

A G E N D A

Standards Committee

Date: **Friday, 2nd July, 2004**

Time: **3:00 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:

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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 and Peter Harling
 David Stevens (Independent Member)
 Richard Gething (Parish Council Representative)
 John Hardwick (Parish Council Representative)

	Pages
<p>1. APOLOGIES FOR ABSENCE To receive apologies for absence.</p>	
<p>2. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p>3. MINUTES To approve and sign the minutes of the meeting held on 13th February, 2004</p>	1 - 6
<p>4. PROTOCOL ON THE USE OF COUNCIL RESOURCES To consider a suggested protocol to guide members in their use of council resources. Wards: County-wide</p>	7 - 12
<p>5. PLANNING CODE OF CONDUCT - REVISIONS To review the Planning Code of Conduct in the light of recent case law. Wards: County-wide</p>	13 - 14
<p>6. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS To consider any applications for dispensation received from Town and Parish Councils. Wards: County-wide</p>	

Exclusion of public

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.

7. DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND

To advise the Committee of an investigation under Section 59 of the Local Government Act 2000 by an Ethical Standards Officer of the Standards Board for England into an allegation concerning a former member of Ross-on-Wye Town Council

NOT FOR PUBLICATION – The Item Discloses Information Relating to the Financial or Business Affairs of a Particular Person (Other than the Authority)

15 - 18

MINUTES of the meeting of the Standards Committee held at Brockington, 35 Hafod Road, Hereford on 13 February 2004 at 2.00 pm

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

The Chairman welcomed Mr David Stevens (Independent Member), to the meeting.

28. APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr John Hardwick (Town and Parish Council Representative).

29. DECLARATIONS OF INTEREST

Councillor 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.

30. MINUTES

A revised set of Minutes was tabled at the meeting.

RESOLVED: That the Minutes of the meeting held on 5 December 2003 be approved as a correct record and signed by the Chairman, subject to the deletion of the words “the Chairman of the Herefordshire Chamber of Commerce” in Minute 21.

31. APPOINTMENT OF NEW MEMBERS

The Chairman warmly welcomed the appointment of Mr David Stevens and Mr John Hardwick to the Standards Committee.

32. URGENT ITEM - THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

The Chairman decided that the following should be considered as an urgent item of business to enable a response to be made to The Committee on Standards in Public Life by its deadline of 16th April, 2004.

The County Secretary and Solicitor said that the Committee on Standards in Public Life (originally the Nolan Committee) had invited views on a number of standards issues including:

- a. should the Local Government Model Code of Conduct apply to all tiers of local government?
- b. should there be a general requirement in Codes of Conduct to register membership of any society which though not a charity or directed to charitable purposes might be perceived to constitute a conflict of interest?; and
- c. are the requirements in the various Codes of Conduct proportionate or a disincentive to public service?

Members agreed that these were all live issues in local government which had also arisen in its work, and that the Committee should submit evidence. Areas of particular concern were: the onerous nature of the requirements, which might deter candidates from standing for town and parish councils; the complexity of the procedures; and the fact that a full investigation could be set off by a relatively trivial complaint. The Committee agreed to seek the views of the Herefordshire Association of Local Councils should be sought on the town and parish council perspective, and that Herefordshire Councillors should also be consulted. The deadline for comments would be 31st March; thereafter, the County Secretary and Solicitor would prepare a response in consultation with the Chairman; it would be circulated to the Committee before being submitted.

RESOLVED: (Unanimously) That a response be made to the Committee on Standards in Public Life as outlined above.

33. USE OF COUNCIL RESOURCES

A report was presented by the County Secretary and Solicitor on a draft protocol on the use of Council Resources. She referred to the Model Code of Conduct's provision that members, when using council resources, must act in accordance with the Council's requirements and ensure that, except in certain specified circumstances, such resources were not used for political purposes. The Standards Board for England had strongly recommended that local authorities should have such protocols; the key principle was that public resources should not be used to further private interests or be improperly used for political purposes. The Council had considered a draft protocol on 25th April 2003 and had asked the Standards Committee to consider revising those aspects relating to the use of council computer equipment and the Council's e-mail address. A revised draft had been prepared, based on the policy used for employees and other users of the Council's network.

The Committee considered the main aims of the protocol and in particular the issues regarding use of the internet and e-mail, particularly:

- 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 offset out 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.

The likely difficulties facing Members were explored, particularly the types of internet use and the way in which personal and Council use could be separated. It was felt that Members should confine their use of the Council's Internet Service Provider (ISP) and e-mail address to Council business only. Any personal use of Council provided equipment was felt to be acceptable as long as Members had separate ISP and e-mail facilities. The Committee agreed to a suggestion from the Chairman that there should be some redrafting of the Protocol to give clear guidance on the way that Members should ensure that business and personal use should be separated.

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

34. DECLARATIONS OF INTEREST

The County Secretary and Solicitor presented a report on a recent Court of Appeal case on the meaning of "prejudicial interest". It had been held by the Court of Appeal that, where a person objecting to a planning application was 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 concerned had been entitled to exclude him from the meeting. The case served to endorse previous guidance from the Committee regarding planning matters, advising that Councillors could not participate nor attend meetings considering their personal applications. The Committee agreed with a suggestion from the County Secretary and Solicitor that the Council's Planning Code of Conduct should be revisited in due course in the light of this judgement.

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

35. APPLICATION FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS

The Committee Manager (Statutory Corporate and Planning) presented the information report of the County Secretary and Solicitor and said that Dinedor Parish Council had indicated orally that it would not now need to seek a dispensation in respect of the Dinedor Village Hall Committee. It was agreed that the Parish Council should be asked to confirm this in writing.

36. TRAINING MATTERS

The Committee agreed that the joint training event with the Worcestershire County Council's Standards Committee and the Combined Fire Authority Standards Committee on Friday 6 February 2004 had proved to be of great benefit in helping to prepare it for dealing with complaints and other issues.

A joint training event with the Herefordshire Association of Local Councils, to which a member and an officer of the Standards Board for England would be invited, would take place in due course.

37. THIRD ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Committee noted the programme for the Third Annual assembly of Standards Committees to be held at ICC Birmingham on 13 – 14 September, 2004.

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

38. 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 3.40 pm

CHAIRMAN

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PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS

Report By: County Secretary and Solicitor

Wards Affected

County wide

Purpose

1. To agree a protocol to guide and regulate members' use of Council resources including computers, access to the internet and email usage.
2. The Members' 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).
3. The latest draft of the Protocol is set out in Appendix A consideration.

RECOMMENDATION

THAT (a) The Standards Committee consider the Protocol at Appendix A and recommend its approval to full Council.

BACKGROUND PAPERS

- **None identified.**

PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS

1. Introduction

- 1.1 The Herefordshire Council Member Code of Conduct provides that, when using Council resources, a member must observe the Council's requirements and ensure that such resources are not used for political purposes, except in specified circumstances.
- 1.2 A breach of this Protocol is a breach of the Code and so carries penalties up to and including disqualification from office.
- 1.3 Any illegal activity will be reported to the appropriate authorities.
- 1.4 If you are in any doubt about the application of this Protocol, it is your responsibility to seek clarification from the County Secretary and Solicitor. Written authorisation for the use of resources may be necessary in some circumstances.
- 1.5 You must sign a copy of this Protocol in order to be given access to the Council's internet and e-mail facilities.
- 1.6 Additional guidelines will be issued to cover elections.

2. Council Resources

2.1 These include:

- Use of Council premises
- Information technology such as computers and software, including home use
- Telephone and fax
- Photocopiers
- Stationery
- Postage
- Council transport

3. Permitted use

- 3.1 You may use Council facilities only on Council business or the business of an organisation on which you represent the Council

4. Prohibited use

4.1 You may not use Council facilities:

- 4.2 For the publication of material which, in whole or in part, appears designed to affect public support for a political party
- 4.3 For mass mailings, even if these are related to Council business. If you feel the circumstances are exceptional, you should consult the County Secretary and Solicitor.

5. **Internet and e-mail policy**

- 5.1 You are responsible for any breach of security or confidentiality resulting from your use of the Council's internet connection.
- 5.2 Subject to other requirements of this Protocol, you may use a Council-installed computer in your home for personal purposes such as purchasing goods and services [but see paragraph (re herefordshire.gov.uk)] or for surfing the net.
- 5.3 You should remember that the internet is not secure, and you should therefore protect information confidential to the Council.
- 5.4 You may not use the Council's internet facilities to disable or overload any computer system or network, or to circumvent any system designed to protect the privacy or security of another user.
- 5.5 You must log off from the Council system and internet if you leave your Council computer unattended, and you must not allow it to be used by an unauthorised person. Your family members can be authorised to use the Council's computer but you must make sure they follow the standards set out in this protocol.
- 5.6 You must not download a program or script from the internet, or use non-standard software in any circumstances, without the approval of IT Services. Any licence conditions must be observed
- 5.7 You must not transfer files or programmes from unauthorised external sources via attachments
- 5.8 You must not knowingly send, or attempt to receive, e-mail known to contain a virus. Do not open e-mail attachments unless you are confident of their origin.
- 5.9 You must not send, receive or copy copyright, sensitive or personal material via the internet unless it is encrypted.
- 5.10 You must not attach a scanned signature to an e-mail; there is a risk that such signatures can be accessed by others and attached to documents purportedly in the name of the Council.
- 5.11 You must not use the Council's facilities to post or send on the internet confidential information about the Council, or any of its partner agencies or associates; to engage in on-line gambling; to participate in chain letters; or to post or send defamatory or false information

6. **The internet and e-mail: legal issues**

- 6.1 Illegal use, including the posting or sending of information that may tend to disparage or harass others on the basis of gender, race, age, disability, religion, sexual orientation or national origin; or accessing, displaying or disseminating pornography or obscene material, is self-evidently unacceptable and will be referred to the police.

6.2 It is your responsibility to ensure that no computer supplied by the Council to you is used for such purposes by anyone else.

7. Use of the herefordshire.gov.uk address

7.1 The Council is statutorily prohibited from publishing material designed to affect public support for a political party. You may therefore not use your Council e-mail address (name@herefordshire.gov.uk) for this purpose nor, on a matter of controversy, to promote a point of view which is associated with a political party.

7.2 E-mails from your official address will be perceived as being associated with the Council and may get preferential treatment, or may be thought by the public to be seeking such treatment. You should not therefore use the address for placing orders and similar activity as a private individual.

7.3 IT Services will advise you on setting up a private e-mail account but the running of that account is then your personal responsibility.

ANNEX

1. Internet access

1.1 This is through:

- Council computers at Brockington
- A dial-up connection from a Council-installed computer at home
- Via an internet service provider (ISP) on a Council-installed computer at home

1.2 PCs must not be connected to the internet via any other route unless by agreement with the Head of ICT. If you install an ISP on your Council-provided PC you must follow the acceptable use requirements in [reference]

1.3 You will be given a unique user ID and password to access the internet via the Council link.

1.4 You should read and observe guidelines for the use of the internet (so-called "netiquette" which can be found on the internet at www.fau.edu/netiquette/net/).

1.5 Remember that the immediacy of e-mail can lead to misinterpretation and misunderstanding. Say nothing via e-mail that you would not be prepared to say in a letter; remember that e-mails are admissible in legal proceedings and could also form the basis of a complaint under the Code of Conduct. Be especially careful in forwarding e-mails; they may contain material which the sender would not wish to share with others. Return wrongly delivered messages to the sender.

1.6 You should delete messages from your in-box and "sent messages" at least weekly (or store them in a separate folder) to avoid overloading your mailbox.

1.7 It is helpful if you use the "out of office" function if you are not going to pick up messages for more than a day.

1.8 If you are sending complex graphics or large Power Point presentations via e-mail, you should compress them before sending. Advice is available from IT Services.

1.9 If you want to send an e-mail to “all users”, contact Members’ Services who will seek the agreement of the County Secretary and Solicitor.

2. **Virus Controls**

2.1 Council computers are installed with anti-virus and security software. Guidance on anti-virus software is available from the IT Support Unit.

2.2 You must not attempt to disable virus software.

2.3 If you are concerned about any incoming e-mail, consult the IT Services Helpdesk immediately on extension 0160.

3. **External connections**

3.1 Any individual external connection must be authorised by IT Services, who will assess risks and specify limitations on use.

3.2 The “firewall” between the Council internal network and the internet provides primary security. If you have an individual external connection, the machine used for external access must never be connected to the internal Council network.

4. **Monitoring**

4.1 The Council’s system records internet activity, including user name, date, time and site visited. The Council also reserves the right to inspect all files stored on their network and personal computers at any time, without notice.

4.2 If you accidentally connect to a site containing sexually explicit or offensive material, disconnect immediately. Inform the IT Services Helpdesk on extension 0610; they will arrange to block the site, and will record details of the incident for your protection.

PLANNING CODE OF CONDUCT - REVISIONS

Report By: County Secretary and Solicitor

Wards Affected

County-wide

Purpose

1. To review the Planning Code of Conduct in the light of recent case law.

Planning Code of Conduct – Appendix 13

2. As reported to Council by the Standards Committee at its January meeting, the Court of Appeal case (Richardson and Orme -v- North Yorkshire County Council) (recently upheld by the House of Lords) requires the Council to reconsider certain sections of the Planning Code of Conduct as currently drawn. In particular, the section dealing with **Applications in which a member of the Council has an interest**. The House of Lords has since confirmed the Judgement that Councillors are quire properly excluded from meetings where they have a prejudicial interest under agency laws. Whilst what ever a person has power to do himself he may do by means of an agent, the converse position similarly holds good that what a person cannot do himself he cannot do by means of an agent. Paragraph 39 which allows councillors to appoint an agent who can speak on their behalf in relation to individual applications therefore needs to be redrafted as follows.

“39. **You must take no part in the determination of the application. You must declare a prejudicial interest and leave the meeting and not seek to influence any decision made.** ~~You may, however, appoint an agent who can speak subject to Standing Order 5.11 (Public Speaking at Meetings of Planning Committee and Area Planning Sub-Committees) on your behalf.~~”

3. There are also some consequential tidying up amendments required to paragraphs 25, 26, 36 and 37 of the Planning Code of Conduct as follows:

“Material Submitted to Committee

25. If you receive material from or on behalf of an applicant or third party in connection with an application before a Committee you should establish from the Planning Officers whether the material has been received by them. If it has not, you should make it available as soon as possible to the Planning Service.
26. Relevant documents in connection with an application should all be dealt with in the officer's report to Committee. Any additional information received after the preparation of that report up to on the day before the Committee meeting will also be brought to the attention of the Committee if they raise new and relevant material planning matters. Papers received after that time will normally be discounted, since time will not be available to check their

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

accuracy or to give consideration to their implications.

Non Members of Planning Committee Attending Meetings

36. You may attend meetings of the Council's Planning Committees even if you are not a member unless you have a prejudicial interest. **You may speak but not vote on items under the procedures laid down in the Constitution.** When you attend any Planning Committee, you should not sit in the public gallery, but in the place reserved in the Committee room for Members of the Council who are not Members of the Planning Committee. When you speak at the meeting, either the Chairman of the Committee in calling upon the you to speak or you in speaking should make it clear upon what basis you are taking part in the meeting, and that you have no right to vote on the application concerned. The rules on declaring interests set out at paragraphs 27-30 of this Code apply at all times.

Decisions Contrary to Officer Recommendations or to Development Plan Policies

37. From time to time, there will be occasions when you or the Committee of which you are a member disagree with the professional advice on an application given by the Head of Planning Services. In such cases the reasons for differing from the professional advice received should be specified in the resolution of the Committee, along with the reasons for refusing an application recommended for approval or the conditions to be imposed on any approval in a case recommended by officers for refusal. The same provisions apply to decisions taken contrary to Development Plan policies. These cases will be referred to the Head of Planning Services for consideration as to whether the decision on the application in question should be referred to the main Planning Committee for determination in accordance with the Council's Constitution."

RECOMMENDATION

THAT the Standards Committee agree to recommend to Council the revisions proposed to the Planning Code of Conduct.

BACKGROUND PAPERS

- None identified.

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