the series of recommendations in relation to Local Government and (b) the County Secretary and Solicitor presents a report about R31 at the Committee's next meeting.

38. LOBBY GROUPS, DUAL-HATTED MEMBERS AND THE CODE OF CONDUCT

The Committee considered the County Secretary and Solicitor's report on recent guidance from the Standards Board for England (SBE) relating to lobby groups, dual-hatted members and the Code of Conduct. The report highlighted the conflict between the Council's Planning Code of Conduct and the SBE guidance. The Council's Constitution stated, in relation to Planning Committee members who also serve on town and parish councils, that: *"Those Members who have indicated their view on an application or have voted should declare an interest when an application*

comes before the relevant Planning Committees and leave the room when it is discussed." The SBE guidance provided a different view, however, that the Code of Conduct does not automatically prevent members from considering the same planning application at more than one level of Local Government, including speaking and voting at both levels.

The Committee was of the opinion that the Council's Constitution offered the higher standard of conduct and the firmest guidance on what was potentially a highly controversial area. Members acknowledged that it was also at times unhelpful, in that it prevented local ward councillors from offering useful advice and guidance, because their tendency was to leave the room or offer no comment when parish and town councils discussed planning applications. The Committee felt that there was scope for greater balance and flexibility in the light of the SBE guidance, although it agreed that if a local ward councillor voted on an application at town or parish level, this would be a clear issue of predetermination and the Public would perceive it as such. The Committee agreed a proposed amendment to the Constitution to reflect this.

RESOLVED (unanimously) that Appendix 13 of Herefordshire Council's Constitution (Planning Code of Conduct), Paragraph 34, 4th sentence, should be amended as follows: the word "their" be replaced with "a definitive".

39. PUBLIC INTEREST REPORT - KINGTON TOWN COUNCIL

The Committee noted the action plan proposed by Kington Town Council in response to the public interest report published by the District Auditor on 22 October 2004. Once agreed by the Auditor, the action plan would be published in the local press. The County Secretary and Solicitor confirmed that she would liaise with the Herefordshire Association of Local Councils (HALC) over the action plan as necessary. She added that there was merit in HALC offering training courses at a venue more local to Kington, and Mr Richard Gething said that he would express this view to the Association.

In view of the Committee's earlier decision that it, and the County Secretary and Solicitor, would advise and support Kington Town Council wherever possible on the matters raised by the Auditor, members agreed to consider a progress report at a future meeting.

RESOLVED (unanimously) that the County Secretary and Solicitor provides a full progress report at a future Committee meeting, and an update at the next meeting, on the action plan proposed by Kington Town Council.

40. TERMS OF OFFICE OF INDIVIDUAL MEMBERS

The Committee noted a report on the current terms of office of individual members, and its terms of reference and composition.

41. PROGRAMME OF MEETINGS FOR 2005/06

The Committee agreed the following dates of future meetings:

- Friday 1 April 2005
- Friday 3 June 2005
- Friday 7 October 2005
- Friday 2 December 2005

The Chairman also gave members details of the forthcoming Annual Assembly of Standards Committees.

(Note: Subsequent to this meeting, the Chair agreed to change the meeting date of Friday 3 June 2005, subject to the Committee's agreement at its next meeting. The new proposed date is Friday 10 June 2005, with Friday 17 June 2005 as a standby.)

42. HEARING ON 4 MARCH 2005

Members considered the arrangements for hearing a complaint against a local councillor which had been referred to them by the Standards Board for England, and would take place on 4 March 2005. The Committee also reviewed its recent (and first) local hearing which had taken place on 14 January 2005, and agreed the following procedures based on experience gained from this:

The paperwork bundle (evidence) to be single-sided, identically paginated and referenced, and a copy to be sent to the Standards Board at the same time as the Committee;

The order of hearing (including breaks) be circulated on one side of A4 in advance; Witnesses to be located in a separate room to the hearing until the point when they give evidence;

The Member who is the subject of the allegation to be seated at the centre table for the duration of the hearing, thereby giving him/her the best means of following the proceedings;

The Short Decision Notice, the Full Decision Notice and the Transcript would form the formal record of the hearing, and no additional minutes would be produced;

The Public and Press would not be permitted to make their own recordings of the hearing;

No member of the Standards Committee, except the Chairman, would give comment about any hearing to the Public and Press, and he would limit such remarks to general and procedural issues without commenting on the substance of the hearing.

Referring to the hearing on 4 March 2005, Mr Richard Gething confirmed that he had a conflict of interest because he knew some of the complainants, and he would not participate as a result.

RESOLVED (unanimously) that the Committee adopts the procedures for hearings outlined above.

43. DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND 2004

The Committee considered a report on the current investigations by the Standards Board for England in respect of complaints of alleged misconduct against certain councillors. It was noted that some cases were still outstanding from 2003.

RESOLVED (unanimously) that the County Secretary and Solicitor asks the Standards Board for England to determine all complaints outstanding from 2003 as a matter of priority.

The meeting ended at 4.13 p.m.

CHAIRMAN

DRAFT PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS

Report By: County Secretary and Solicitor

Wards Affected

County Wide

Purpose

1. To consider and approve a draft consultative protocol on the use of Council resources by members.

Background

2. The National Statutory Code of Conduct for Councillors provides that a councillor when using council resources must act in accordance with the Council's requirements and ensure such resources are not used for political purposes (except in certain specified circumstances).
3. The Standards Board for England have strongly recommended that local authorities should adopt protocols to guide members in this area but to date have not issued any model text or detailed guidance.
4. The two key concerns and constraints relate to:
 - the prohibition on using council resources for political purposes; and
 - the use of ICT facilities and in particular access to the World Wide Web and the use of the Council's e-mail address.
5. The Committee suggested a draft protocol which the Council considered on 25 April 2003. At that meeting the Committee were asked to reconsider those aspects of the Code relating to the use of Council computer equipment and the Council's e-mail address. It was agreed that this would be reviewed by the Council as part of the forthcoming review of the Constitution.
6. A revised protocol was prepared based on the policy used for employees and other users of the Council's network for consideration by the Constitutional Review Working Group and Member Development Working Group. Its purpose was to deal with the following:
 - To inform councillors of the Council's policy on internet and e-mail usage to minimise the Council's exposure to technical and legal risk.
 - Explain to councillors what can and cannot be done in simple clear terms. It is considered that a short direct document will be more valuable than a lengthier technical document.

Further information on the subject of this report is available from
Marie Rosenthal, County Secretary and Solicitor on (01432) 260200

- Set out the legal risks taken whilst using the Council's Internet facilities.
 - Ensure compliance with the Code of Conduct and section 2 of the Local Government Act 1986 which prohibits local authorities from publishing political material (designed in whole or in part to promote support for a political party or policy associated with a political party).
 - Provide for councillors to confine their use of the Council's Internet Service Provider (ISP) and e-mail address to council business only.
 - Allow personal use of council provided equipment as long as councillors use separate ISP and e-mail facilities.
7. The draft Protocol was considered at the Member Development Working Group on 13 October 2004 when the following recommendations were made:
- The Standards Committee write to the Standards Board stating that national model guidelines are necessary.
 - The draft protocol is trying to cover too much, and in so doing, has led to confusion not clarity. There should be a separate ICT protocol and the mandatory aspects need to be separated from guidelines.
 - "Political Purposes" must be clearly defined so that Members know exactly what restrictions exist.
 - If family members are allowed access to Council computers then the individual Councillor must agree to take personal responsibility for this usage.
 - It is essential that all Councillors are consulted on the protocol before it is adopted.

Standards Board for England (SBE)

8. The SBE has considered the Council's request for advice on this matter. On 15 November 2004, the Chief Executive of the SBE wrote to the Council as follows:

".. if the council has no problem with personal use of computers and this is clearly set out in a protocol, then it is unlikely that an ESO would consider there was a breach of the code, if a councillor had made personal use of a council computer in line with the requirements set out in the protocol. The further point you make about the use of council computers for party purposes is more complicated. It is our view that the uses you have described, namely e-mailing political groups, setting up meetings and conducting discussions about strategy and political tactics are covered by the provisos in subparagraph b) ii of paragraph 5 that: members should "ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed". It could quite reasonably be argued that such use is facilitating their role as councillors. What would be more doubtful would be purely party political use, particularly around the time of an election, for example, producing the text for campaigning leaflets or something of that nature."

Further information on the subject of this report is available from
Marie Rosenthal, County Secretary and Solicitor on (01432) 260200

Revised Protocol

9. Members will find a revised protocol at Appendix A which takes on the Members' Development Working Group recommendations. This, subject to the Committee's views, is recommend as a consultation draft.

RECOMMENDATION

THAT the Committee consider the Revised Protocol at Appendix A as a consultative document for individual councillors and thence for its adoption by the Council.

BACKGROUND PAPERS

- None identified.

4. Use of the Herefordshire e-mail address

- 4.1 Councillors are provided with an e-mail address: i.e. name@herefordshire.gov.uk. This is an official address and may only be used by Councillors as part of their duties as an elected member. It may not be used for any party political purpose or appear on any election material or publicity whatsoever. Councillors may use their Council e-mail address on their Ward newsletters as a means of enabling their constituents to contact them. However, the Council e-mail address should not be used in Ward newsletters during an election nomination period or any that contain election material.

5. Code of Conduct

- 5.1 Paragraph 5 (b) of the Council's Code of Conduct for Members states:

"A Councillor –

must, when using or authorising the use by others of the resources of the Council –

- (i) act in accordance with the Council's requirements; and
- (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or conducive to, the discharge of the functions of the Councillor of the office to which the Councillor has been elected or appointed."

6. Members' ICT Agreement

- 6.1 The Council requires that every Councillor who has the benefit of a Council computer must sign the Members' ICT Agreement and abide by its provisions.

7. The Council's Requirements

- 7.1 The Council's requirements regarding the use of its resources by Councillors are contained in this Protocol and the Members' ICT Agreement.
- 7.2 If a Councillor does not act in accordance with the Council's requirements it could amount to a breach of the Council's Code of Conduct for Members under paragraph 5 (b) and may be referred to the Standards Board for England.

8. Data Protection

- 8.1 The Data Protection Act 1998 imposed requirements on the way in which information relating to individuals is processed. This legislation includes data held by members in connection with local authority work.
- 8.2 Detailed information on the Act can be found on the Herefordshire Council Intranet site, but to assist members a checklist of the key points is appended to this Code of Practice.
- 8.3 Members should take particular note of the requirement to Register data with the Office of the Information Commissioner.
- 8.4 Members who have particular queries in their responsibilities under the Act should contact the County Secretary and Solicitor.

9. Copyright Infringement

- 9.1 Members must not transmit software under copyright from their computer to the Internet, or permit anyone else to access it on their computer via the Internet.
- 9.2 Members must not copy information originated by others and re-post it without permission from, or at least the acknowledgement of, the original source, even if the content is modified to some extent.
- 9.3 Copyright and other rights in all messages posted to the Internet from a Council account, belongs to the Council, and not to users personally.
- 9.4 A Member must not assume that information posted on the Internet actually originates from the person or organisation who appears to have produced it, without some form of authentication. If a Member intends to rely on a digital signature for authentication, he/she must not assume that it actually belongs to the person or organisation it appears to belong to, without checking this by means other than the Internet (e.g. Telephone, post or meeting).
- 9.5 No insurance is available to cover copyright abuse and any infringement could have severe implications for the Council.

10. E-mail

- 10.1 E-mails, whether sent or received, to external or internal sources, are material documents. Members should take appropriate action to ensure that, like other forms of written communication, they are placed on an appropriate file or record.

10.2 Sending Internet E-mail

- 10.2.1 Members should have regard to the following before sending an e-mail:

- (i) The law makes no distinction between formal letters and external e-mail communications. In other words, an e-mail communication can have the same "legal force" as a formal letter (depending on the circumstances of the case) and be held to commit the Council to a particular view or course of action.
- (ii) Whether a formal letter would be a more suitable form of communication.
- (iii) Unless encrypted, e-mail is not secure and Members are advised not to use it to send confidential documents.

Members' e-mail will not be monitored for use of inappropriate language (as is the case with use of the facility of officers).¹

10.3 Responding to Internet E-mails

- 10.3.1 Incoming e-mail should be dealt with as promptly as promptly other incoming correspondence. If a Member is unavailable for more than one day, consideration should be given as to whether incoming e-mails should be redirected. A suitable message, using the Out of Office Assistant, should also be left on individual Members' machines. Members requiring help with using their Out of Office Assistant should contact Members' Support.

10.4 Members are advised not to use E-mail for:

- (i) Confidential or sensitive information (as it can easily be read by others or misdirected)
- (ii) Time or business-critical communications as delivery in respect of Internet e-mail is not guaranteed.

11. **Inspection and Return of Council-owned Equipment**

11.1 Maintenance

11.1.1 Members are required to keep all ICT equipment clean and in good order, replacing any plug fuses and regularly updating anti-virus software.

11.2 Provision of Consumables

11.2.1 Paper, disks, ink cartridges etc are provided by Members' Support

11.2.2 Members will permit a Council Officer or agent acting for the Council to access the premises where Council-owned equipment has been installed (usually their home) if:

- (a) **The Council reasonably believes there is a fault with the equipment that needs rectifying at home.**
- (b) The Council, after consultation with the appropriate Group Leader, reasonably believes that the Member has broken the Code of Practice.
- (c) The equipment is to be returned to the Council once a Member's term of office has come to an end or is about to come to an end.

12. **Responsibilities of the Council**

12.1 To provide computer equipment/software to Members to support their roles as elected Members.

12.2 To insure the computer equipment against the usual perils. However, Members must take reasonable precautions to safeguard the computer equipment.

12.3 To install a dedicated telephone line for each Member at their home if requested. This will be undertaken by the Council or its agent and liability will be limited to death or personal injury caused directly by the negligence of the Council or its agents.

12.4 To install non-portable equipment in the home of Members. This will be undertaken by the Council or its agent and liability will be limited to death, personal injury or damage to goods or property caused directly by the negligence of the Council or its agents.

12.5 To ensure that all computer equipment supplied to Members' will be safe and fit for the purpose, subject to the provisions contained in this agreement.

12.6 To maintain the computer equipment and software provided, subject to the provisions contained in this agreement.

12.7 The Council will not be liable for the loss of any Members personal data stored on the computer equipment provided by the Council nor will it guarantee that the computer equipment or service will be available for personal use at any particular time.

13. Responsibilities of Members

13.1 To use the computer equipment and services provided by the Council for the sole purpose of supporting his/her role as a elected Member and not to permit any other person to use the computer equipment, software or Internet access.

13.2 To use the dedicated telephone line, provided solely to access the Council's Information Systems through the special number provided.

13.3 To take reasonable care to safeguard the computer equipment and software supplied and to follow any instructions as to its use issued by the Council, its agents or the manufacturer of the computer equipment and to comply with this agreement.

13.4 To report any damage suffered by the computer equipment to the Council as soon as possible.

13.5 To comply with the licence conditions of the software installed on the computer equipment and not to copy any software supplied to any other machine without the previous written authorisation of the Head of ICT.

13.6 To give the Council or its agents reasonable access on reasonable prior written notice to the computer equipment supplied by the Council for the purposes of maintaining, auditing, inspecting/testing, removing, repairing and/or replacing any hardware/software including any cabling or for such other reasonable purpose connected with the use of the computer equipment.

13.7 Not to do anything to the computer equipment supplied by the Council that would invalidate the Council's insurance policy.

13.8 Not to modify the computer equipment supplied by the Council or install new hardware, save for using the computer equipment for the purpose set out in this agreement or loading software that has previously been agreed in writing with the Council. In the event that Member does tamper with the computer equipment in breach of this agreement, then the Member agrees to indemnify the Council against any liability or costs incurred by the Council.

13.9 Not to use the computer equipment or the dedicated telephone line supplied by the Council for inappropriate purposes or for the promotion of personal interests.

13.10 To comply with the Council's policy on the use of e-mails and IT Security, a copy of which has been previously supplied.

13.11 Not to cause the Council to be in breach of any of its legal obligations including but not limited to health and safety, data protection, releasing of confidential information, defamation and/or any breach of any of the Council's licence agreements. In the event that a Member is in breach of this agreement, then the Member agrees to indemnify the Council against any liability or costs incurred by the Council.

13.12 [If a Member wishes to use the Computer equipment provided for reasonable private use (including use of e-mail and the world wide web) he/she agrees to pay to the Council an annual fee of £50.00 (to be deducted from the Members allowances).]

[Note: This issue of charging for the concession to make reasonable private use is a standard in operation elsewhere.]

13.13 To treat all confidential material or information accessed through the Members Information System as confidential.

14. Return of the Computer Equipment

14.1 In the event of a Member ceasing to be a elected Member of the Council at any time, through defeat at election, resignation or death all computer equipment supplied by the Council must be returned to the Council within two weeks of ceasing to be a Member, unless the County Secretary and Solicitor directs otherwise. In addition the Council will request the Telephone Company to disconnect the dedicated telephone line to the Members home and will cease payment of the rental, unless the ex-Member notifies the Council, within two weeks of ceasing to be a Member, that they wish to take over the line. All costs of transferring the line, including converting from a business to a residential line, shall be the responsibility of the ex-Member.

15. Agreement

15.1 I agree to the above conditions for the supply of computer equipment and software and will be bound by the conditions set out above.

I will/will not* be using the Members' ICT equipment for private use.

* (delete where applicable)

Signature _____ Date _____

Name in Block Capitals _____

“A CODE FOR THE FUTURE”: SBE CONSULTATION ON THE CODE OF CONDUCT FOR MEMBERS

Report By: County Secretary and Solicitor

Wards Affected

County-wide

Purpose

1. To seek the Committee's views in relation to the National Review of the Code of Conduct.

Background

2. The Code of Conduct for Local Government was introduced three years ago and the legislative framework is now in place including local hearings and local investigations.
3. The Standards Board for England have been asked to conduct a review of the content of the Code by the Right Honourable Nick Raynsford MP, Minister of State for Local and Regional Government. The Board state that they

“aim to ensure that the Code of Conduct is an easily understood living document that takes into account the realities of serving local communities as a member of a local authority.”

Consultation Process

4. The Standards Board for England is seeking responses to the Code by the **17 June 2005** to enable them to make recommendations for change to the Government over the summer.
5. A leaflet has been prepared for Standards Committee Members which has already been circulated to members of the Committee for comment. The formal consultation paper is enclosed with this Agenda.
6. The consultation seeks views on the 29 aspects of the Code which are set out in Appendix A with proposed responses.

RECOMMENDATION

THAT the Committee considers and approves the draft response as set out in the Appendix to this Report.

BACKGROUND PAPERS

- None identified.

Further information on the subject of this report is available from
Marie Rosenthal, County Secretary and Solicitor on (01432) 260200

**RESPONSE OF HEREFORD AND WORCESTER FIRE AND RESCUE AUTHORITY
STANDARDS COMMITTEE TO STANDARDS BOARD FOR ENGLAND CONSULTATION
ON THE LOCAL GOVERNMENT CODE OF CONDUCT**

NO	ISSUE	RESPONSE
The general principles		
1	Should the ten general principles be incorporated as a preamble to the Code of Conduct?	Agreed – this will reinforce and assist in interpreting standards and be helpful in Member training on the Code.
2	Are there any other principles which should be included in the Code of Conduct?	No.
Disrespect and freedom of speech		
3	Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?	The broad test is appropriate.
4	Should the Code of Conduct include a specific provision on bullying? If so, is the ACAS definition of bullying quoted in the full consultation paper appropriate for this?	Yes. Yes
Confidential information		
5	Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?	No – these are matters for common sense mitigation should a breach be found.
6	Do you think the Code of Conduct should cover only information which is in the law “exempt” or “confidential”, to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?	No – again, these are matters for common sense mitigation should a breach be found.
Disrepute and private conduct		
7	Should the provision relating to disrepute be limited to activities undertaken in a member’s official capacity or should it continue to apply to certain activities in a member’s private life?	It should continue to apply to certain activities in a member’s private life.
8	If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?	Broad provision.

	Misuse of resources	
9	We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?	Yes.
10	If so, how could we define “inappropriate political purposes”?	<p>It is important that there is a national standard. This would amongst other things provide clarity for Members who serve on more than one Authority.</p> <p>The LGA86 provision means that “inappropriate political purposes” in terms of seeking “to affect support for a political party” includes e-mails on party matters. This is part of the political process; not only would it be impractical to bar this activity, but it would bring such a prohibition into disrepute. There must be a means of distinguishing between use of (e.g.) publicly supplied stationery for party purposes -- clearly unacceptable -- and the use of ICTs where a marginal cost cannot be identified and a bar would be impossible to police.</p>
11	Is the Code of Conduct right not to distinguish between physical and electronic resources?	Yes.
Duty to report breaches		
12	Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether, or somehow narrowed?	See 13 below
13	If you believe the provision should be narrowed, how would you define it? For example, should it apply only to misconduct in a member’s public capacity, or only to significant breaches of the Code?	It should apply to breaches which are serious, significant or material.
14	Should there be a further provision about making false, malicious or politically-motivated allegations?	There should be a provision making it a breach of the Code to make <i>knowingly false</i> allegations, which should be capable of objective proof, but we think that judging malice and political motivation would often involve subjective judgements and be difficult to police.

15	Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?	No further provision needed.
Personal interests		
16	Do you think the term “friend” requires further definition in the Code of Conduct?	No. This is a matter which is better dealt with through guidance, as issued by the Board, using a common sense definition of “friend”
17	Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority’s area?	No.
18	Should a new category of “public service interests” be created, relating to service on other public bodies and which is subject to different rules of conduct?	Yes.
19	If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?	Yes.
20	Do you think paragraph 10(2)(a-c), which provides limited exemption from the prejudicial interest rules for some members in certain circumstances, should be removed from the Code of Conduct?	No.
21	Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?	Yes.
Prejudicial interests		
22	Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?	Yes, but only to give the views of constituents (if any).
23	Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote?	Yes.

Registration of interests		
24	Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?	No
25	Should members be required to register membership of private clubs and organisations? And if so, should it be limited to organisations within or near an authority's area?	Yes No
Gifts and hospitality		
26	Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?	Yes.
27	Should members also need to declare offers of gifts and hospitality that are declined?	No.
28	Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?	Use an annual threshold.
29	Is £25 an appropriate threshold for the declaration of gifts and hospitality?	No. A benchmark of £35 should be set. This sum should be updated annually for inflation (rounding up the figure to the nearest pound).

LOCAL INVESTIGATIONS AND DETERMINATIONS

Report By: County Secretary and Solicitor

Wards Affected

County-wide

Purpose

1. To agree an approach to the new powers of local investigation of complaints set out in this Report.

Background

2. The Committee will be aware that complaints that a councillor has breached the Code of Conduct could be referred by Ethical Standards Officers to Standards Committees for local determination. As expected, new regulations now allow for local investigations to be carried out by or on behalf of Council Monitoring Officers. This is a significant change and it is anticipated that up to 50% of investigations will be carried out locally.
3. The basic process remains the same as now. All allegations that the Code of Conduct has been breached will still go to the national Standards Board. That Board will still decide whether to cause the allegation to be investigated, and pass to an independent Ethical Standards Officer if so. What is new is that the ESO can decide to refer a particular allegation for local investigation. The discretion to do so remains entirely with the ESO. The Board says there will be contact with the Monitoring Officer before referring cases for local determination. At present, 35% of cases are being referred for local investigation, the majority involving personal and prejudicial interests.
4. The Standards Board Guidance says referral for local investigation is more likely where:
 - even if proven, the matter would not need the heavier penalties available only at the national Adjudication Panel
 - the allegation is of an entirely local nature and does not raise matters of principle
 - initial investigation by the ESO has highlighted issues more to do with the effective governance of the authority itself than an individual's misconduct.
5. Referral for local investigation is less likely where:
 - a local investigation would be perceived as unfair or biased; or
 - there are local political issues that may affect the investigation.
6. The Standards Committee will control the outcome of all local investigations. Even if the local investigator finds there has been no breach of the Code, the matter must still be referred to the Committee to agree. If it does not agree, or the local

Further information on the subject of this report is available from
Marie Rosenthal, County Secretary and Solicitor on (01432) 260200

investigator considers there has been a breach of the Code, the Committee will hold a hearing into the allegations within 3 months of the final report.

Local Investigations

7. The Standards Board has issued general Guidance on local investigations and has promised further guidance on the practicalities of investigation.
8. Once referred by the ESO, the Monitoring Officer (MO) or her nominee must investigate the complaint. Monitoring Officers now have specific power to delegate investigations to their deputies or any other person. The Standards Board recommends, rightly, that the same person should not both carry out an investigation and advise the Committee on the same case. It is probably best left to a case-by-case decision as to what respective roles officers take. In appropriate cases investigations might be carried out externally, perhaps under reciprocal arrangements. The Council is legally obliged to provide the Monitoring Officer with sufficient resources to perform the monitoring function.
9. On referral of a complaint to be investigated locally, the Monitoring Officer (MO) will:
 - inform the relevant member and the complainant and
 - conduct or arrange an investigation into the complaint.
10. The Standards Board recommends that all members of the Committee should be notified that an allegation has been made without naming the member or the complainant. However, at consultation stage the Committee felt this was pointless and that the MO should notify only the chairman and/or vice-chairman in the first instance, which seems a sensible approach.
11. The powers of investigation relate only to the specific breach referred. If evidence of further breaches is uncovered, the investigator is not permitted to investigate it but he/she, the complainant and other person should consider making a fresh allegation to the Standards Board.
12. During the course of an investigation, the investigator may ask the ESO to take the case back (e.g. should further breaches be discovered or the investigation obstructed). Such a request can only be made once during the referred investigation and the ESO decides whether to direct that a local investigation continue.
13. The investigator will carry out such investigation and interviews as appropriate and necessary. This will usually involve interviewing the relevant member, complainant and other witnesses as appropriate but the relevant member must be given the opportunity to comment on the allegation made.
14. The investigator should consider whether to produce a draft report in advance of finalisation. A draft report could be given to key parties to review and comment in order to check facts and ensure that all aspects have been sufficiently explored. Draft reports will not be necessary in all cases, but should be considered where the facts are complex, ambiguous, or in significant dispute.
15. The investigator must find either:
 - there has been a failure to comply with the Code; or
 - there has been no such failure.

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16. The investigator must prepare a final written report concerning the investigation and the findings. The report should include any findings of fact, whether there has been a breach, and reasoning.
17. The report should generally attach relevant documentary information (such as notes of interviews with witnesses, letters, etc) and a chronology where that would be useful. The final report must be sent to:
 - the relevant member
 - the complainant
 - the Standards and Ethics Committee; and
 - the ESO.

Consideration of the Final Report

18. The matter must be reported to Committee whether or not the investigator considers there has been a breach of the Code.
19. Where the investigator considers there has been no breach the Committee must still decide if it agrees with that finding. It should not at that stage carry out its own factual investigation or hold a full hearing but decide whether:
 - it accepts the investigator's finding; or
 - there is a case to answer at a full hearing.
20. If the Committee accepts the investigator's finding of no breach, written notice of its acceptance must be given to the relevant member, the ESO and complainant and advertised in a local newspaper (unless the member requests otherwise).
21. If either:
 - the investigator considers there has been a breach; or
 - the committee considers there is a case to answer,the matter must move to a full hearing through the local determination procedure.
22. The Committee has already authorised a formal procedure governing local determination which can apply whether the investigation report has been compiled by the ESO or by a local investigator.
23. The new regulations have given additional powers to Standards Committees to adjourn a local determination hearing and require the MO to seek further information or undertake further investigation. Only one such adjournment is permissible. The Committee may also adjourn the hearing to ask the ESO to take back the investigation.
24. The local procedure remains sound but it is recommended that the County Secretary and Solicitor be authorised to update the agreed procedure for local determination.

Increased Sanctions

25. The scope of penalties available at the local level has also been expanded irrespective of whether there has been an ESO or local investigation. The maximum suspension remains 3 months but the Committee can now also order a written

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apology, training or conciliation, and make suspension contingent upon these not being done.

26. Standards Committees can now impose 1 or more of the following sanctions should they find a breach of the Code:
- censure;
 - a reasonable and proportionate restriction of members' access to premises and use of resources (providing these do not unduly restrict the ability to perform functions as a member);
 - order the member to submit a written apology in a form satisfactory to the Committee;
 - order the member to undertake training or conciliation process as specified by the Committee;
 - suspend or partially suspend the member for up to 3 months or until the member submits a written apology or undertakes training or conciliation as specified within those 3 months.
27. Censure is obviously an immediate sanction, but the other sanctions can be ordered to commence at any specified point within the following 6 months.

RECOMMENDATION

THAT the Committee:

- (a) **adopts the approach to the new powers of local investigation as set out in this report;**
- (b) **notes the extension of sanctions available to it within local determinations; and**
- (c) **authorises the County Secretary and Solicitor to update the Committee's procedure for local determinations.**

BACKGROUND PAPERS

- None identified.

PARISH COUNCILS

Report By: County Secretary and Solicitor

Wards Affected

County-wide

Purpose

1. To inform the Committee of the work of the Standards Board for England in relation to supporting the local parish council sector in compliance with the Code of Conduct.

Financial Implications

2. Members will find at Appendix 1 a paper prepared by Paul Hoey the Head of Policy and Guidance at the Standards Board for England for a board meeting in December 2004.
3. The Committee will note the actions proposed in paragraph 44 of the report which sets out the measures the Standards Board for England are seeking to progress to ensure appropriate support is in place for parish councils. These include:
 - Continuing to champion the need for greater support for parishes at Government level.
 - Seeking with NALC to fund some pilot work to support councils already in trouble and to develop early warning and prevention systems.
 - To explore how Ethical Standards Officers can make effective use of direction-making papers.
 - To explore in the short term existing good practice in relation to protocols as well as through longer-term research.
 - To explore options for raising issues locally on non-referred cases.
 - To develop diagnostic tools for parishes.
 - To work with the Society of Local Council Clerks and others to develop mentoring and training proposals.
 - To explore with NALC how quality status can be used for the lever for change.
 - To work with Standards Committees to develop good practice and support.
4. The Standards Committee have been asked to consider the paper and what action it might wish to pursue within Herefordshire in partnership with the Herefordshire Association of Local Councils.

RECOMMENDATION

THAT the Standards Committee notes the work the Standards Board for England is pursuing in relation to parishes and what action, if any, it would wish to take within Herefordshire in partnership with the Herefordshire Association of Local Councils.

Further information on the subject of this report is available from
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PROBLEMATIC PARISHES**REPORT TO: Board Meeting 8 December 2004****ISSUE**

1. To inform the Board on some issues being looked at in relation to supporting particular parishes and the parish sector more generally and to invite Board views.

RECOMMENDATION

2. **That the Board note the issues raised and considers how it wishes to take matters forward. In particular, that they agree that we pursue the options set out in paragraph 44.**

CONSIDERATION

3. Over half of the allegations received by the Board relate to parish councillors. This is of course not surprising given that they constitute some 90% of our constituency.
4. Some external views have been expressed (notably in the media) that the Board has been bogged down by trivia (often equated to parish matters). In fact many of the parish issues raised come from the public rather than from fellow councillors and are of a serious nature (for example bullying, wilful failures to declare interests or allegations of fraud). In fact, we tend to refer a greater proportion of parish cases in relation to the number we receive. This highlights the Board's concern that something needs to be done about certain types of behaviour at parish level and is a refutation of the argument that parish equals trivia. That said, the Board does need to demonstrate that parish matters are important and it is concentrating on serious concerns and making an improvement in behaviour at that most local level.
5. Whilst some of the parish cases raise no more significant issues than those at principal authority level, there are three reasons why the Board needs to have a distinct approach to certain parish issues.
6. The first is a pragmatic reason. Given the number of cases they represent within the Board, having an effect on preventing misconduct at a parish level could have a disproportionate effect on our caseload.
7. The second issue relates to the nature of some of the parish complaints. Whilst it is not unique to the parish sector, the pattern of complaints we have received so far tends to indicate that we are more likely to get multiple complaints from parishes than from other types of authorities. Such complaints tend to highlight as much a local democratic failure as individual misconduct and, if the Board wishes to be seen to be raising standards and local governance generally rather than merely being an essentially disciplinary body it needs to find ways both of dealing with those authorities once complaints have been made and, perhaps, more importantly, identifying problems beforehand so that it does not reach the stage of descending into allegations.

8. The third issue which is significant is the relative lack of support (in particular financial) there is for improving parishes. Whilst principal authorities have access to funding streams for capacity building and leadership development as well as peer support and inspection, little of this support is replicated at a parish level. Government sees parishes as a key vehicle for developing local democracy. The Quality Parish scheme in particular is seen as a way of encouraging devolution of services and, in the longer term, the Government's agenda for developing more neighbourhood-based decision-making is likely to see increased emphasis on parishes. The Standards Board for England has, however, been seen by the parish sector as the only regulator to take them seriously. A number of allegations also come to us because there is no other perceived remedy to sort out general issues of governance or poor decision-making at parish level. The Audit Commission does have a remit over parishes but has not concentrated resources on working with them and the IDeA likewise sees itself as having little interest in the parish sector. The Ombudsman of course has no jurisdiction over parishes.
9. It should of course be borne in mind that the term 'parish council' (or 'town and parish council') is a very broad term and this is the most diverse of the tiers ranging from very small hamlets with minimal budgets through to major population centres. More than other sectors therefore a 'one size fits all' approach is even less appropriate and, whilst many parishes are keen to embrace greater responsibilities and powers many others do not have the capacity to take on change. In considering issues, the Board should therefore bear in mind whether any particular measure is appropriate for the sector as a whole or in fact only appropriate to those parishes, for example, who wish to move towards quality status.
10. The Board's officials have a quarterly roundtable meeting with national parish representatives. The bodies represented are NALC (which has some 80% of parishes within membership), the Society of Local Council Clerks (which represents 4,000 clerks in England and Wales, including all the medium and large councils and all those deemed more active) and the Association of Larger Local Councils (who represent the larger, predominantly town, councils who saw themselves as having a distinct identity and needs). In addition the Board has also of course worked closely with county associations and individual county secretaries.
11. The 2000 Act also gives monitoring officers and standards committees specific responsibilities with regard to parishes and the ethical framework. Any work the Board does with parishes can therefore draw on the work of all the above stakeholders.
12. In looking at the issues I want to address first of all councils that we know to be problematic and then more generally support work we can do to build capacity.

Problematic parishes

13. There are a small number of parishes that we know have serious problems in the way that they work because of the number of complaints that we receive about them. There seem to be a number of characteristics within these authorities which give rise to the complaints and our experience has shown that investigation and sanctions against individuals may not resolve the problems. Equally many of the allegations tend to fall below our threshold (although we may end up investigating them either because they are a way of

getting into the council to address the issue or because the ESO is required to consider further matters under their s59 duty). The following characteristics are a personal impression and have not been thoroughly tested. However, characteristics may include the following.

Factionalism

14. The Board will be familiar with a number of cases where the authority has basically split into two warring camps. Causes behind such factionalism can be essentially political (either party political or otherwise). However, that political factionalism which goes beyond mere healthy disagreement can happen at all tiers. The particular parish dimension is often where it is either to do with disagreement over a particular controversial decision (one example being the decision whether to allow parking on the village green which has split one community) or merely a clash of two or more personalities. In these cases the allegations tend to be trivial, tit for tat and often seeking to reopen a decision rather than allegations of serious misconduct. Investigations can often exacerbate issues and it is usually a case of a plague on both your houses. The investigation process can actually prevent the council from moving on as they continue to make additional allegations whilst the matter is ongoing, thereby prolonging the investigation. On the other hand, non-referral often means the underlying issues are not addressed and the council is likely to reappear on our books. So some investigation may be necessary if painful to draw a line under matters and help the authority move on subsequently.

Dominant/destructive personality

15. This factionalism can be taken a step further where there are one or two members of the parish council who are determined to damage the reputation of the rest of the council. This can sometimes happen because they are new and think the 'old' council is complacent or corrupt and needs shaking up. It can also happen where these people want to seize control of the parish for a variety of other reasons. Again this is characterised by multiple allegations, often emanating from the same source and most, if not all, of which are minor, technical or indeed appear, upon investigation, to be fabricated. Such cases may often also give rise to allegations of bullying and intimidation of the clerk and others. These are also often the cases which cause most distress locally and where the 'new' framework is seen as having encouraged mischief making and disrupted a previously well run authority (although that is not of course always the case – we have merely brought matters to a head). In many of these cases, investigation can work (although it is resource-intensive and frustrating for all involved) either because it can seek to disprove and therefore exonerate the 'innocent parties' or, in more extreme cases, because ESOs can use their duty to extend the investigation to the original source of the complaint on a disrepute charge and seek to remove that person from the authority. In these cases, local opinion is that the council needs to have that individual removed to move on. However, upon investigation some of these cases merely reveal a 'difficult' member who is disruptive and greatly disliked but whose behaviour is barely, if at all, over the line.

Change of control

16. One factor peculiar to parishes does seem to be that change of control seems to have a more disruptive effect on parishes than other tiers. This can be particularly the case where a political party takes control from a traditionally 'independent' council. This can lead to some of the issues under the above

two headings but in these cases it is often the clerk who has particular difficulties adapting to newer working practices because they have been or are perceived to have been very cosy with the previous council.

Lack of training/professionalism

17. Leading on from this, many of the issues thrown up come back to lack of training and/or professionalism, particularly of the clerk. In some parishes the clerk has been appointed as a 'friend' of the councillors rather than on merit and this leads to difficulties when there is a change of control. In one case I have had drawn to my attention, the clerk is alleged to earn in the region of £40k yet the post was not advertised and there is no job description or competency framework. As the district CEO pointed out any member of the staff of the district on comparable pay would have had rigorous assessment, and ongoing appraisal and development. Where problems do arise these clerks often are out of their depth and cannot respond adequately to the issues raised.

Lack of procedures/skills

18. Another key dimension is lack of procedures (for example no standing orders) or lack of chairing skills. I have heard it said 'we don't need procedures here because we're all gentlemen' or 'he's chair because it was his turn'. Again, when problems do arise these councils are poorly placed to respond and they are unwilling to see they have problems or training needs preferring instead to blame disruptive elements. In both of these scenarios, whilst investigation can deal with individual problems, there is an endemic issue which is likely to continue if not addressed.

Bullying of clerks

19. This is not so much a symptom but often a result from any of the above factors. The parish clerk is often in a particularly vulnerable and isolated position. In many cases, where there is a bullying member for one of the reasons set out above, they have been allowed to go unchecked. Many clerks, because of the often-voluntary nature of their role, prefer to walk away rather than have to undergo the processes involved in getting a member removed. This merely leaves the problem for the next incumbent and is a difficult circle to break.

Remedies

20. How we can address these concerns should be approached from two angles: how we resolve issues where there are already concerns known to us; and how we can be proactive to resolve underlying issues before they break down and become allegations.

21. In considering options, it should be borne in mind that addressing these concerns is an issue for all the stakeholders listed in paras 8-11. However, one of the issues the Board faces is identifying 'problem' authorities as we are largely driven by allegation-led information and have little specific locus to intervene directly in an authority except where an investigation is already ongoing. Even then, the breadth of our involvement is fairly narrow.

Parishes with existing cases

22. Where there are ongoing investigations, the potential remedies tend to be limited until such time as the investigations are finished as there would be a risk of pre-empting any decisions or disrupting the investigation. The investigative route can clearly be effective where there are particular individuals who need to be dealt with or where there is systemic bullying and we have had positive results in dealing with those factors.
23. However, the period of an investigation will always be a stressful time for an authority and does not allow them to move on until the investigation is over. I have had the issue raised with me that clerks in particular need support in keeping the authority running whilst there is the poisonous atmosphere still around or whilst the bully is still attending council. At their recent annual conference, SLCC said that they were keen to develop a mentoring system for clerks. This was predominantly meant to help new clerks gain experience about how to do the job. However, in my presentation to the conference, I said that such a scheme would interest the Board if it could be developed also to mentor those clerks who were in a vulnerable position in a difficult authority as one of the most common complaints I have heard in such circumstances is that the clerk feels isolated and unsupported. SLCC were keen to explore this idea. Funding for such a scheme would of course be an issue (but see section on funding below).
24. There is a similar issue around supporting councillors at such times, particularly where the authority is split and is failing to deliver for its community. These authorities can be seen as analogous to those poor or weak principal authorities where serious corporate governance issues have been identified. There is a need for them to be turned around but before this is done they need to recognise their faults. Again, the investigative process can help deal with the symptoms and recommend courses of action. For principal authorities in such a situation, however, turnaround often begins when a politician from another authority is able to come in and hold a mirror up to the authority. Such peer support has been effective but does not exist for parish councils. I would like to explore with NALC and IDeA whether such a network could be developed although again funding is an issue.
25. The new direction-making power for ESOs in the s66 regulations could also be a useful tool. This is the subject of a separate Board paper but, in the context of this discussion, it could be used here both to deal with systemic failures (for example a direction to adopt certain procedures) and interpersonal failures (a direction to seek conciliation between parties). Whilst this is a direction to the MO rather than to the council and we are still exploring its scope it has been widely welcomed by MOs who oversee these parishes. For example, it has been said to me that a district has been telling one council for years to adopt proper standing orders but it is being ignored. If they could go back with a stick to say the Standards Board is ordering this to happen, it would be a powerful inducement.
26. However, if we do make such directions we need to be able to give proper advice about implementation. It is no good, for example, us telling an authority to adopt a proper member-officer protocol if we do not ourselves have in mind what a good protocol is. Our research will seek to develop some of this best practice over time but we should, as a case of urgency, seek to review some of the existing local arrangements as 'off the peg' solutions. I am again aware of one district which is developing model standing orders for its

parishes and NALC also have such materials. We may therefore as a short-term measure want to collect and evaluate some of this material until such time as we have done more rigorous research so that we can advise authorities who approach us for help.

27. There is a similar issue around any direction to seek conciliation or mediation. We are likely to be asked for recommendations on an appropriate process and cost issues will be a factor. I am aware that a couple of county associations, such as Hampshire, have been developing mediation processes for the parish sector. We may wish to work with NALC to develop some pilots, although again cost is clearly a factor.
28. We have also built into the work programme an evaluation of the effectiveness of the direction-making power to see whether it has led to any real improvement down the line in conduct in these types of parishes. Timing of this would obviously depend upon the number of directions issued.

Non-referred cases

29. The Board has always had particular concern about those allegations which we do not deem merit investigation at a cost to the public purse but nevertheless highlight potential failings and patterns of unacceptable behaviour at a local level. This is an area we need to explore further. One approach could be to refer such matters to other bodies locally, not for investigation but for consideration for general issues. The Board has a duty to consider whether or not to investigate an allegation and we have received legal advice that we cannot seek alternative remedies in lieu of investigation. However, once the Board has discharged that duty and decided not to investigate, the Board could then consider, under its more general duty to promote high standards, whether the matters should nevertheless be drawn to somebody's attention. For example, we could express our concern that a series of allegations, whilst of themselves not meriting investigation, points to a wider systemic failure at local level and invite, for example, the local standards committee or county association to consider what support the council might need to deal with the issues raised. In effect, we would be sending a warning signal locally that the Board had concerns about the direction in which the authority was heading.
30. Such an approach could have difficulties in practice. Many of these councils do not wish to cooperate with outside bodies and there would be resource implications at a local level. However, this could be an option we could explore in consultation with outside bodies and as part of a package of measures about how best to support such authorities.

Preventing allegations

31. The third area of concern is how we can seek to prevent such allegations arising in the first place and how we can identify problems and build better systems locally. Clearly, the investigative process can again itself work here. Where a member has already been disciplined that can act as a powerful deterrent to others and can start to improve behaviour by demonstrating serious misconduct will not be tolerated. However, that inevitably depends on there having been a significant case locally. If we are to be more systematic we need to develop proper tools of wide application.

32. Again, there is plenty of support for principal authorities and the diagnostic tools we are developing with the Audit Commission and IDeA are both principal authority focussed. The CPA modifications will also provide a valuable incentive but again are principal authority focussed although they do make reference to building successful relations with parishes.
33. We have spoken with both the Audit Commission and IDeA about further developing the diagnostics so that parishes can use them. Both bodies are receptive to doing this although there will clearly be funding issues (for IDeA in particular) and our present focus is to develop the tools for the principal authorities first.
34. Quality Status could be a useful lever for helping to raise standards. The scheme at present is very light on conduct matters although it does address broader governance issues and issues of democratic legitimacy. The very act of applying for quality status is a signal that you take these matters seriously and districts could be encouraged to approach their councils about moving towards quality status, tied in to greater devolution of services. We may wish to discuss with NALC how we can work to encourage development and uptake of quality status.
35. The Board has identified poor chairing skills at the heart of some complaints. We are working with NALC and the Countryside Agency to develop a module for parish councils on chairing skills, which is being funded by the Countryside Agency. We shall continue to keep the Board informed on progress. We shall also seek ways of working more closely with bodies such as SLCC and NALC to see how we can support better training for clerks.
36. Standards committees have a remit to work with their parishes to promote higher standards. The research into monitoring officers produced by Teesside University highlighted that it was not so much the number of parishes as the one or two poor performers which absorbed monitoring officer resource. This has been echoed in my discussions with some independent chairs and district officers who say they know where their problem authorities are or are going to be. Independent members and parish standards committee reps are often more trusted than district officers. We could therefore encourage these people to be more proactive in seeking to give support to councils where there might be problems. Independent members are often happy to give their time voluntarily and this could have a resources saving in the long run if it prevents issues escalating. We should therefore work to find some examples of proactive working we could seek to promote.

Funding

37. As mentioned above, resources for parish development are extremely scarce notwithstanding the Government's stated aim of increasing the professionalism and capacity of parishes. The Board's scope for developing and funding projects is extremely limited and bodies such as NALC do not have funding or capacity to develop schemes.
38. I have had a meeting with the official at ODPM in charge of administering the Capacity Building Fund. He has admitted that parish schemes could be eligible for Capacity Building but said they had never considered it being used in that way and he suspected the LGA would be resistant (the Fund projects have to be jointly approved by ODPM/LGA).

39. Separately, David has spoken to Sir Brian Briscoe who recognised that strengthening the parish sector would clearly have relevance to strengthening local democracy generally and could help ease some of the burden from district monitoring officers.
40. David and I have also met with NALC's John Findlay who would be keen to pursue some of these issues. We have suggested that he may wish to develop some bids from the parish sector which the Board could lend support to. The fund's aims are to enhance and develop councils' confidence, leadership and skills to drive forward improvement as well as developing their capacity to learn, innovate and share knowledge and expertise about what works and how. Areas which we might wish to explore could include seeking to develop the IDeA toolkit for parishes; county-based approaches to conflict resolution; promoting better working between standards committees and parish councils; and developing pilots for mentoring or peer review. We shall continue to discuss these issues with NALC.
41. David and I are also due to meet with the ODPM's Regional Directors for Local Government Practice in January and we can use that opportunity to put parishes onto their horizon.
42. However, there is a need to continue to raise concerns about central support for parishes. The Board may wish to consider how far it wants to lobby Government on this issue.
43. There is also a perception that some of the more problematic parishes are those who are outside the NALC/County Association framework. Consideration is needed about how to engage with these and how far we should be putting pressure on them to come within that framework, given that it is a subscription-led framework.

Summary

44. To summarise, there are a number of possible measures we can take above and beyond the investigations route, although none of them are instant remedies and funding remains a key concern. Some of these measures are:
 - a) continue to champion the need for greater support for parishes at Government level;
 - b) seek with NALC how to fund some pilot work both to support councils already in trouble and to develop early warning and prevention systems;
 - c) explore how ESOs can make effective use of direction-making powers;
 - d) explore on a short term existing good practice around protocols etc as well as through longer-term research;
 - e) explore our options for raising issues locally on non-referred cases;
 - f) seek to develop diagnostic tools for parishes (subject to funding issues);

- g) work with SLCC and others to develop mentoring and training proposals;
- h) explore with NALC how quality status can be used as a lever for change; and
- i) work with standards committees to develop good practice in support.

RISK/FINANCIAL CONSIDERATIONS

- 45. There is a risk that if some of these issues remain unaddressed our caseload will continue to increase. The Board's reputation could suffer if local communities continue to see problematic parishes appearing and not being dealt with adequately.
- 46. There is a risk that some parishes will not be receptive to being supported. Some parishes are only concerned about themselves and dislike the concept of being made more 'professional' (including resistance to quality status). The size and capacity differences of parishes needs to be borne in mind and there is a risk of there appearing to be a two-tier approach to the sector.
- 47. Standards committees are looking to the Board for national leadership and guidance. There is a risk that if we are unable to develop some of the areas above we will look impotent and not be seen as making a difference.
- 48. There are clear financial implications if the Board decides that it wants to put additional resources into supporting some of this work. A shift of resources away from casework towards greater support is indicated in the Corporate Plan, particularly in years 2 and 3.

FURTHER INFORMATION

For further information on this paper, please contact Paul Hoey on 020 7378 5018 or paul.hoey@standardsboard.co.uk

Paul Hoey
Head of Policy & Guidance
26 November 2004

NOTIFICATION OF FINANCIAL AND OTHER INTERESTS FORM

Report By: County Secretary and Solicitor

Wards Affected

County-wide

Purpose

1. To review the Notification of Financial and Other Interests form.

Background

2. It is a requirement of the Parish Council Code of Conduct (paragraph 12) that all parish councillors register their financial and other interests within 28 days of their election by providing written notification to the Monitoring Officer. Paragraph 12(e) requires details of:

“the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of the authority.”

3. The matter was considered at the recent Standards Committee Hearing concerning the Whitchurch and Ganarew Group Parish Council. It was suggested that more guidance was needed to clarify this requirement and agreed that the Committee would review the format of the form. The current form used in Herefordshire is set out at Appendix A. This is based on the model form produced at the time the Code was first introduced.
4. Section 6 deals with details of councillors “beneficial interests in land”.
5. Following the Whitchurch and Ganarew hearing, the Monitoring Officer has reviewed the returns for that council. Currently 4 of the current council of 15 have given a “nil” return in relation to this question of the form. The Chairman of the Council has been advised of this and asked to check with the councillors concerned if their declaration requires updating.

RECOMMENDATION

THAT the Committee agree that additional guidance be included on the form to ensure councillors are clear as to what needs to be disclosed.

BACKGROUND PAPERS

- None identified.

Further information on the subject of this report is available from
Marie Rosenthal, County Secretary and Solicitor on (01432) 260200

Notification by Councillor of a Parish or Town Council of Financial and Other Interests

I, *(full name)*

a member of

Council

GIVE NOTICE that I have the following financial interests *(please state "None" where appropriate)*:

(1) [My employment] [Business carried on by me] *(delete as appropriate)*

(2) [Name(s) of my employer(s)] [Name(s) of firm(s) in which I am a partner]
[Name(s) of company/ies of which I am a remunerated director] *(delete as appropriate)*

(3) Name(s) of person(s) (other than a relevant authority) who has/have made any payment to me in respect of my election or any expenses incurred by me in carrying out my duties

(4) Name(s) of any corporate body/ies having a place of business or land in the parish/town council's area, and in which I have a beneficial interest in a class of securities of that body/those bodies that exceeds the nominal value of £25,000, or one hundredth of the total issued share capital of that body/those bodies

- (5) Description of any contract for goods, services or works made between the parish/town council and myself or a firm in which I am a partner, a company of which I am a remunerated director, or a body of the description specified in (4) above

- (6) Address or other description (*sufficient to identify the location*) of any land in which I have a beneficial interest and which is in the area of the parish/town council

- (7) Address or other description (*sufficient to identify the location*) of any land where the landlord is the parish/town council and the tenant is a firm in which I am a partner, a company of which I am a remunerated director, or a body of the description specified in (4) above

- (8) Address or other description (*sufficient to identify the location*) of any land in the parish/town council's area in which I have a licence (alone or jointly with others) to occupy for 28 days or longer

I further GIVE NOTICE of the following other interests:

- (9) I am a member or hold a position of general control or management of the following body/ies to which I have been appointed or nominated by the parish/town council as its representative

- (10) I am a member or hold a position of general control or management of the following public authority/ies or body/ies exercising functions of a public nature, e.g. other local authorities, NHS bodies and voluntary sector etc.

- (11) I am a member or hold a position of general control or management of the following company/ies, industrial or provident society/ies, charity/ies or body/ies directed to charitable purposes

- (12) I am a member or hold a position of general control or management of the following body/ies whose principal purposes include the influence of public opinion or policy

- (13) I am a member or hold a position of general control or management of the following trade union(s) or professional association(s)

Signed

Date

NOTE A councillor must within 28 days of becoming aware of any change to the interests specified above, provide written notification to the Herefordshire Council's Monitoring Officer of that change via the Parish Clerk who will maintain the Register of Interests for the Council.

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