

## REPORT OF THE STANDARDS COMMITTEE

### Meetings held on 4 February and 1 April 2005

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**Membership:**

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

1. 2005 has so far been busy, with two meetings and two hearings in the space of four months.

#### **STANDARDS COMMITTEE HEARINGS ON 14 JANUARY AND 4 MARCH 2005**

2. We held our first hearings under the Local Authority (Code of Conduct) (Local Determination) Regulations 2003:
  - **14 January 2005:** We heard allegations against Councillor Ray Cooper of Bromyard and Winslow Town Council, that in July 2003, he breached the Code of Conduct by failing to treat a fellow Councillor, the Clerk and the Assistant Clerk with respect. We found that he had breached the Code; and we imposed a sanction of censure, and endorsed the Town Council's planned training programme, supported by the Herefordshire Association of Local Councils and by us.
  - **4 March 2005:** We heard allegations against Councillor Malcolm Littlewood, of Whitchurch and Ganarew Parish Council, that in October 2003 he failed to declare a prejudicial interest in relation to a planning application, and sought improperly to influence the Parish Council's decision; and that in May 2003 he failed to record his ownership of property in the Register of Interests. We found that he had breached the Code on all counts, and imposed the maximum penalty available to us of a suspension from office of 3 months, beginning on Monday 7 March 2005. We also required his Notification of Financial and Other Interests form to be corrected without delay.
3. These first hearings have been a challenge. They have involved lengthy preparation and a great deal of work for all concerned, both members of the Committee and staff (to whom we express our particular thanks). The process may seem to some people disproportionate, but we have to observe the legal requirements laid upon us, and to ensure that the process is rigorous, transparent and compliant with human rights law – as well as robust in the event of an appeal against our decisions.
4. The hearings have raised several important issues, including: the unacceptable time taken for Standards Board investigations (now being sharply improved), the implications for the use of resources, follow-up and training, and concerns about the levels of sanction available to us (we consider that there should be more emphasis on local determination, with Standards Committees having a greater range of sanctions available). We have conducted a formal review of each hearing and have made some minor procedural changes as a result.
5. We are keen to see Herefordshire being able to demonstrate both expertise and best practice in this complex and potentially sensitive area. We feel that we have made a good start.

6. Arising directly from the hearing on 4 March 2005, we have revised the Notification of Financial and Other Interests Form to provide greater clarity, especially in relation to Section 6 (beneficial interests in land). The new forms will be available shortly.

#### **DISCUSSION WITH MR PAUL HOEY OF THE STANDARDS BOARD FOR ENGLAND**

7. Mr Paul Hoey, Head of Policy and Guidance at the Standards Board, attended our meeting on 4 February 2005 to address some of the issues raised following the first hearing, and to explain to us how the role of the Standards Board was developing (especially how the Board is shifting its resources out of investigation, and into prevention and training). He acknowledged strong criticism of the length of time that investigations had been taking, and told us how the Board was prioritising work. We have since seen a marked reduction in the backlog.
8. Mr Hoey also discussed the implications of the Local Investigations Regulations, introduced in September 2004, which will enable up to 60% of the Board's investigative work to be referred back to Local Authorities gradually over a three-year period. The Standards Board envisages that Standards Committees will operate as mini-versions of itself at local level, and we have yet to see what impact this change will have in Herefordshire.
9. Since Mr Hoey's visit, new powers to allow local investigation of complaints have come into force, and we are updating our procedures to reflect this. There has also been a minor change to the sanctions that Standards Committees are able to impose. We still feel that this issue needs further consideration, however, and will be raising it at the Annual Assembly of Standards Committees later in the year.

#### **COMMITTEE ON STANDARDS IN PUBLIC LIFE 10TH REPORT: "GETTING THE BALANCE RIGHT: IMPLEMENTING STANDARDS OF CONDUCT IN PUBLIC LIFE"**

10. We reviewed the 10th report of the Committee on Standards in Public Life (the Graham Committee), which suggests that the system for determining complaints should be locally based with the exception of the most serious cases, and we commented to the Committee on its recommendations.

#### **LOBBY GROUPS, DUAL-HATTED MEMBERS AND THE CODE OF CONDUCT**

11. The Standards Board has issued guidance on this, and we examined potential conflicts between the guidance and the Council's current Planning Code of Conduct. We concluded that the Council's Code set a higher standard of conduct and firmer guidance to Planning Committee Members who also serve on town and parish councils. We also felt, however, that there could be disadvantages, in that the involvement of local ward councillors might be seen as unduly restricted. We propose an amendment to Appendix 13 of the Council's Constitution to allow greater flexibility.

## **RECOMMENDATION TO COUNCIL:**

**That Appendix 13 of the Council's Constitution (Planning Code of Conduct), Paragraph 34, 4th sentence, be amended as follows: the word "their" be replaced with "a definitive" so that it reads:**

"In order to avoid this potential conflict, **it would be preferable for Councillors not to serve on Parish or Town Councils' planning committees.** If they cannot avoid that, then they should not vote or say anything which would create the impression that they have already made up their minds prior to the relevant Herefordshire Council's planning meeting. In this way they will avoid being part of the formal process of submitting representations on planning applications to the Council, and so demonstrate their impartiality. Those Members who have indicated a definitive view on an application or who have voted should declare an interest when an application comes before the relevant Planning Committee and leave the room when it is discussed. "

## **DRAFT PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS**

12. We have yet again reconsidered the draft consultative protocol on the use of Council resources by Members, which made proposals on (1) the prohibition on using Council resources for political purposes, and (2) the use of ICT facilities, particularly the World Wide Web and the Council email address. We have consulted with the Standards Board, and hope shortly to bring forward a final draft.

## **"A CODE FOR THE FUTURE": STANDARDS BOARD FOR ENGLAND CONSULTATION ON THE CODE OF CONDUCT FOR MEMBERS**

13. We have responded formally to the Standards Board consultation on the National Review of the Code of Conduct, once again stressing the importance of dealing with as much as possible at a local level, and making the process more proportionate.

## **PARISH COUNCILS**

14. We reviewed the Standards Board Open Paper 04/219 entitled: "Problematic Parishes", which outlined the approach of the Standards Board in seeking to support town and parish councils with conduct or governance difficulties. We think the Board's approach is broadly correct; in Herefordshire we are particularly keen to ensure that effective training is available to local councils and clerks, and we are working in partnership with the Herefordshire Association of Local Councils.

## **PUBLIC INTEREST REPORT – KINGTON TOWN COUNCIL**

15. We are continuing to support Kington Town Council following the publication of the District Auditor's Public Interest Report and the preparation of an Action Plan as a result. The Chairman of our Committee, together with the County Secretary and Solicitor, held a series of meetings with Kington Councillors on 29 April 2005.

## **WEST MERCIA INDEPENDENT STANDARDS COMMITTEE MEMBER FORUM**

16. Mr David Stevens attended the inaugural meeting on 10 March 2005, when it was agreed that the Forum should be a permanent institution. We had been slightly cautious about this, feeling that it might detract from the close co-operation between independent members, district councillors and town and parish council representatives that we have experienced in our own Committee. However, it is clear that independent members in some other authorities need greater support. We have therefore endorsed the attendance of our independent members, to monitor the Forum and keep abreast of information and ideas exchanged there, as well as passing on experience and expertise gained in Herefordshire.

## **INVESTIGATIONS BY THE STANDARDS BOARD FOR ENGLAND**

17. We have considered progress reports on current investigations by the Standards Board for England.

**ROBERT ROGERS  
CHAIRMAN  
STANDARDS COMMITTEE**

## **BACKGROUND PAPERS:**

- Agenda papers of the meetings of the Standards Committee held on 4 February and 1 April 2005