

MINUTES of the meeting of Standards Committee held at Brockington, 35 Hafod Road, Hereford on Friday, 15th October, 2004 at 2.00 p.m.

Present: Robert Rogers (Independent Member)(Chairman)
Councillor John Edwards, Richard Gething (Parish Council Representative), John Hardwick (Parish Council Representative), Councillor Peter Harling and David Stevens (Independent Member)

In attendance: Councillors R.M. Wilson

9. APOLOGIES FOR ABSENCE

There were no apologies for absence

10. DECLARATIONS OF INTEREST

There were no declarations of interest

11. MINUTES

RESOLVED: That the minutes of the meeting held on 13 February 2004 be approved as a correct record and signed by the Chairman.

12. PROTOCOL ON THE USE OF COUNCIL RESOURCES

The County Secretary and Solicitor presented a report on the preparation of the Protocol on the use of Council resources, including personal computers, access to the Internet and e-mail. She said that the views of the Standards Board for England had been sought and that the Members Development Working Group had been consulted. The main aim of the protocol was to provide sound guidance which was consistent with the National Code of Conduct for Councillors and with legislation. The Code provided that when using Council resources a Councillor must act in accordance with a Council's requirements and ensure that such resources are not used for political purposes except in certain specified circumstances. The Standards Board for England had strongly recommended that Local Authorities should adopt protocols to guide Members but unfortunately had not issued a model text or detailed guidance.

Section 2 of the Local Government Act 1986 prohibited local authorities from publishing political material which is aimed at promoting or supporting a political party or policy associated with a political party. This had widely been taken to cover e-mails sent by Councillors from a local authority network. The Committee expressed concerns about this interpretation because the use of IT had changed out of all recognition since the passing of the 1986 Act, and felt that was entirely unrealistic not to take account both of this technological change and the fact that Councillors were practising politicians. The Standards Board for England were of the view that Councillors were not prevented from using Council IT resources in this way. The Committee had some concerns about this interpretation because the Board's advice was at odds with the 1986 Act and the interpretative circulars issued

by the Office of the Deputy Prime Minister. It was especially concerned by a recent decision of the Adjudication Panel for England disqualifying a Member for a breach of the Code of Conduct when he used a council computer for private purposes and allowed his family to do so as well.

It was agreed that the final guidance needed to be entirely legally sound and that confirmation of the Standards Board's view should be sought in writing. When the Committee was satisfied with the outcome it was agreed that all Councillors would be consulted on the final draft before it was submitted to Council. It was also agreed that the report to Council from the Committee would explain the course of action being taken.

RESOLVED: (Unanimously) That the views of the Standards Board for England be sought on the proposed protocol with a view to a final draft being prepared for submission to Council after all Members have been consulted

13. PLANNING CODE OF CONDUCT REVISIONS

The County Secretary and Solicitor recalled that the Committee had reviewed this matter at its last meeting on 2 July 2004. She said that the Standards Board for England had not produced formal advice on the matter but informally supported the Committee's approach. She also noted that the matter had been considered by the Council's Constitutional Review Working Group who were in favour of the changes as part of the overall review of the Constitution. The Court of Appeal case (*Richardson and Orme -v- North Yorkshire County Council*) (recently upheld by the House of Lords) required the Council to reconsider the section of the Planning Code of Conduct dealing with planning applications in which a member of the Council had an interest.

The Committee noted that the law on the use of agents (that you cannot do by an agent something which you cannot do in person) suggested that an agent could not speak or attend a meeting on behalf of the Councillor in these circumstances. The SBE took contrary view, but had produced no formal guidance. It was agreed that formal clarification should be sought from the Board and reported at the 12 November Council. It was also agreed that the amendment to the Planning Code of Conduct that would be necessary should be included in the constitutional amendments that Council would also be considering on 12 November.

RESOLVED: (Unanimously) That clarification be sought from the Standards Board for England on the use of agents in planning matters by Members with prejudicial interests, and that the amendments to the Planning Code of Conduct set out in the report of the County Secretary and Solicitor be included in the constitutional amendments that Council would be considering on 12 November 2004.

14. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS

The Committee considered the report of the County Secretary and Solicitor on applications for dispensations from Bartestree with Lugwardine Group Parish Council and from Dinedor Parish Council. Bartestree with Lugwardine Group Parish Council had requested that the following Councillors be granted dispensation because they were Trustees for Bartestree Village Hall, a registered charity:- R. Lawley; R. Rolfe; T. Rowberry; R. Salmond; N. Shore; K. Watkins; J. Williams; R. Williams; M. Wilson and A. Wood. The Parish Council consisted of eleven Councillors and the request therefore fulfilled the criteria for a dispensation to be granted. Councillor R.M. Wilson, the local Ward Member, asked if dispensation

could also be granted to Mr P.A. Wargent for the same purpose. He was advised that law required that the request had to be made in writing, in practice by the Parish Clerk.

Dinedor Parish Council had submitted a request for Councillors P. Greenow and E. A Owen to be granted dispensation because they were Trustees of Dinedor Village Hall Management Committee, a registered charity. The Parish Council currently consisted of only four Councillors; the request thus did not fulfil the criteria for a dispensation. The County Secretary and Solicitor said that it might be possible for a solution to be found to this problem and that she would investigate the matter further.

- RESOLVED (unanimously) That**
- (a) the Bartestree with Lugwardine Group Parish Councillors listed above be granted a dispensation in respect of Bartestree Village Hall; and**
 - (b) that the request for a dispensation from Dinedor Parish Council be refused but that further investigation be made into the way in which the problem could be overcome**

15. THIRD ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

Mr Richard Gething and Mr David Stevens had attended the Annual Assembly of Standards Committees; Mr Stevens presented his report. He noted guidance that County Councillors who were also Parish Councillors could take part or vote on planning matters at both Councils provided that declarations of interest was made where appropriate. This was at variance with the Council's Planning Code of Conduct. Another matter discussed had been the tenure and terms of appointment of Standards Committee Members; the County Secretary and Solicitor would pursue this.

The Chairman thanked Mr Gething and Mr Stevens for attending the Assembly and for the report.

16. INQUIRY INTO THE ROLE AND EFFECTIVENESS OF THE STANDARDS BOARD FOR ENGLAND

It was noted that the House of Commons Select Committee on the Office of the Deputy Prime Minister (Housing, Planning, Local Government and the Regions) was inquiring into the role and effectiveness of the Standards Board for England with particular reference to the following issues:

- the effectiveness of the Standards Board for England in promoting and overseeing the Code of Conduct that sets out the rules governing the behaviour of members of local authorities;
- the role of the Standards Board for England in ensuring local authorities adhere to a Code of Conduct and its ability to assess allegations of misconduct in a timely and fair way;
- the Standards Board for England's relationships with:
 - (a) other regulatory organisations that support the ethical framework set out in the Local Government Act 2000;
 - (b) central Government;
 - (c) local Government stakeholders; and

- the role of the Standards Board for England in supporting the establishment and operation of standards committees at a local level.

Written evidence had been invited on the above points and it was agreed that the Committee should submit a Memorandum to the Select Committee.

17. CASE REVIEWS - STANDARDS BOARD FOR ENGLAND

The County Secretary and Solicitor presented her review of cases heard in 2003-04 by The Adjudication Panel for England and by Standards Committees under local determination powers. It was agreed that the summary of the outcome of the investigations would be included in the report of the Committee to Council on 12 November 2004.

18. COMMITTEE DATES FOR 2004/05

It was agreed that the next meeting on 3 December 2004 be put back to a 3:00 a.m. start and that the following meeting be brought forward from 18 February 2005 to 4 February 2005.

19. DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND 2004

The Committee considered a report on current investigations by the Standards Board for England in respect of complaints of alleged misconduct against certain councillors.

The meeting ended at 4:20 p.m.

CHAIRMAN