

MINUTES of the meeting of Standards Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday, 12th January, 2007 at 2.00 p.m.

Present: Robert Rogers (Independent Member)(Chairman)

Councillor John Stone
David Stevens (Independent Member)
Richard Gething (Parish and Town Council Representative)
John Hardwick (Parish and Town Council Representative)

In attendance: Councillor R.M. Wilson

98. APOLOGIES FOR ABSENCE

Apologies were received from Councillor John Edwards.

99. DECLARATIONS OF INTEREST

The following declarations of interest were made:

Member	Item	Interest
Mr John Hardwick	Agenda Item 12 (REFERRAL TO THE STANDARDS COMMITTEE FROM THE STANDARDS BOARD FOR ENGLAND)	Declared a prejudicial interest and, after the initial vote to form a Sub-Committee, left the meeting for the duration of this item.
Councillor John Stone	Agenda Item 12 (REFERRAL TO THE STANDARDS COMMITTEE FROM THE STANDARDS BOARD FOR ENGLAND)	Declared a prejudicial interest and, after the initial vote to form a Sub-Committee, left the meeting for the duration of this item.

100. MINUTES

The Democratic Services Officer circulated an updated version of the minutes, containing some typographical corrections, and a slight re-wording of the resolution in respect of Minute 88 (HEARINGS: DRAFT GUIDANCE FOR PARTICIPANTS). Members considered this draft, and not the draft in the agenda.

RESOLVED: (unanimously) that the minutes of the meeting held on 20 October 2006 be approved as a correct record and signed by the Chairman.

101. DISPENSATIONS REGULATIONS

Members considered a report outlining advice issued by the Standards Board for England (SBE) in respect of the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002. The Committee had decided that it was necessary to seek further advice, following a number of requests for dispensations from town and parish councils, where the number of members seeking the dispensation comprised less than 50% of the membership. The Committee felt that the wording of 3(1)(a)(i) of the Regulations was ambiguous, and questioned the exact meanings of the words “entitled” and “required”, in the phrase “where the number of councillors that are prohibited from participating in the business of the council exceeds 50% of those who are entitled or required to participate”. Members had interpreted “entitled” as referring to the whole membership, but had been uncertain about whether “required” word might be a reference to a quorum.

The Committee noted that the advice from the SBE was not definitive, and did not relate to any specific situation. The SBE had expressed an opinion that the wording did not refer to a quorum in general, and that “entitled” meant all members (including co-optees) who were on a particular committee. The advice suggested that the word “required” was intended to enable a dispensation to be granted by the Standards Committee, which would only be effective if non-attendance of the member in question would mean that the meeting could not take place.

Furthermore, the SBE agreed that the Regulations were ambiguous, and that it was a matter for the Standards Committee to interpret them as best it could. The SBE said that it was unlikely that an Ethical Standards Officer would challenge any reasonable interpretation of the Regulations. The SBE had also suggested that the Department of Communities and Local Government might offer a more definitive interpretation of the Regulations, being the body which succeeded the Office of the Deputy Prime Minister, which had drafted them.

The Chairman suggested that he might write to the Minister (Phil Woolas) to pursue the question of ambiguity, and to the Parliamentary Joint Committee on Statutory Instruments to see whether this point was taken when the Regulations were considered by them. The Committee agreed.

The Committee felt that the most practical approach to interpretation was to consider the Regulations’ overall aim, which was to ensure that town and parish council business could proceed unimpeded. It was also important to acknowledge that all town and parish councils in the position of requesting a dispensation were openly attempting to do what was right, and adhere to the Code of Conduct. Bearing these factors in mind, members decided that a dispensation might be granted when the application was for less than 50% of the membership, if a decision not to grant the dispensation would mean that the town or parish council would not be able to transact its business efficiently. The Committee emphasised that each application would be considered on its own merits, however, and that no blanket rule would apply.

During consideration of this item, Members amended the Application Form for a Dispensation so that it required more detailed information.

RESOLVED: (unanimously) that

- (i) the advice from the SBE be noted;**

- (ii) each application for a dispensation be considered on its own merits, and if appropriate, the Standards Committee grant a dispensation to a town or parish council for less than 50% of the membership, if not to do so would mean that the town or parish council would be unable to transact its business effectively; and
- (iii) the Application Form for a Dispensation be amended, to ascertain the following:
 - What is the membership of the council?
 - What is the quorum of the council?
 - How is business being impeded in the absence of a dispensation (for example, a village hall matter where some members are currently exempt because they are village hall trustees)?
 - Are there any other factors which might help the Standards Committee to reach a decision?

102. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILS

The Committee considered a report outlining an application for a dispensation received from Welsh Newton and Llanrothal Parish Council.

The application was from three out of the seven members of Welsh Newton and Llanrothal Parish Council, in relation to Welsh Newton Village Hall. It therefore amounted to less than 50% of the Parish Council membership. In the light of their earlier decision (Minute 101) Members decided to grant the application, having taken into account the fact that the parish council membership was comparatively small, and that, without the dispensation, it would not be able to transact its business effectively.

RESOLVED: (unanimously) that the requests for dispensation in relation to Welsh Newton Village Hall, received from Ms Elissa Swinglehurst, Mr John Lane, and Mrs Moria Cox of Welsh Newton and Llanrothal Parish Council, be granted until 12 January 2011.

103. HEARINGS: DRAFT PROCEDURE GUIDES

Members noted the implications of the judgment of Mr Justice Collins in a High Court appeal in which he found for the Mayor of London, Mr Ken Livingstone. The ruling by Collins J meant that a more restrictive view must now be taken about when the Code of Conduct can apply to the actions of a member. The aim of the ruling was to entitle a member holding a public office to behave differently in private and in public life. It was likely that Clause 134 of the Local Government and Public Involvement in Health Bill would give statutory effect to the High Court ruling, however. In the interim, the High Court ruling would need to be followed if the Standards Committee had to consider a similar case.

The Committee also considered the finalised document “Brief for Those Attending a Standards Committee Hearing” and a second draft of a procedure note for officers entitled “Local Hearing Procedure Guidance Note”. The two documents together provided comprehensive hearing guidance for everyone involved. All of the guidance would be finalised as soon as possible after the meeting to enable its use, should a hearing arise in the near future.

RESOLVED: (unanimously) that

- (i) the judgment of Mr Justice Collins in the High Court appeal by the Mayor of London be noted; and**
- (ii) the comprehensive procedure guidance in respect of local determination hearings be finalised as soon as possible and used in any future hearings.**

104. STANDARDS COMMITTEE ANNUAL REPORT

The Committee considered a second draft of the Standards Committee Annual Report for 2006, and made some corrections to it. In view of the Committee’s special position in relation to the Council, it was agreed that the report should be produced as a freestanding document, in a distinctive format.

During consideration of the Annual Report under “OUTLOOK FOR 2007: Website”, the Chairman reported that he had had a meeting with Ms Ellen Pawley, Knowledge Manager, and Ms Rebecca Dickens, Knowledge and Content Coordinator, both of ICT Services. They had discussed creating a section on Standards and Ethics on the Council’s website, and had a creative approach to providing information to the public and raising the profile of this key issue. The section would also elaborate on the Committee’s role and offer links to minutes, hearings, policies, guidance and various Codes, and to other useful websites such as the Standards Board for England and the Herefordshire Association of Local Councils.

RESOLVED: (unanimously) that

- (i) the revised Standards Committee Annual Report 2006 be published as a freestanding, distinctive document, for issue to Councillors, stakeholders and other interested organisations; and**
- (ii) the progress made on putting standards and ethics issues on the Council’s website be noted, and the draft web pages be circulated to members by email for comment.**

105. HEREFORDSHIRE CODE OF CORPORATE GOVERNANCE

The Head of Legal and Democratic Services apprised members of progress made on revising the Council’s Code of Corporate Governance. Mr Robert Blower, Head of Communications, had made notes on the amendments proposed by the Standards Committee, particularly in relation to Paragraph 42 of the document. In addition, he had consulted other authorities in order to make comparisons. He had indicated that the amended Code would be completed within the next few days and would then be ready for the Committee’s consideration.

Members requested the Head of Legal and Democratic Services and the Democratic Services Officer to circulate the revised Code by email and co-ordinate any subsequent comments and amendments. The Chairman would write to Mr Blower

on behalf of the Committee once the process had been completed.

RESOLVED: (unanimously) that the Code of Corporate Governance, as revised by the Head of Communications, be considered by the Standards Committee by email, and that the Chairman convey its comments and amendments to him.

106. PURDAH PERIOD AND GUIDANCE IN RESPECT OF 2007 ELECTIONS

The Head of Legal and Democratic Services reported on the statutory requirements relating to Council publicity in the period between the notice of election being issued and the date of the election, normally referred to as "purdah". The County and Parish/Town council election date was 03 May 2007, and the purdah period would begin on 27 March 2007.

The Local Government Act 1986 and the Secretary of State's "Code of Recommended Practice" provided guidance on local authority publicity during the purdah period. Mr McLaughlin had drafted guidance for members and officers in the run-up to the 2007 elections, and he asked for the Committee's comments on the document. In addition, the report contained the Council's leaflet "Thinking of Becoming a Herefordshire Councillor?", which was available to all potential election candidates via the internet, Info Shops, Council receptions, libraries and post offices.

Mr Richard Gething felt that it would be beneficial to include town and parish councils in the guidance, and the Head of Legal and Democratic Services said that he would liaise with HALC and suggested issuing a separate, one-page leaflet with link to website page where the Guidance would be placed.

In answer to a question, the Head of Legal and Democratic Services said that he, and the Chief Executive as the Returning Officer, would deal with any breaches of purdah rules in the first instance, although it was also possible that referrals would be made to the Standards Board or the Electoral Commission.

RESOLVED: (unanimously) that

- (i) the guidance for members and officers in the run-up to the 2007 elections be approved, and a separate guidance leaflet be issued to town and parish councils; and**
- (ii) the leaflet "Thinking of Becoming a Herefordshire Councillor?" be noted.**

107. TRAINING

Training for Standards Committee Members

The Head of Legal and Democratic Services said that he had spoken to Mr Simon Mallinson, Monitoring Officer at Worcestershire County Council, about joint training with the County Council and the Fire and Rescue and Police Authorities. He suggested that the next training session should focus on the proposed new Code of Conduct. He added that he and Mr Mallinson would also give a presentation on the Code to the West Mercia Independent Members' Forum, if it would be of benefit. Members agreed that it would be best to hold the training towards September 2007 to allow time for the Code to take effect.

Herefordshire Association of Local Councils (HALC)

Mr Gething reported on a joint HALC/Herefordshire Council/Standards Committee training session that had taken place on 29 November 2007. He said that the presentation by the Head of Legal and Democratic services had been very well received, and the attendance had been excellent. HALC was intending to offer further similar events.

Mr Gething also presented statistical information on parish and town councils' attendance at HALC training sessions, which could be used to identify where there was a need for further training. Mr Gething said that he had visited some councils to encourage them to make use of training. Members also noted that, although some councils appeared not to have attended many sessions, there were instances where they had sought their own guidance over matters, or had been helped by their County Councillor. Mr Gething said that HALC would continue to improve and expand its training data, and would put more emphasis on training as part of new councillors' induction.

Herefordshire Councillors' Induction Training

The Head of Legal and Democratic Services reported that Herefordshire Council was devising its post-election induction literature, which would include information on the role and function of each directorate, and ethics and standards. The Committee expressed a wish to contribute to the written material, including providing information on the Committee's role. The Head of Legal and Democratic Services said that he would circulate the induction programme to members for comment by email. In addition, a Committee member would give an introductory talk on ethics during the induction training course.

RESOLVED: (unanimously) that

- (i) **the current position with training be noted;**
- (ii) **the Head of Legal and Democratic Services would devise a Code of Conduct joint training session for Standards Committee Members, in consultation with Worcestershire County Council, to be held towards September 2007; and**
- (iii) **the Head of Legal and Democratic Services would circulate the induction training programme for Herefordshire councillors, and arrange for the Standards Committee to contribute appropriately to the literature and to the training sessions.**

108. DATES OF FUTURE MEETINGS

The next Standards Committee meeting would be held at 2.00 p.m. on Friday 13 April 2007 in the Council Chamber at Brockington. Future meeting dates were noted as follows:

- 06 July 2007 at 2.00 p.m.
- 19 October 2007 at 2.00 p.m.
- 18 January 2008 at 2.00 p.m.
- 25 April 2008 at 2.00 p.m.

109. REFERRAL TO THE STANDARDS COMMITTEE FROM THE STANDARDS BOARD FOR ENGLAND

The Committee agreed to form a Sub-Committee consisting of the Chairman, Mr Robert Rogers, Mr Richard Gething, and Mr David Stevens, to consider matters in relation to the investigation of SBE Complaint No. 15104.06.

The Sub-Committee noted progress made on investigating the complaint, and agreed that the Standards Committee should meet to consider the final report when it was available. The Committee would consider at that time whether it was necessary to hold a hearing in relation to the complaint, should the need arise.

RESOLVED: (unanimously) that progress on the investigation into Complaint No. 15104.06 be noted, and a meeting of the Standards Committee be held on 12 February 2007 to consider the final investigation report, and determine whether to hold a local determination hearing.

The meeting ended at 4.21 p.m.

CHAIRMAN