

A G E N D A

Standards Committee

Date: **Friday, 13th February, 2004**

Time: **2.00 p.m.**

Place: **Council Chamber, Brockington**

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

For any further information please contact:

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**County of Herefordshire
District Council**

AGENDA

for the Meeting of the Standards Committee

To: **Robert Rogers (Independent Member) (Chairman)**
Councillors John Edwards, Peter Harling
Richard Gething, John Chadwick (Parish Council Representatives)
David Stevens (Independent Member)

| | 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 5th December, 2003. | 1 - 4 |
| 4. NEW MEMBERS To welcome Mr John Chadwick and Mr David Stevens as new Members of the Committee. | |
| 5. PROTOCOL - USE OF COUNCIL RESOURCES To consider a suggested protocol to guide members in their use of council resources. Wards: County-wide | 5 - 22 |
| 6. DECLARATIONS OF INTEREST To bring to the Standards Committee's attention the recent Court of Appeal case concerning the meaning of prejudicial interests under the Model Code of Conduct and its impact on the working of local democracy: Wards: County-wide | 23 - 24 |
| 7. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS To note the attached report on dispensations granted by the Committee to town and parish councils and to consider any new applications received prior to the meeting. Wards: County-wide | 25 - 26 |

8. TRAINING MATTERS

To consider any issues arising from the recent joint training event for Standards Committees.

9. THIRD ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

To note the programme for the Third Annual assembly of Standards Committees to be held at ICC Birmingham on 13 – 14 September, 2004. A copy of the advance programme is enclosed separately for Members.

10. COMMITTEE DATES FOR 2004/05

To consider the following suggested dates for the forthcoming year. Additional dates are likely to be necessary to deal with any cases that are referred to the Committee by the Standards Board for England for investigation:-

18 June 2004
8 October 2004
3 December 2004
18 February 2005

11. EXCLUSION OF THE PUBLIC AND PRESS

In the opinion of the Proper Officer, the next item will not be, or is likely not to be, open to the public and press at the time it is considered.

RECOMMENDATION:

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.

12. DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND 2002 27 - 30

To inform the Committee of current investigations by the Standards Board for England concerning the County.

Wards: County-wide

This item discloses information relating to the financial or business affairs of a particular person (other than the Authority).

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Wards: County-wide

This item discloses information relating to the financial or business affairs of a particular person (other than the Authority).

MINUTES of the meeting of the Standards Committee held at Brockington, 35 Hafod Road, Hereford on 5 December 2003 at 2.00 pm

Present: RJ Rogers (Independent Member) (Chairman)
R Gething (Town and Parish Council Representative)
Councillors JW Edwards, PE Harling

The Chairman welcomed Lucy Davies, Trainee Solicitor, to the meeting.

18. APOLOGIES FOR ABSENCE

There were no apologies for absence.

19. DECLARATIONS OF INTEREST

Councillor J Edwards declared a Personal Interest in respect of Agenda Item 11 – Determination by the Standards Board for England – Notice of Decision from the Adjudication Panel.

20. MINUTES

RESOLVED: That the Minutes of the meeting held on date 10 October 2003 be approved as a correct record and signed by the Chairman.

21. APPOINTMENT OF NEW MEMBERS

The County Secretary and Solicitor said that following recent interviews, Mr David Stevens, the Chairman of the Herefordshire Chamber of Commerce had been offered the post of Independent Member to serve on the Standards Committee, subject to references being provided and approval by Council.

Councillor R Gething said that subject to the ratification by the Herefordshire Association of Local Council's Executive Committee, Mr John Hardwick of Fownhope Parish Council was recommended as the Town and Parish Councils Representative.

RESOLVED: (Unanimously) That it be recommended to Council that the above new members be appointed to the Standards Committee, subject to the above provisos.

22. ELECTION 2003

The County Secretary and Solicitor presented her report about the compliance of Town and Parish Councillors with the Model Code of Conduct following the Local and Parish Elections held on 1 May 2003. She was pleased to report that the three outstanding Councillors had complied with the regulations giving one hundred per cent compliance within Herefordshire.

RESOLVED: (Unanimously) That the report be received and noted and the Officers and Town and Parish Clerks be thanked for their hard work in achieving such a successful result.

23. USE OF MEMBER SUPPORT SERVICES – INTERNET, EXTERNAL E-MAIL AND OTHER FACILITIES

A report was presented by the County Secretary and Solicitor about a suggested protocol to guide Members in their use of Member Support Services, the use of the internet, external e-mail and other facilities. She said that she had taken the advice of the Council's Head of Technology Services and the Information Security Officer and felt that there were still some issues that needed finalising in respect of Paragraph 3 regarding the internet and external e-mail. The Committee discussed the proposed Protocol and decided that the County Secretary and Solicitor should be authorised to prepare a further draft for submission to members of the Committee for comments. The Committee agreed that if it was possible to complete the research of current best practice in time a final draft could then be submitted to the Council for approval at its meeting on 16 January, 2004.

RESOLVED: (Unanimously) That the above course of action be taken.

24. PROTOCOL FOR MEMBER/OFFICER RELATIONS

The County Secretary and Solicitor presented a report about a suggested Protocol to guide Members and Officers of the Council in their dealings with one another to ensure the smooth running of the Council. She outlined the amendments that had been made to the document particularly regarding key contacts in Paragraph 3. The Committee suggested further alterations and it was agreed that the County Secretary and Solicitor should be authorised to produce a further draft and circulated it to Committee Members for comments prior to submitting it to Council on 16 January 2004.

RESOLVED: (Unanimously) That the above course of action be taken.

25. APPLICATION FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS

The Committee Manager (Statutory Corporate and Planning) presented the report of the County Secretary and Solicitor and said that Dinedor Parish Council had not yet submitted details of its Members who required a dispensation in respect of the Dinedor Village Hall Committee. It was agreed that the Parish Council should be informed that it would need to submit the names and addresses of its Members in writing before consideration could be given to the request by the Committee.

26. TRAINING MATTERS

A report was presented by the County Secretary and Solicitor about a Joint Training Seminar held with the Hereford Association of Local Councils on 20 November and also about a suggested forthcoming development event for Members of the Committee. She said that the Joint Seminar had proved to be very successful and would be staged again as an annual event. Councillor R Gething said that in addition the Herefordshire Association of Local Councils would hold a further training seminar about the Code of Conduct in spring 2004.

The Committee agreed to the proposals for a joint training event with the Worcestershire County Council's Standards Committee and the Combined Fire Authority Standards Committee on Friday 6 February 2004.

RESOLVED: (Unanimously) That the report be noted and the Committee agree to sponsor the Joint Development Event on 6 February 2004.

27. INFORMATION REPORT – GUIDANCE FOR MONITORING OFFICERS AND STANDARDS COMMITTEES AND OTHER ISSUES

The Committee received an information report about guidance received from the Standards Board for England and other issues. The guidance included practical procedural information for Standards Committees on how to hold a hearing. The Committee was concerned about the inconsistent approach from the Standards Board for England regarding the penalties imposed when there were breaches of the Code of Conduct by local Councillors. It felt that there was a need for further guidance from the Board on this aspect.

The Committee noted that the third Annual Assembly of Standards Committees would take place on 13/14 September 2004, at the International Conference Centre in Birmingham.

EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED: 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 involved the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below.

SUMMARY OF THE PROCEEDINGS OF EXEMPT INFORMATION**28. DETERMINATION BY THE STANDARDS BOARD FOR ENGLAND**

The Committee considered a report on Investigations by the Standards Board for England in the respect of complaints of alleged misconduct against certain Parish Councillors.

The meeting ended at 3.05 pm

CHAIRMAN

NOT FOR PUBLICATION

29. DETERMINATION BY THE STANDARDS BOARD FOR ENGLAND

The County Secretary and Solicitor presented her report about an investigation under Section 59 of the Local Government Act 2000, by an Ethical Standards Officer (ESO) of the Standards Board for England into an allegation concerning a former member of Ross-on-Wye Town Council. She also tabled a Notice of Decision which had recently been received from the Adjudication Panel regarding allegations that members of Brockhampton with Much Fawley Parish Council had acted in breach of its Code of Conduct.

The Committee noted that in the case of the former Ross-on-Wye Town Councillor, the ESO had taken the view that there had been a breach of the Code of Conduct but that because he was no longer a member of the Town Council that no further action should be taken against him. The ESO had recommended, however, that training should be given on a regular basis to ensure that local Councillors were fully aware of their obligations under the Code to declare any personal interests at meetings and to withdraw when these interests were prejudicial. The County Secretary and Solicitor had sought clarification on who would be responsible for this training and the Standards Board for England had replied that it should be undertaken by the Council's Standards Committee. She felt that the training programme established with the Herefordshire Association of local Councils should help to fulfil the requirement.

In the case of the investigation into the Brockhampton with Much Fawley Parish Councillors, it was noted that the Adjudication Panel had found that there was a breach of the Code and the Members should be disqualified for a period of two years from becoming members of the relevant Authority or any other relevant Authority within the meaning of the Local Government Act 2000.

The meeting ended at 3.05 pm

CHAIRMAN

PROTOCOL - USE OF COUNCIL RESOURCES

Report By: County Secretary and Solicitor

Wards Affected

County wide

Purpose

1. To consider a Protocol to ensure councillors use of council resources complies with the Model Code of Conduct.

Background

2. Paragraph 5 of the Model Code of Conduct states a member:
 - (a) must not in their official capacity, or any other circumstance, use their position as a member improperly to confer on or secure for her or himself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of the authority-
 - (i) act in accordance with the authority'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 be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.
3. The Standards Board for England strongly recommends that local authorities have protocols dealing with the use of authority resources. These protocols should be comprehensive and cover the following topics:
 - use of authority premises;
 - member-officer relationships;
 - information technology (such as computer equipment and the use of associated software), including the use of such equipment at home;
 - telephone and fax;
 - photocopying;
 - use of stationery and headed notepaper;
 - postage;
 - use of authority transport; and
 - allowances and expenses.

The key principle underlying all such protocols should be that public office and public resources should not be used to further purely private interests or purely political purposes.

The Standards Board for England's Policy and Guidance team is considering issuing examples of good practice in this area.

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

4. A Protocol to regulate member-officer relationships was agreed on the recommendations of the Standards Committee by the Council at its meeting in January 2004.
5. The Council considered a Protocol for Use of Council Resources at its meeting on 25 April 2003 and asked the Standards Committee to consider revising those aspects relating to the use of council computer equipment and the Council's e-mail address.
6. A revised draft has now been prepared and is set out at Appendix A for approval. It is based on the policy used for employees and other users of the Council's network. All elected members and other users of the Council's internet service are required to read and sign a copy of this Protocol before being granted access to the internet and/or e-mail facilities.

Personal Use of Council Resources

7. The committee is asked to consider the proposals for personal use set out at paragraphs 3.3, 4.1 and 4.2 of the Protocol and advise how best to proceed. This is a problematic area particularly because of the prohibition on using resources for political purposes. The Protocol is currently drafted to allow councillors modest personal use. This includes some political use where it is likely to facilitate or be conducive to the running of the Council provided that political use does not contravene the prohibition on local authorities publishing political material under section 2 of the Local Government Act 1986.

Publicity

8. Special rules apply to the use of Council resources in relation to publicity which is defined as 'any communication in whatever form addressed to the public at large or to a section of the public'. This will include press releases and letters to the media (unless clearly marked "not for publication") but does not cover letters to individuals, unless this is on a scale which could constitute 'a section of the public'.
9. The local authority is prohibited from publishing political material by virtue of section 2 of the Local Government Act 1986. The Act states that:
 - (1) *A local authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.*
 - (2) *In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters:*
 - a) *whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another.*
 - b) *where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.*
 - (3) *A local authority shall not give financial or other assistance to a person for the publication of material which the authority are prohibited by this section from publishing themselves."*

10. Although section 2 applies to all publicity produced by the local authority it is obviously particularly important to be sensitive to the provisions of the Act at election time.
11. Further guidance on the subject of publicity is contained in the Code of Recommended Practice on Local Government Publicity, of which the following is an extract:

Individual Councillors

"Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the executive or Chair of Overview and Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.

Publicity should not be, or liable to misrepresentation as being, part political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/ his position and responsibilities within the Council, and to put forward here/ his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party or directly attacking policies and opinions of other parties, groups or individuals"

12. The Code also specifically covers activity around elections, referendums and petitions.

Publicity around Elections (para 41)

"The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election."

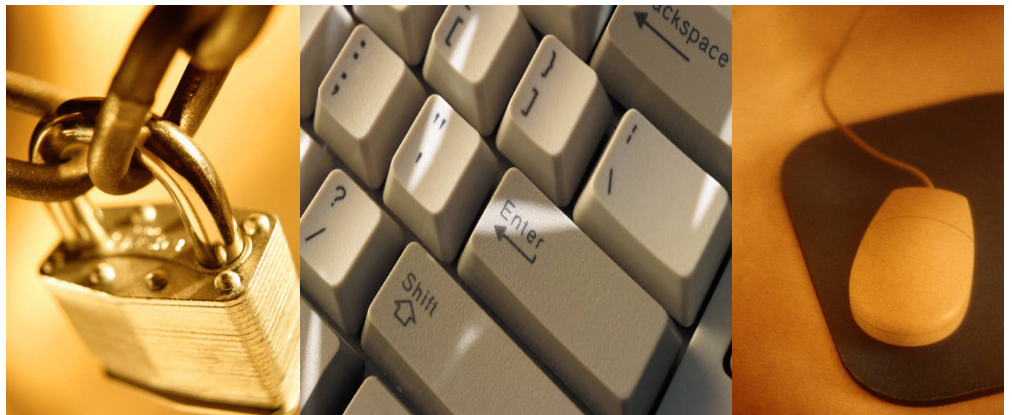
13. Against this background, it is considered that the advice at paragraphs 3.3 and 4.1 of the Protocol represent a reasonable and lawful use of Council resources.

RECOMMENDATION

THAT **that the Standards Committee consider the proposed Protocol with a view to recommending its adoption to Council.**

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

Members' Protocol on use of Council Resources (Draft – January 2004)



HEREFORDSHIRE COUNCIL
CODE OF CONDUCT

Document Control

Title: **Members' Protocol on Use of Council Resources**

Status: **Draft**

Version: **1.0**

Date Issued: **January 2004**

Originator: **County Secretary and Solicitor, Herefordshire Council**

Change History:

| Date | Version | Author | Comments |
|-------------------------|------------|------------------------|--|
| 13 February 2004 | 1.0 | Marie Rosenthal | To be considered by Standards Committee |
| | | | |
| | | | |
| | | | |
| | | | Next Review Date |

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HEREFORDSHIRE COUNCIL CONSTITUTION
APPENDIX 13 - CODES OF CONDUCT AND PROTOCOLS
PROTOCOL ON USE OF COUNCIL RESOURCES

1. Introduction

- 1.1 The Herefordshire Council Member Code of Conduct provides that a member 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.
- 1.2 The Council's requirements are set out in this Protocol in relation to the use of the Council's internet and e-mail facilities. Any breach of these requirements could result in a breach of the Code of Conduct and possible termination of office. Illegal activities may also be reported to the appropriate authorities.
- 1.3 In relation to use of the internet and e-mail the aim of this Protocol is:
- 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.
 - To explain to councillors what can and cannot be done.
 - To inform of the legal risks taken whilst using the Council's internet facilities.
 - To ensure compliance with provisions of section 2 of the Local Government Act 1986 which prohibits local authorities from publishing political material.

It is essential that all members making use of Council computers read this Protocol. Any member requesting an explanation of the Protocol should contact Members' Services in the first instance.

- 1.4 This Protocol has been produced for members of the Council to outline their responsibilities in the use of Council resources generally and equipment to access the internet and use its e-mail facilities. It has been designed to support the Council's Corporate Information Security Policy with the main objective of protecting the county and individual users. It is based on the policy used for all Council employees.
- 1.5 All elected members and other users of the Council's internet service are required to read and sign a copy of this Protocol before being granted access to the internet and/or e-mail facilities.

2. Use of Council Resources for Council Business

- 2.1 The Council makes various resources available to assist members in performing their various roles and responsibilities as an elected member. These resources include:
- Use of Council premises;
 - information technology (such as computer equipment and the use of associated software), including the use of such equipment at home;

- telephone and fax
- photocopying;
- use of stationery and headed notepaper;
- postage;
- use of council transport
- allowances and expenses
- training and development events.

2.2 The key principle to follow is that Council facilities are only available for members' work in connection with Council business. This means work relating to members' duties as an elected Councillor, as an Executive member, as a member of a committee, sub committee working party or as a Council representative on another body or organisation. It **will include**:

- Letters to and communications with constituents, other councils, agencies, organisations, other members, officers and government officials.
- Documents and communications in connection with the formulation of policy and the decision making process of the Council or other organisations on which a member represents the Council.
- Viewing and obtaining information in direct support of the Council and its activities.
- Material for discussion by a political group on the Council, so long as it relates mainly to the work of the Council and not the political party.
- Promoting services and products provided by the Council.
- Any other use that directly support the work of an elected member.

2.3 It **will not include**:

- Using Council resources for the publication of any material which, in whole or in part, appears to be designed to affect public support for a political party.
- Creation and preparation by council officers of documents and communications for constituency party meetings, ward party meetings, or letters to party members collectively in their capacity as party members.
- Creation and preparation by council officers of documents relating to the policy and organisation of political parties, particularly regarding the conduct of elections
- It is generally inappropriate for members to use Council facilities for volume mailings, including sending out circulars and conducting wide-scale consultation exercises, even though these may involve Council business. If in an exceptional case, a member feels that a volume mailing can be justified, s/he should submit a specific request to the County Secretary and Solicitor.

2.4 **Access to the Internet**

Members of the Council will be able to gain access to the internet through computers held in Members' Services at Brockington through the dial-up connection from the computer supplied by the Council and installed in their home; and via an ISP which they may install on the computer supplied by the Council and installed in their home.

Councillors will be provided with a unique user ID and password to access the internet via the Council link.

Access to the Council's Internet and external e-mail services will be provided through a PC attached to the corporate network through Members Services or Group work rooms and at their homes. (Under no circumstances should PCs connected to the corporate network connect to the internet via any other route, unless through prior agreement with the Head of ICT). Elected Members who install an ISP on their Council provided PC must adhere to the Acceptable Use guidelines set out in this Protocol.

All PCs provided to members will be installed with up to date anti-virus and security software. (Guidance on anti-virus software is available from the IT Support Unit).

3. Internet Usage Policy

3.1 Introduction

3.1.1 Whilst the Council's connection to the Internet offers numerous potential benefits, it can also open the door to some significant risks to data and systems, if users do not follow appropriate security discipline. Members may be held accountable for any breaches of security or confidentiality resulting from their use of the Council's Internet connection. The overriding principle is that security is everyone's responsibility.

3.1.2 Unnecessary or unauthorised Internet access causes network and server congestion. It slows other users, takes away from work time, consumes supplies and ties up printers and other shared resources. Unlawful Internet access may also result in negative publicity for the Council and subsequent exposure to significant legal liabilities.

3.1.3 The Council expects members to use internet access via Council computers and ICT for Council business-related purposes to communicate with partner agencies, to research relevant topics and obtain useful information (except as outlined below). The Council insists that members conduct themselves honestly and appropriately on the Internet and respect the copyrights, software licensing rules, property rights, privacy and prerogatives of others, as in any other business dealings.

3.1.4 Any breach of this Protocol could result in a breach of the Model Code of Conduct and in the most serious cases disqualification from office.

3.2 Acceptable Uses

As a general principle, internet access and external e-mail facilities are provided to Elected Members to support work on Council related activities. The following list, although not intended to be definitive, sets out broad areas of use that the Council considers to be acceptable:

- to provide a means of communication with other Councils, agencies and organisations and constituents
- to view and obtain information in direct support of the Council's business activities
- to promote services and products provided by the Council
- to communicate and obtain information in support of approved personal training and development activities
- any other use that directly supports the work of an elected member

- a limited amount of personal use provided this does not contravene the legal restrictions on councils publishing political material

It is each individual elected member's responsibility to check with Members' Services, the County Secretary and Solicitor or the Head of ICT to ascertain whether any proposed use not referred to in paragraph 3.1 falls within the Council's definition of acceptable use.

3.3 Personal Use

Whilst Internet facilities are provided for members primarily for official council work, it is appropriate for members to be able to make reasonable use of the facilities for non-official purposes subject to the conditions set out in this Protocol. It is considered acceptable for elected members to make use of a PC installed in their homes for the following:

- personal purposes, for example purchasing holidays, goods and services;
- general surfing of the internet for non-council purposes;
- documents and communications for local constituency party meetings, ward party meetings or to party members collectively in their capacity as party members.

However, computers are installed for Council business and the majority of the use should be for Council business. Because the Council is prohibited from publishing political material which is defined as any material designed in whole or in part to affect public support for a political party, members may not use their Herefordshire Council e-mail address (name@herefordshire.gov.uk) for this purpose. Similarly they must not use their Council e-mail address to promote a point of view on a question of political controversy which is identifiable as the view of one political party and not another either as part of a campaign or otherwise. This is particularly so around election time when the Council e-mail address must not be used in any promotional material on behalf of any candidate.

The interpretation of what may be considered as reasonable or unreasonable is to some degree subjective and occasions may arise where an individual may perceive a different view from colleagues or officers. It is the responsibility of the user to take any necessary steps to clarify the situation or to seek written prior authorisation from the County Secretary and Solicitor before using Council resources. Separate guidelines will be issued in relation to Elections in the period beginning with the Notice of Election and the Election itself.

It is not the intention of the Council to place excessive obstacles in the way of members to prevent them from using facilities. All that is asked is that reason and prudent judgement is applied before proceeding.

3.4 External Connections

The Council Internet gateway service provides secure access to the Internet from desktop personal computers. Using a 'firewall' between the Council internal network and the Internet provides primary security; bypassing the firewall is therefore **not permitted**. In some cases, individual external connections are permitted. In these cases, the machine used for external access **must never** be connected to any internal Council network. By using any external connections from Council equipment, members indicate that they will comply with this Protocol. All users of

external connections must obtain prior authorisation to do so by IT Services who will specify limitations on use and assess all risks associated with the usage.

3.5 Conditions of Use

- All members wishing to use Council equipment to use the internet must be formally authorised to do so in writing by the County Secretary and Solicitor (using the Internet Usage Policy Agreement/Registration and Cost Authorisation form annexed to this Protocol).
- All risks associated with usage of the Internet must be assessed before using the service. Lack of confidentiality, integrity and availability must be considered, as the Internet provides no guarantees in these areas.
- No member may use the Council's Internet facilities to disable or overload any computer system or network, or to circumvent any system intended to protect the privacy or security of another user.
- Sharing of user names and passwords is not permitted unless prior agreement has been obtained from the County Secretary and Solicitor.
- Members must ensure that they are logged off from Council systems and the Internet when they leave their Council computer unattended. They must not allow it to be used by an unauthorised person.
- Any licence conditions relating to the commercial use of software available on the Internet must be observed.
- Members must not transfer files or programmes from unauthorised external sources via attachments, which may hinder, damage or disrupt the operation of any application or a user's system software and hardware.
- No software program or script should be downloaded from the Internet, unless approved by IT Services. In any event, entertainment software (e.g. games, screen savers) will not be approved.
- Copyrighted material should not be sent, received or copied via the Internet unless encrypted.
- Members are reminded that chats and newsgroups are public forums where it is inappropriate to reveal Council confidential information, customer data and any other material covered by other existing Council policies and procedures.
- Members should not buy or sell goods or services via the Council's internet facilities, unless they are officially authorised to do so or on behalf of the Council in accordance with documented policies and procedures as such transactions could bind the Council.¹
- Members must not use the Council's internet facilities in breach of the prohibition on councils' publishing political material.

¹ Policy in this respect is likely to change as emerging technologies become more stable and secure transactions can be suitably authenticated. In the interim members but may search the Internet may only place an order as a private individual and not on behalf of the Authority and not using their Council e-mail address.

3.6 E-mail access through the Internet

- E-mail is defined in two ways in this context: communications with people outside Herefordshire Council using a member's council e-mail address (a.n.other@herefordshire.gov.uk etc), and private e-mail accounts (hotmail, etc)
- E-mail must not contain indecent, obscene or libellous material, material likely to cause offence or any material which harasses any other Council user or third party on the basis of sex, race or disability or any other areas mentioned in the Council's Corporate Equal Opportunity's Policy.
- Members must not send or deliberately attempt to receive e-mail known to contain a virus.
- Members must not use e-mail for gambling, conducting illegal activities or soliciting for personal profit.
- Members must not reveal or publicise information, which is confidential either to the Council or its customers and clients.
- E-mail chain letters or virus hoaxes must not be forwarded. If there is any doubt about the nature of any correspondence received consult the IT Services Helpdesk immediately on ext: 0160.
- Members may not access confidential information using the password of another user.
- Employees should only send official information by Internet e-mail, which they would be prepared to send on the Council's headed paper.
- Scanned signatures **must not** be attached to Internet e-mails. Such signatures can be disseminated by recipients and fraudulently attached to other documents purportedly in the name of the Council.
- E-mail attachments should not be opened unless the recipient knows whom they are from or is expecting to receive them.
- It is possible for e-mail messages sent via the Internet to be accessed by people other than the intended recipient. It should therefore only be used for information which is not commercially sensitive or covered by the Data Protection Act (1998) unless the information is encrypted.
- Before forwarding e-mail to a new recipient, make sure you read the entire earlier messages, as they could contain personal comments that should not be redistributed.

3.7 Virus Controls

- Up to date anti-virus software must be installed and active on all Council PCs. No user should attempt to disable this software.
- All electronic information received by the Council must be checked for viruses. This includes all floppy disks, CDs, e-mail, magnetic tapes, optical disks and removable hard disks.
- Non-text e-mail attachments (e.g. software, computer games, executable files, vbscripts and bitmaps – i.e. .tif, .gif, .exe and .vbs) may contain computer viruses or other harmful content that can seriously disrupt the Council's computer systems. These type of attachments are automatically checked by automated anti-virus software deployed on the Council's IT systems.

- Any member who knowingly distributes a computer virus or any harmful code using the Council's e-mail system will be in breach of this Protocol.

3.8 **A Guide to the Legal Issues Relating to Access to the Internet**

Members must not use the Council's Internet facility to engage in activities that are of questionable legality (at any time), that might harm the Council's reputation or that might otherwise violate Council policy such as:

- Illegal or malicious use, including downloading or transmitting copyright material.
- Online gambling.
- Accessing, displaying or disseminating pornography or obscene material.
- Posting information that may tend to disparage or harass others on the basis of gender, race, age, disability, religion, sexual orientation or national origin.
- Participating in chain letters.
- Posting statements that are defamatory or information that is false or misleading concerning the Council or any other organisation.
- Posting confidential or proprietary information about the Council, or any of its partner agencies or associates, on Internet sites.
- Any use of the Internet which is considered to be in breach of statute, will be referred to the Police and may lead to criminal prosecution. Members must take especial care in the use of the PC by other family members, especially in relation to the details in paragraphs 3.4 and 3.5.

3.9 **Software Copyright**

- Copies of licensed software must not be made without authorisation. In any event, software theft is illegal.
- Software available freely or cheaply through bulletin boards and computer clubs should not be used unless a good business case can be made and approval is obtained from IT Services Helpdesk.

3.10 **Monitoring**

A reporting tool has been installed to monitor activity on the Internet. The software logs information regarding user name, date, time, and site visited. Continuous monitoring of the logs will provide future advice on appropriate filtering of sites. The Council reserves the right to inspect all files stored in private areas on their network and personal computers at any time, without notice, in order to assure compliance with policy.

Sexually explicit or offensive material may not be displayed, archived, stored, distributed, edited or recorded using Council's computer networks or resources. Any member, who becomes connected accidentally to a site that contains sexually explicit or offensive material, must disconnect immediately, regardless of whether that site had been previously deemed acceptable by any screening or rating program. The IT Services Helpdesk must be informed in order that the monitoring software can be amended to include a block to the offending site. The individual reporting the incident will have their details recorded in the incident log.

3.11 E-Mail Disclaimer

All e-mails, whether sent internally or outside the Council, must include a confidentiality warning. Members' Services can format the e-mail to include this, but it should be set up when the IT Services engineer first configures a PC. The wording is standard across the Council:

“Any opinion expressed in this e-mail or any attached files are those of the individual and not necessarily those of Herefordshire Council.

This e-mail and any attached files are confidential and intended solely for the use of the addressee. This communication may contain material protected by law from being passed on. If you are not the intended recipient and have received this e-mail in error, you are advised that any use, dissemination, forwarding, printing or copying of this e-mail is strictly prohibited. If you have received this e-mail in error please contact the sender immediately and destroy all copies of it.”

3.12 Record of Declaration

The signed declaration will be kept by the County Secretary and Solicitor. Periodically we may ask you to confirm that you still understand and accept the rules.

3.13 Etiquette and User Responsibilities

The Internet as a whole does not have any central management or control. However, in order to maintain some standards of behaviour, the internet community has developed a set of written ethics known as "netiquette", which outline conventions and rules of conduct when using the internet. It is strongly recommended that all users of the Council's Internet take time to read the netiquette guidelines, which can be found on the internet at www.fau.edu/netiquette/net/.

As a general principle, remember that you are acting as an elected representative of the Council, using Council equipment and are accessing a non private network.

At all times have regard for Council policies and legal requirements when using the Internet. Where appropriate, have equal regard for specified rules and policies of the owners of services you access via the internet.

4. E-mail Usage

4.1 Introduction

Whilst the Council encourages members and employees to become familiar with the medium of e-mail it is expected that it be used primarily for Council business. However, with regard to personal use, members are expected to use discretion and common sense in its usage.

4.2 Permitted and Prohibited Uses

Members may use the Council's e-mail system for Council business use subject to the rules in this Protocol. Members may also use the e-mail system for personal use provided that such use is kept to a reasonable level and does not interfere with business efficiency. Personal use of e-mail which may involve any risk to the Council

or its employees, through civil or criminal action, or which may bring the Council into disrepute, is not permitted.

4.3 Offensive, Illegal and Defamatory Materials

Under the provisions of the 'Defamation Act (1996)', members must not use Council equipment to download, send, receive or view any materials that will cause offence to any person by reason of:

- Any sexually explicit content.
- Any sexist or racist remarks.
- Remarks relating to a person's sexual orientation, gender reassignment, religion, disability or age.

Members must not access, download, send, receive or view any materials that they believe or have reason to suspect are illegal.

Members must not send or circulate any materials via e-mail that contain any negative remarks about other persons or companies unless they are certain it is factually correct. If in doubt, do not send it.

Failure to comply with this policy may result in the Council being held liable for what is written by its users.

Any person receiving unsolicited e-mails, or e-mail from any source that may derive suspicious activity, are to report the matter to the IT Helpdesk.

4.4 Monitoring

The Council reserves the right to monitor and inspect any e-mails sent by persons using the Council's e-mail system, including personal messages at any time without notice. Such monitoring is intended to ensure that this policy is being complied with, is effective and that the Council and its employees are acting lawfully.

Members can have no expectation of privacy when using the Council's e-mail system; other methods of communication should be used for any private messages.

4.5 Confidentiality and Sensitive Information

Members are reminded that e-mails are not a secure way of sending information.

Members are to be aware that e-mail messages, like paper-based documents, are admissible in court so therefore may be produced in legal proceedings.

4.6 Housekeeping

The following rules are designed to assist Council systems to operate more efficiently. All users are to comply with the following:

- If members receive a wrongly delivered message it is to be returned to the sender; if the e-mail message contains confidential information, the recipient is not to divulge or disclose that information to any other person.
- Messages are to be deleted on a regular basis/at weekly interval or stored in suitable electronic folders.

- Printouts are to be kept to a minimum and are to be protected according to the sensitivity of their content.
- If any member wishes to distribute e-mail to 'all-users,' they should contact Members' Services who will seek the approval of the County Secretary and Solicitor.
- Members are to minimise use of e-mail for trivial or personal messages as they lead to congestion of the e-mail system and reduce its efficiency.
- Users are to use the 'out of office function' when away from their place of work for a day or more.
- Heavy graphics or large PowerPoint presentations should be compressed before sending via the e-mail system.

**HEREFORDSHIRE COUNCIL
FEBRUARY 2004**

PROTOCOL ON USE OF COUNCIL RESOURCES MEMBERS' INTERNET AND E-MAIL USAGE AGREEMENT

Agreement

- I have read and understood the Council's Protocol on Use of Council Resources and agree to be bound by its requirements.
- I understand that the content of my e-mail and attachments may be audited without my further permission or knowledge and agree to this.
- I understand that the facilities granted to me on completion of this undertaking may be suspended or withdrawn and that I may be subject to disciplinary procedures under the Model Code of Conduct or civil/criminal prosecution if I fail to comply with them.
- I understand and accept that I have obligations under the law, the Model Code of Conduct, and relevant Council Policies and regulations and will comply with them.
- I understand and accept that the Council will not be responsible for, or support any activity in breach of this Protocol.

Signature:

Print Name:

Address:
.....

Ward:

Office Holder:

Registration and Cost Authorisation Form

Internet accounts are chargeable and the cost for the financial year 2003/2004 will be £102.00 per account. This service is available to any member provided:

- Authorisation is given by the County Secretary and Solicitor
- A cost code is supplied against which the charge can be made

Base Unit no:

Cost Code:

Authorising Officer:

Print Name:

Date:

Please return completed forms to the IT Helpdesk (260160) in the IT Services Division, Thorn Office Centre, Holme Lacy Road, Rotherwas, Hereford, HR2 6JT. A copy of this signed declaration will be kept in a file kept by the County Secretary and Solicitor

For Helpdesk use only:

| | | |
|--------------------|---------------------|-------------------|
| HD Number : | IP Address : | Completed: |
| | | |

DECLARATIONS OF INTEREST

Report By: County Secretary and Solicitor

Wards Affected

County wide

Purpose

1. To bring to the Standards Committee's attention the recent Court of Appeal case concerning the meaning of prejudicial interests under the Model Code of Conduct and its impact on the working of local democracy:

*(1) Paul Richardson (2) Wendy Orme v (1) North Yorkshire County Council
(2) The First Secretary of State and Brown & Potter Limited*

Background

2. The case concerned the grant of planning permission by North Yorkshire County Council to Brown & Potter Ltd for the extension of quarrying of sand and gravel at Ripon City Quarry.
3. The case raised environmental impact assessment issues.
4. However case also concerned the application of the Council's Code of Conduct. The first claimant Mr Richardson was a member of North Yorkshire County Council representing Littlethorpe. He lived in Littlethorpe and his house was about 250m from the nearest point of the proposed mining extraction. He was not a member of the Planning Committee, but he made clear his desire to attend the meeting to speak against the application. He was barred from attending the planning meeting on the ground that he had a prejudicial interest and was disqualified under the Council's Code of Conduct.
5. It was held by the Court of Appeal that where a person objecting to a planning application is also a member of the local authority whose planning committee was considering the application, he was properly to be regarded as having a prejudicial interest in the subject matter and as such was required to withdraw from the room where the meeting was taking place; furthermore, he was precluded from attending the meeting solely in his private capacity to defend his own personal interests. Thus the Council had been entitled to exclude him from the meeting.
6. The Court of Appeal considered the matter at great length and a copy of the 42 page report has been placed in the Members' Room. Lord Justice Simon Brown's judgement looks at the legislative framework in great depth starting with the background. He posed four questions, namely
 - (i) which members assuming they have a prejudicial interest are required to withdraw? Is the requirement imposed on all members or only on those who are members of the Committee?

Further information on the subject of this report is available from
Christine Wright, Principal Lawyer – Planning, Environment & Transport on (01432) 260472

- (ii) whatever may be the answer to (i) is a member entitled to attend such a meeting in his personal capacity?
 - (iii) was Mr Richardson properly to be regarded as having a prejudicial interest?
 - (iv) did Mr Richardson indicate he wished to attend in his personal capacity?
7. There is considerable analysis of the answers to the questions and some of the main conclusions are:
- (i) reference is to a member or co-opted member of the authority as a whole
 - (ii) a member of the authority attending a Council meeting cannot simply by declaring he attends in his private capacity thereby divest himself of his official capacity as a councillor. He is still to be regarded as conducting the business of his office. Only by resigning can he shed that role.
 - (iii) the initial and principal judgement on whether Mr Richardson had a prejudicial interest was for the individual councillor. However the judgement went on to say that there comes a point at which it would be irrational and therefore unlawful for a councillor to conclude he does not have a personal or prejudicial interest.
8. Finally it should be noted that a possible reference to the European Court of Justice was mooted which was swiftly dismissed.
9. The Committee will recall that in recommending guidance on planning matters it advised that councillors could not participate nor attend meetings considering their personal applications. This judgement is supportive of that approach.

RECOMMENDATION

THAT the report be noted.

DISPENSATIONS TO TOWN AND PARISH COUNCILS

Report By: County Secretary and Solicitor

Wards Affected

County-wide

Purpose

1. To consider any application for dispensation from Town and Parish Councils and receive a list of those previously granted by the Committee.

Financial Implications

2. None

Background

3. Under the Code of Conduct, town and parish councillors are prohibited from participating in matters in which they have a prejudicial interest. In the normal course of events this would not prejudice the proper working of their councils. There are instances, however, where the number of Councillors who would be prohibited from participating will impede the transaction of business.
4. The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 gives Standards Committees the power to grant dispensations in circumstances where the number of councillors that are prohibited from participating in the business of the council exceeds 50% of those that are entitled or required to so participate.
5. In each case, the councillor requesting the dispensation must request it in writing, setting out why the dispensation is desirable.
6. The Standards Committee must then decide whether, in all the circumstances, it is appropriate to grant the dispensation.
7. The Regulations set out a number of exceptions where, even though the criterion above is met, a dispensation may not be granted for town or parish councils. This is where the business of the council for which the dispensation is granted is more than 4 years after the date on which the dispensation is granted;
8. Any applications received prior to the meeting will be submitted to the Committee.
9. A list of the applications previously approved by the Committee is attached at Appendix A.

RECOMMENDATION

THAT (a) consideration be given to any requests from Town and Parish Councils prior to the meeting; and

(b) the list of dispensations previously granted and set out at Appendix A be received and noted.

BACKGROUND PAPERS

- None identified.

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