

**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, 4<sup>th</sup> 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**