

# A G E N D A

## Standards Committee

Date: **Friday, 17th June, 2005**

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Time: **2.00 p.m.**

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Place: **The Council Chamber,  
Brockington, 35 Hafod Road,  
Hereford**

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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, John Stone**  
**Richard Gething, John Hardwick (Parish Council Representatives)**  
**David Stevens (Independent Member)**

|                                                                                                                                                                                                                                                                                                                                           | <b>Pages</b> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| <p><b>1. WELCOME TO COUNCILLOR JOHN STONE</b></p> <p>To welcome Councillor John Stone, Vice Chairman of the Council, to the Committee.</p>                                                                                                                                                                                                |              |
| <p><b>2. APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>                                                                                                                                                                                                                                                           |              |
| <p><b>3. DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>                                                                                                                                                                                                    |              |
| <p><b>4. MINUTES</b></p> <p>To approve and sign the minutes of the meeting held on 1st April, 2005.</p>                                                                                                                                                                                                                                   | 1 - 12       |
| <p><b>5. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS</b></p> <p>To consider applications for dispensations received from Bartestree with Lugwardine Group Parish Council and from Mathon Parish Council, and any additional applications received prior to the meeting.</p> <p><b>Wards: County-wide</b></p> | 13 - 14      |
| <p><b>6. PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS</b></p> <p>To consider a revised protocol to guide Members in their use of Council resources.</p> <p><b>TO FOLLOW</b></p> <p><b>Wards: County-wide</b></p>                                                                                                                   |              |

**7. REVIEW OF ROLES AND RESPONSIBILITIES OF COUNCILLORS**

15 - 26

To seek the Committee's views on a proposed review of the roles and responsibilities of Members.

**Wards: County-wide**

**8. ANNUAL REPORT 2004/05**

To consider the Annual Report for 2004/2005

***TO FOLLOW***

**Wards: County-wide**

**EXCLUSION OF THE PUBLIC AND PRESS**

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.

**9. DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND 2004**

27 - 32

To update the Committee about determinations by the Standards Board for England in 2004/2005 concerning the County.

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

**10. REFERRAL FROM THE STANDARDS BOARD FOR ENGLAND**

To consider the attached report about a case referred to the Council by the Standards Board for England.

***TO FOLLOW***

**Wards: County-wide**

COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

**MINUTES of the meeting of Standards Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday, 1st April, 2005 at 2.00 p.m.**

**Present:** Robert Rogers (Chairman)  
Councillors: John Edwards and Peter Harling  
Independent Members: Richard Gething, John Hardwick and David Stevens

**In attendance:** Councillors R.M. Wilson

**44. APOLOGIES FOR ABSENCE**

There were no apologies for absence.

**45. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**46. MINUTES**

**RESOLVED (unanimously) that the minutes of the meeting held on 4 February 2004 be approved as a correct record and signed by the Chairman.**

**47. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS**

There were no applications for dispensations received.

**48. DRAFT PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS**

The Committee considered a draft protocol on the use of Council resources by Members. The requirement for such a protocol stemmed from the National Statutory Code of Conduct for Councillors, and the two key concerns and restraints related to (1) the prohibition on using council resources for political purposes; and (2) the use of ICT facilities and, in particular, access to the World Wide Web and the use of the Council Email address. The Standards Committee and the Council had considered previous drafts of the protocol. The County Secretary and Solicitor stated that whereas the previous protocol had attempted to address too many issues, this draft focused solely on ICT usage. Some members expressed concern about this, although they accepted that when the Council provided Councillors with ICT equipment at home, this exceeded their general undertaking to observe the Council's protocols, and instead became a separate legal relationship. It was this in part that the protocol was attempting to address.

In addition, the Member Development Working Group had made a series of recommendations, including one that the Standards Committee should ask the Standards Board for England to produce national guidelines on the issues involved.

Members noted that the Council had sought advice from the Standards Board towards the end of 2004, and they noted the Standards Board's response, which had not been as definitive as the Committee had hoped. Having considered the issues involved and the advice available, Members made the following key points:

- The Committee felt that the protocol should be clearly within the Committee's remit. For example, it should not address issues such as Data Protection or Licensing, which were clearly the business of other bodies. Nor should the protocol rely on other documents to support it; but should be free standing. For these reasons, Members were of the opinion that Sections 12, 13 and 14 should be removed from the draft protocol, and that it should be greatly simplified to contain just six or seven points on one sheet of A4.
- Members noted that the majority of other Local Authorities contacted on this issue made a small charge for limited personal use. The County Secretary and Solicitor confirmed that Councillors currently made a financial contribution for consumables (such as ink, toner cartridges and stationery items) supplied by the Council. Noting that paragraph 13.12 of the draft suggested an annual fee of £50.00 for reasonable private use (including email and the World Wide Web), Members felt that the Standards Committee should not decide on the matter of fees, because this was neither a standards nor an ethical matter. Instead, the fee should be dealt with separately and revised as necessary.
- The Committee agreed that, if the protocol laid out specifications for political use, particularly in relation to email addresses, Councillors must sign up to it individually. Likewise, all Councillors would be consulted on the draft protocol before it was adopted.
- Members felt that personal use of ICT equipment would be too difficult to monitor, and therefore, the protocol should state that *modest* personal use of ICT equipment was acceptable. A separate email account and address, which were distinguishable from the official Council's, would be used for this purpose. The protocol should also specify that no use of equipment by anyone other than the Councillor would be permitted (e.g. family members). This would help to prevent any breaches of security in respect of confidential Council data.
- The exact written advice given by the Standards Board in respect of personal/political use, in Paragraph 8 of the report (3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> sentences of the quote from the Standards Board) should be reproduced in the protocol. The Committee would also continue to encourage the Standards Board to issue national guidelines on this subject area.
- Paragraph 5 of the Council's Code of Conduct would be used as a foreword in the protocol document, so that Councillors were clear about their obligations.

**RESOLVED: (unanimously) that the draft ICT protocol for Members be revised as outlined in the above bullet points, and used as a consultative document for individual councillors, and thence for adoption by the Council.**

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

The County Secretary and Solicitor presented her report on the National Review of the Code of Conduct for members. The Minister of State for Local and Regional Government had asked the Standards Board to conduct a review of the Code's content, with the aim of ensuring that it was easily understood, and took account the realities of serving local communities as a member of a local authority.

The Standards Board was in the process of consulting all local authorities, and the Committee considered the consultation document. Responses were required by 17 June 2005, which would give the Standards Board time to make its recommendations to the Government over the summer period. Members also noted that the Hereford and Worcester Fire and Rescue Authority's response had been appended to the report as a helpful reference.

The Standards Committee drafted a response to the consultation, and this is attached to the minutes as Appendix A.

**RESOLVED (unanimously) that the response set out in Appendix A to the minutes, be approved and submitted to the Standards Board before 17 June 2005.**

**50. LOCAL INVESTIGATIONS AND DETERMINATIONS**

Members considered a report in respect of new powers of local investigation of complaints. The new regulations allowed for local investigations to be carried out by or on behalf of Council Monitoring Officers, and this would mean that up to 50% of investigations would be carried out locally. The basic process remained the same in most respects, with the major change being that ESOs now had powers to refer a particular allegation locally.

The Committee noted the guidance available for deciding about local referrals, and the increased sanctions that were available to Standards Committees.

**RESOLVED (unanimously) that the Standards Committee (a) adopts the approach to the new powers of local investigation as set out in the report (b) notes the extension of the sanctions available to it within local determinations and (c) authorises the County Secretary and Solicitor to update the Committee's procedure for local determinations.**

**51. PARISH COUNCILS**

The Committee considered a report, and the Standards Board open paper 04/219: "Problematic Parishes", which outlined the work of the Standards Board in relation to supporting the local parish council sector in compliance with the Code of Conduct. In particular, members noted Paragraph 44 of the paper, which set out proposed practical measures to support Parish Councils. These included developing diagnostic tools, and early warning and prevention strategies for parishes, and working with the National Association of Local Councils and Standards Committees to develop good practice.

Members made the following principal comments:

- the Standards Committee felt that its support role was generally perceived as assigning responsibility for following up any action after hearings, and for ensuring that sufficient training and education was available to local councils and clerks, to prevent the problems envisaged from arising. Members felt that the best approach was to work in partnership with the Herefordshire Association of Local Councils (HALC).
- In Herefordshire, it was important that the roles of the Standards Committee, HALC, and the Monitoring Officer were complementary, but also clearly differentiated so that it was clear which body to go to for advice.
- It was noted that the Chairman would shortly be meeting with HALC and the County Secretary and Solicitor to discuss what sort of training was required and which would benefit from it. The Committee suggested that the next local council Chairs' and Clerks' event should be targeted to assist and to clarify roles. Mr Richard Gething said that he would provide figures on which local councils had attended various types of training over the previous two years, for risk management purposes.

**RESOLVED (unanimously) that (a) the Standards Committee notes the work that the Standards Board for England is pursuing in relation to parishes and (b) the action listed in the bullet points above be pursued in partnership with the Herefordshire Association of Local Councils.**

## **52. NOTIFICATION OF FINANCIAL AND OTHER INTEREST FORM**

Members reviewed the Notification of Financial and Other Interests form, currently submitted to the Monitoring Officer by all town and parish councillors within 28 days of their election. The requirement for the review had stemmed from a recent Standards Committee Hearing, when it had been suggested that more guidance should be given to clarify what needed to be put on the form, particularly in relation to Section 6 (beneficial interests in land).

Members felt that "land" in Section 6 should be expanded to include Residence, Buildings, and Property, and should also record whether the councillor was an owner, tenant or licensee. Members recognised that some councillors might not wish to disclose commercial interests in some land (particularly agricultural), but commented that declaration was essential nonetheless and outweighed all other concerns. The Chairman said that he would clear the exact wording with Committee members by email after the meeting, and the form would be changed when all of them had responded and were in agreement.

In addition, the County Secretary and Solicitor suggested that there was merit in putting an article in the HALC Newsletter, prompting all town and parish councillors to update their interests on the Register.

**RESOLVED (unanimously) that (a) additional guidance be included on the Notification of Financial and Other Interests form to ensure that councillors are clear about what needs to be disclosed (b) the wording of the guidance be agreed by Members via email after the meeting and (c) HALC be requested to include an article in its newsletter, reminding town and parish councillors to update their interests on the Register.**



**53. DATES OF NEXT AND FUTURE MEETINGS**

The Committee noted the dates of future meetings and agreed to a change of date in June 2005 as follows:

- Friday 17 June 2005
- Friday 7 October 2005
- Friday 2 December 2005

**54. URGENT ITEM OF BUSINESS - WEST MERCIA INDEPENDENT MEMBERS' FORUM**

In accordance with Paragraph 5.8.3.1. of the Constitution, the Chairman agreed that the following item of business would be considered as a matter of urgency on the grounds that the Committee was required to make a decision about Independent Members' attendance at the West Mercia Independent Members' Forum.

Members considered the minutes of the Forum meeting held on 10 March 2005. Mr David Stevens, who had attended the meeting, referred Members to the resolution on page 7 of the minutes, as follows:

“WMF 6 IS A FORUM NEEDED?”

The following points were agreed:

1. that the West Mercia Independent Standards Committee Member Forum should continue to meet;
2. that, from time to time, it would be appropriate to invite Monitoring Officers to meetings;
3. that the merits of, on occasion, holding meetings of the Forum to include elected members be recognised;
4. that meetings be held biannually, a summer meeting to be held in an evening and a winter meeting to be held in an afternoon;
5. that the meetings of the Forum remain informal without the need for any written Constitution at this time;
6. that the host authority meet any administration charges resulting from the meeting it hosts (including staff time, postage, refreshments etc) and provide staff to service the meeting;
7. that Mr Peter Rowland remain as the central contact point for the Forum at the current time but that the election of a Forum chairman be considered at the next meeting. “

Whilst acknowledging the possibility that meetings of this nature might be viewed as divisive, the Committee noted that 90% of those attending had backed the resolution, and that the Standards Board representative was in favour of independent Members meeting together to share information and ideas.

The Committee felt that it would be beneficial for its Independent Members to attend the Forum on a regular basis, to monitor it and keep abreast of the information and ideas exchanged there.

**RESOLVED (unanimously) that the Committee endorses the attendance of its Independent Members at the West Mercia Independent Standards Committee Member Forum**

**RESOLVED: (unanimously) that under section 100(A) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of information relating to the financial or business affairs of a particular person (other than the Authority)**

**55. DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND 2004/05**

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 decided that the report be noted and that the County Secretary and Solicitor be authorised to request the Standards Board to finalise as a matter of urgency, a case outstanding from October 2003.

**56. REVIEW OF STANDARDS COMMITTEE HEARINGS**

Members reflected on the first two Standards Committee Hearings. In particular, they expressed concern at the level of sanctions available to them, which they deemed insufficient, especially in view of the level of costs incurred per hearing by the Council and the Standards Board. In addition, the sanctions did not differentiate between County Councillors, who met frequently, and some parish Councillors who might meet only four times a year. It was clear that the sanctions would have a greater impact on the former rather than the latter, and therefore, that there was some inequality in this situation. The Committee felt that these points should be raised at the Annual Assembly of Standards Committees later in the year.

The County Secretary and Solicitor said that there was now provision for referring cases back to the Standards Board when they were deemed sufficiently severe, but it was limited to whether the ESO would allow it. It was decided that the Committee's concerns about sanctions be raised at the Annual Assembly of Standards Committees in 2005 and that the Standards Board be asked to investigate whether a parish councillor had breached the Code of Conduct with his editorial in a local newsletter.

**57. COUNCILLOR PE HARLING**

The Committee noted that Councillor Peter Harling would be retiring as Chairman of the Council at the end of the municipal year. All Members paid tribute to his outstanding contribution to public service and in particular to the Standards Committee. Members acknowledged his important role in giving the Committee authority, and thanked him for his support and his sound judgement.

The meeting ended at 3:45 p.m.

**CHAIRMAN**

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RESPONSE OF HEREFORDSHIRE STANDARDS COMMITTEE TO STANDARDS BOARD FOR ENGLAND CONSULTATION ON THE LOCAL GOVERNMENT CODE OF CONDUCT

| NO                                      | ISSUE                                                                                                                                                                                                                                | RESPONSE                                                                                                                                                                                 |
|-----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>The general principles</b>           |                                                                                                                                                                                                                                      |                                                                                                                                                                                          |
| 1                                       | Should the ten general principles be incorporated as a preamble to the Code of Conduct?                                                                                                                                              | Agreed – this will reinforce and assist in interpreting standards and be helpful in Member training on the Code.                                                                         |
| 2                                       | Are there any other principles which should be included in the Code of Conduct?                                                                                                                                                      | No.                                                                                                                                                                                      |
| <b>Disrespect and freedom of speech</b> |                                                                                                                                                                                                                                      |                                                                                                                                                                                          |
| 3                                       | Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?                                                                                                                            | The broad test is appropriate.                                                                                                                                                           |
| 4                                       | Should the Code of Conduct include a specific provision on bullying?<br><br>If so, is the ACAS definition of bullying quoted in the full consultation paper appropriate for this?                                                    | <b>No</b><br><br>No. The overall existing statement already covers the matter of bullying. It is better not to be too specific on the definition, because this might lead to exclusions. |
| <b>Confidential information</b>         |                                                                                                                                                                                                                                      |                                                                                                                                                                                          |
| 5                                       | Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?                                                        | No – these are matters for common sense mitigation should a breach be found.                                                                                                             |
| 6                                       | Do you think the Code of Conduct should cover only information which is in the law “exempt” or “confidential”, to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully? | No – again, these are matters for common sense mitigation should a breach be found.                                                                                                      |
| <b>Disrepute and private conduct</b>    |                                                                                                                                                                                                                                      |                                                                                                                                                                                          |
| 7                                       | Should the provision relating to disrepute be limited to activities undertaken in a member’s official capacity or should it continue to apply to certain activities in a member’s private life?                                      | It should continue to apply to certain activities in a member’s private life.                                                                                                            |

|                                |                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8                              | If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?                        | Broad provision.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Misuse of resources</b>     |                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 9                              | We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?                 | Yes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 10                             | If so, how could we define "inappropriate political purposes"?                                                                                                                                        | It is important that there is a national standard. This would amongst other things provide clarity for Members who serve on more than one Authority.<br><br>The LGA86 provision means that "inappropriate political purposes" in terms of seeking "to affect support for a political party" includes e-mails on party matters. This is part of the political process; not only would it be impractical to bar this activity, but it would bring such a prohibition into disrepute. There must be a means of distinguishing between use of (e.g.) publicly supplied stationery for party purposes -- clearly unacceptable -- and the use of ICTs where a marginal cost cannot be identified and a bar would be impossible to police. |
| 11                             | Is the Code of Conduct right not to distinguish between physical and electronic resources?                                                                                                            | Yes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Duty to report breaches</b> |                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 12                             | Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members be retained in full, removed altogether, or somehow narrowed?                      | See 13 below                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 13                             | If you believe the provision should be narrowed, how would you define it? For example, should it apply only to misconduct in a member's public capacity, or only to significant breaches of the Code? | It should apply to breaches which are serious, significant or material.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 14                             | Should there be a further provision about making false, malicious or politically-motivated allegations?                                                                                               | There should be a provision making it a breach of the Code to make <i>knowingly false</i> allegations, which should be capable of objective proof, but we think                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

|                              |                                                                                                                                                                                                                       |                                                                                                                                       |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
|                              |                                                                                                                                                                                                                       | that judging malice and political motivation would often involve subjective judgements and be difficult to police.                    |
| 15                           | Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately? | No further provision needed.                                                                                                          |
| <b>Personal interests</b>    |                                                                                                                                                                                                                       |                                                                                                                                       |
| 16                           | Do you think the term "friend" requires further definition in the Code of Conduct?                                                                                                                                    | No. This is a matter which is better dealt with through guidance, as issued by the Board, using a common sense definition of "friend" |
| 17                           | Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority's area?                                            | No.                                                                                                                                   |
| 18                           | Should a new category of "public service interests" be created, relating to service on other public bodies and which is subject to different rules of conduct?                                                        | Yes.                                                                                                                                  |
| 19                           | If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?                                                   | Yes.                                                                                                                                  |
| 20                           | Do you think paragraph 10(2)(a-c), which provides limited exemption from the prejudicial interest rules for some members in certain circumstances, should be removed from the Code of Conduct?                        | No.                                                                                                                                   |
| 21                           | Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?                                                              | Yes. But for public service only, not for charities and lobby groups.                                                                 |
| <b>Prejudicial interests</b> |                                                                                                                                                                                                                       |                                                                                                                                       |
| 22                           | Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?                                                                                         | Yes, but only to give the views of constituents (if any).                                                                             |
| 23                           | Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing                                                                                       | Yes.                                                                                                                                  |

|                                  |                                                                                                                                                                                   |                          |
|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
|                                  | from the vote?                                                                                                                                                                    |                          |
| <b>Registration of interests</b> |                                                                                                                                                                                   |                          |
| 24                               | Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?                    | No                       |
| 25                               | Should members be required to register membership of private clubs and organisations?<br><br>And if so, should it be limited to organisations within or near an authority's area? | Yes<br><br>No            |
| <b>Gifts and hospitality</b>     |                                                                                                                                                                                   |                          |
| 26                               | Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?                                                                         | Yes.                     |
| 27                               | Should members also need to declare offers of gifts and hospitality that are declined?                                                                                            | No.                      |
| 28                               | Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?      | Use an annual threshold. |
| 29                               | Is £25 an appropriate threshold for the declaration of gifts and hospitality?                                                                                                     | Yes.                     |



**5 DISPENSATIONS TO TOWN AND PARISH COUNCILS****Report By: County Secretary and Solicitor****Ward Affected**

Old Gore

**Purpose**

1. To consider applications for dispensations received from Bartestree with Lugwardine Group Parish Council and from Mathon Parish Council.

**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. A request has been received from Bartestree with Lugwardine Group Parish Council for Councillor N Alexander to be granted dispensation in place of former Councillor T. Rowberry in respect him serving as a Trustee for Bartestree Village Hall, a registered charity. Mr Rowberry was one of 11 parish Councillors who were granted dispensation by the Committee on 15 October 2004.

9. Mathon Parish Council has submitted a request for Councillors S Harte, S Thetford, R Thomas and N Walker to be granted dispensation because they serve as Trustees on Mathon Village Hall Management Committee, a registered charity. The Parish Council currently comprises only 6 Councillors and the request fulfils the criteria for a dispensation to be granted.

**RECOMMENDATION**

- THAT (a) that the requests for dispensation received from Bartestree with Lugwardine Group Parish Councillor and from Mathon Parish Council outlined above be granted; and**
- (b) consideration be given to any other requests for dispensation received prior to the meeting.**

**BACKGROUND PAPERS**

- Letter from Bartestree with Lugwardine Group Parish Council dated 21 May 2005 and letters from Mathon Parish Councillors dated 2, 4 and 12 April 2005.

## **7 ROLES AND RESPONSIBILITIES OF MEMBERS**

**Report By: County Secretary and Solicitor**

### **Wards Affected**

County-wide

### **Purpose**

1. To seek the Committee's views on a proposed review of the roles and responsibilities of Members.

### **Background**

2. The Council's Constitution, which was adopted in July 2001, includes details of the roles and responsibilities of Members as set out in the appendices which are attached to this report.
3. Since 2001 revisions and updates have been made to the Constitution in relation to operational experience and changes to legislation but a review has not yet been undertaken of the information included in the appendices.
4. As part of its role to promote and maintain high standards of conduct by the Members of the Council, the Committee has undertaken a number of reviews of Constitutional matters to help assist them to observe the Councillors' Code of Conduct and related issues.
5. The current Corporate Performance Assessment will include an examination of the capacity of the Council to deliver what it sets out to achieve and whether there is clear accountability in decision making leading to continued improvement. The inspectors will be looking for evidence as follows:
  - roles and responsibilities of Officers and Members for taking decisions are clear;
  - the decision making process is transparent and results in relevant actions;
  - full account is taken;
  - the opportunity is taken to continue planning the delivery and review of service provision;
  - there are protocols and procedures for conflict resolution within and between partners and organizations;
  - decisions are made in time for action to be taken to meet priorities; and
  - Members and Officers work effectively within the ethical framework.
6. If it is decided to proceed with a review, the views of the Group Leaders and the Constitutional Review Working Group will need to be sought.

## RECOMMENDATION

**THAT the Committee considers whether to undertake a review of the appendices to the constitution attached to this report as set out above.**

## BACKGROUND PAPERS

- The Constitution.

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

# COUNCILLORS' PROTOCOL

## Key Roles

- To participate in the good governance of Herefordshire;
- To contribute to the formation and scrutiny of the Council's policies, strategies, budget and service delivery;
- To represent the interests of their Ward and respond to enquiries and representations from local people;
- To lead on proposals relating to the best interests and sustainability of the local community;
- To represent the Council on outside bodies, especially in your local area.
- To develop and maintain good and effective working relationships with the Council's executive, the scrutiny committee chairmen and relevant officers of the Council;

## Key Rights and Duties

- To fulfil all requirements of an elected Member of the Council, including maintaining the highest standards of conduct and ethics and compliance with all the relevant codes of conduct;
- To participate in those decisions and activities reserved to the full Council;
- To participate as a member of any scrutiny, regulatory, area or other committee to which you are appointed;
- To develop and maintain a sound level of working knowledge of the Council's policies generally and, in particular, in relation to committees to which you are appointed and your local area and to participate in the work of the relevant Local Area Forum in considering local views on the impact of those policies and proposals on the local area as well as responding to consultations;
- To participate in all relevant consultative processes with the local community and with other organisations (including local town and parish councils);
- To develop and maintain a working knowledge of the local community and to represent the Council to the local community and the local community to the Council and to contribute to this by participating on local outside bodies;
- To participate in the scrutiny or performance review of the services provided by the Council, including the scrutiny of policies and budgets, and their effectiveness in achieving the strategic objectives of the Council, whether through full Council and scrutiny committee meetings or other means.



## THE ROLE OF THE CHAIRMAN OF THE COUNCIL PROTOCOL

1. **Ceremonial Role** - The Chairman is the ceremonial head of the whole Council and its countywide representative at civic and social occasions. The office is an important one created by statute confirming social precedence on the office holder in carrying out the ceremonial and standing order duties of the office. The role is separate from that of the Leader of the Council who is the political head of the Council and will speak for the Council on all aspects of policy and executive business. To support the Chairman in the ceremonial obligations of the office, the law provides for the Chairman to be paid a specific allowance, as the Council thinks reasonable. The Chairman has considerable discretion in exercising the ceremonial aspects of the office.
2. **Apolitical Role** - It is important that the Chairman maintains an apolitical stance especially when chairing Council meetings. At common law, the duties of the Chairman are “..... to preserve order, to take care that the proceedings are conducted in a proper manner and that the sense of the meeting is properly ascertained with regard to any question that is properly before the meeting” Chitty J. (High Court 1894). Subsequent judgements have confirmed this approach and the requirement that the Chairman must act entirely neutrally allowing different opinions to be fully and fairly presented and debated subject to Standing Orders.
3. **Chairman’s Announcements** - Any Group Leader may approach the Chairman before a Council meeting to suggest items for the Chairman to use in making announcements to full Council. The Chairman has complete discretion as to which items he or she may think appropriate to announce.
4. **Rules of Debate** - The Chairman’s role in conducting meetings is to enforce rigorously the rules of debate as set out in Standing Orders. Whilst there may be occasions when it is appropriate for Standing Orders to be relaxed, experience demonstrates that this be kept to an absolute minimum to ensure fairness to every political group.
5. **Calling on Members to Speak in Debate** - It is important the Chairman demonstrates political neutrality in deciding on who and in what order Members should be allowed to contribute to a debate. This will be the case especially during contentious debate when time may not allow all who wish to contribute. If so, speakers should be called broadly in accordance with the political proportionality on the Council before a debate is closed.
6. **Involvement of Leader, Cabinet Members, Chairmen of Scrutiny Committees in Debate** - The Chairman needs to involve leading members in debates which relate to their functions before closing a particular debate subject to the overriding rules of Standing Orders. A useful rule of thumb would be to allow the appropriate executive member or committee chairman to have the penultimate speech to ensure Council is fully advised on any item before a debate is formally concluded and a vote taken. [This would generally only apply when a Motion is moved and then debated because in all other circumstances the mover of the report before Council would be the relevant leading Member.]

7. **Casting Vote** - The Chairman has a casting vote and it is essential that this is exercised in the event of a tie at a Council meeting. There is no convention that the Chairman should seek to vote to protect the status quo. The law requires that the Chairman has complete freedom of conscience in exercising his or her casting vote and it is important that that discretion is not seen to be fettered.
  
8. **Chairman's Personal Views and Representational Role** - It should not normally be part of the Chairman's role to comment on matters before the Council in a way which supports or opposes the issue before Council. On limited occasions this may be necessary either because of the Chairman's duty to represent his or her constituents or where personal views are strongly felt.



# STRATEGIC MONITORING COMMITTEE CHAIRMAN'S PROTOCOL

## Summary of Role

- To chair the Strategic Monitoring Committee and ensure and co-ordinate the effective conduct of business;
- To ensure he/she is sufficiently and effectively briefed on the Policy and Finance Programme Area;
- To ensure and co-ordinate effective scrutiny of the Council's policies, plans and activities and to lead in the preparation of the Council's overview and scrutiny work programme;
- To undertake, in addition, all the duties specified in the Councillor's Role Description.

## Key Responsibilities

- To lead on the scrutiny of policy and strategic issues and executive recommendations affecting the Policy and Finance Programme Area;
- To lead on the decisions, responses or recommendations, post scrutiny, to the Council, the Executive or relevant officers;
- To lead on the scrutiny of budget plans, policy or strategy;
- To lead in the provision of advice to the executive on major issues or policies before final recommendations are made (by the executive) and to co-ordinate and regulate reports to the Executive by the Scrutiny Committees;
- To co-ordinate the exercise of the call-in powers under Sections 21 (3) (a) and (b) of the Local Government Act 2000;
- To lead on the review of policy, strategy and budget decisions and any consequent proposals for changes or amendments to policies or practices to the Council or the Executive, as appropriate, in pursuit of the achievement of best value;
- To lead on the scrutiny of external reports on performance;
- To lead on identifying cross-cutting strategy issues and ensuring a corporate approach to scrutiny in such areas;
- To lead in identifying the annual Best Value Review Programme and in reporting to the Executive and Council on those reviews;
- To ensure the effective and orderly operation of the Strategic Monitoring Committee;
- To lead in ensuring that appropriate information, training and guidance is available to non-executive members in scrutinising the particular service or corporate area;
- To meet regularly with relevant officers to ensure the receipt of appropriate "independent" advice to inform effective scrutiny and the functioning of the committee;

- To ensure regular contact with non-executive councillors, community representatives and local stakeholders to inform effective scrutiny of policies, strategies, budgets and performance;
- To contribute effectively to the Council's scrutiny process by ensuring the questioning of the relevant Cabinet Members on the development of policy and strategies and performance against such strategies and policies, whether at the committee, the Council or by other means.

# SCRUTINY COMMITTEE CHAIRMAN'S PROTOCOL

## Summary of Role

- To chair the Scrutiny Committee to which he/she is appointed and ensure and co-ordinate the effective conduct of business;
- To ensure he/she is sufficiently and effectively briefed on the service and relevant corporate areas, and issues pertaining to those areas;
- To ensure effective consideration and scrutiny by the committee of recommendations, proposals and decisions of the Cabinet and officers, or any other reports on the performance of the service or relevant programme area;
- To undertake, in addition, all the duties specified in the Councillor's Role Description.

## Key Responsibilities

- To lead on the scrutiny of policy and strategic issues and executive recommendations affecting the Programme Area(s);
- In liaison with the Strategic Monitoring Committee to make responses or recommendations, post scrutiny, to the Council, the executive or relevant officers;
- To lead on the scrutiny of external reports on the performance of the monitored Programme Area;
- To ensure the effective and orderly operation of the particular scrutiny committee;
- To meet regularly with relevant officers to ensure the receipt of appropriate "independent" advice to inform effective scrutiny and the functioning of the scrutiny committee;
- To ensure regular contact with non-executive Councillors, community representatives and local stakeholders to inform effective scrutiny of policies, strategies, budgets and performance;
- To contribute effectively to the Council's scrutiny process by ensuring the questioning of the relevant Cabinet Member on the development of policy and strategies and performance against such strategies and policies, whether at the scrutiny committee, the Council or by other means.



# COMMITTEE CHAIRMAN'S PROTOCOL

## Summary of Role

- To chair one of the Committees appointed by the Council (other than a Scrutiny Committee);
- To ensure he/she is sufficiently and effectively briefed on the issues within the Committee's terms of reference;
- To ensure and co-ordinate effective conduct of the Committee's business;
- To undertake, in addition, all the duties specified in the Councillor's Role Description.

## Key Responsibilities

- To ensure the Committee operates effectively and has regard to the advice of the relevant officers in respect of the Committee's powers and remit;
- To ensure that when fulfilling any of its quasi-judicial responsibilities the Committee follows approved procedures adhering to the rules of natural justice, the provisions of the European Convention on Human Rights and all other legal requirements having regard to the advice of the relevant officers;
- To lead on recommendations to the Council, the executive or relevant officers in respect of the Committee's business and operation;
- To lead in ensuring that appropriate information, training and guidance is available to Members in respect of the Committee's responsibilities;
- To ensure the effective and orderly operation of the particular committee;
- To meet regularly with relevant officers to ensure the receipt of appropriate advice to inform effective functioning of the committee;
- To liaise with Members of the Council not on the Committee about the Committee's operation and effectively represent the work of the Committee to the community and take account of the views of community representatives and other local stakeholders with regard to the Committee's operation.



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