

# A G E N D A

## Standards Committee

Date: **Friday, 18th April, 2008**

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

	Pages
<p>1. <b>APOLOGIES FOR ABSENCE</b>                      To receive apologies for absence.</p>	
<p>2. <b>DECLARATIONS OF INTEREST</b>                      To receive any declarations of interest by members in respect of items on the agenda.</p>	
<p>3. <b>MINUTES</b>                      To approve and sign the minutes of the meeting held on 18 January 2008.</p>	5 - 14
<p>4. <b>APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS</b>                      To consider applications for dispensations received from parish and town councils.</p> <p><b>Wards: County Wide</b></p>	15 - 16
<p>5. <b>EMPLOYEE CODE OF CONDUCT AND MEMBERS/OFFICERS PROTOCOL</b>                      To consider the attached amendments to the Council's Constitution in respect of members' and officers' conduct.</p> <p><b>Wards: County Wide</b></p>	17 - 34
<p>6. <b>TRAINING UPDATE, AND STANDARDS BOARD FOR ENGLAND PILOT PROJECT</b>                      To note the progress made with standards and ethics training, and the results of a Standards Board Pilot Project, as set out in the attached report.</p> <p><b>Wards: County Wide</b></p>	35 - 36
<p>7. <b>LOCAL ASSESSMENT</b>                      To consider an oral update on progress made towards local assessment, and any actions that are required in preparation, and to note the latest information from the Department of Communities and Local Government.</p> <p><b>Wards: County Wide</b></p>	

8. **STANDARDS COMMITTEE ANNUAL REPORT** 37 - 48  
To consider the attached draft annual report of the Standards Committee for 2007.
9. **SEVENTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES**  
To consider attendance at the Annual Assembly of Standards Committees, which will be held on 13 and 14 October 2008 in Birmingham.  
**Wards: County Wide**
10. **STANDARDS BOARD FOR ENGLAND BULLETIN 37** 49 - 58  
To consider the latest bulletin from the Standards Board for England.  
**Wards: County Wide**
11. **STANDARDS BOARD FOR ENGLAND/NATIONAL ASSOCIATION OF LOCAL COUNCILS PILOT PROJECT**  
To consider an oral report in respect of a national pilot project on joint working arrangements.  
**Wards: County Wide**
12. **DATES OF FUTURE MEETINGS**  
To note the dates of forthcoming meetings, and to agree provisional dates in preparation for local assessment.
- EXCLUSION OF THE PUBLIC AND PRESS**  
In the opinion of the Proper Officer, the following 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
13. **DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND** 59 - 62  
To update the committee about determinations by the Standards Board for England concerning Herefordshire.  
**Wards: County Wide**  
*(This item discloses information which is subject to an obligation of confidentiality)*

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# **COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

**MINUTES of the meeting of Standards Committee held at the Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday, 18th January, 2008 at 4.30 p.m.**

**Present:** Robert Rogers (Independent Member)(Chairman)

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

**22. CHIEF EXECUTIVE**

The Committee welcomed the newly appointed Joint Chief Executive of Herefordshire Council and the Primary Care Trust, Mr. Chris Bull, to the meeting. Members said that they looked forward to building on the relationship that had existed with the former Chief Executive, which had assured the Committee of the Council's full support in terms of resources, and had placed a very positive emphasis on the Committee's role.

**23. APOLOGIES FOR ABSENCE**

There were no apologies for absence received.

**24. DECLARATIONS OF INTEREST**

The Chairman, Mr Robert Rogers, reported that since December 2007, he had become the Chairman of the Hereford Cathedral Perpetual Trust, for which the Council provided a project worker. He said that it was to be regarded as a general interest, therefore, and that he would update his entry in the Council's Register of Interests accordingly.

**25. MINUTES**

**RESOLVED: (unanimously) that the minutes of the meeting held on 19 October 2007 be approved as a correct record and signed by the Chairman.**

**26. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS**

There were no applications for dispensations received from parish or town councils.

**27. INDEPENDENT REVIEW OF THE COUNCIL'S CONTRACTUAL AND FINANCIAL ARRANGEMENTS**

*[Note: The Committee agreed to consider this Agenda Item (5), and Agenda Item 6 (Contractual and Financial Standing Orders) together, in view of the strong link between subject matters. ]*

The Head of Legal and Democratic Services, Mr. Alan McLaughlin, presented the report of Mr. Ian Crookall, former Chief Executive of Buckinghamshire County Council. Mr Crookall had been appointed to conduct an independent review of financial and contractual governance arrangements in respect of the Council's Information and Communications Technology Department (ICT), following reports by the Director of Resources.

The Director of Resources had initially reported financial impropriety in the ICT Department in accordance with her statutory duty under Section 151 of the Local Government Act 1972. At its meeting on 19 October, 2007, the Standards Committee had considered her two reports, namely the report to the Corporate Management Board on a special audit investigation, and the report to Cabinet on financial governance in Information and Communication Technology and Customer Services. The Committee had decided to monitor the issues involved, in particular, those of reputation, financial and legal elements, the Constitution, and assuring that Members received complete advice from the Monitoring Officer and the Section 151 Officer.

The Chief Executive, Mr Bull, reported on progress made since Mr Crookall's review. He made the following principal points:

- The Council required clearer definitions of the roles of members and officers, and of the relationship between the two. It was necessary to establish a process which indicated exactly where responsibilities for decision making lay, and to achieve greater consistency in decision making. The role of member development would be expanded and improved in order to achieve this, and would also be tailored to suit members' requirements, for example: the roles of cabinet member, backbencher (ward representation and scrutiny), and also the various political groups and how they were supported.
- Mr Bull was working with the Leadership Centre for Local Government on a wide range of issues, in order to devise an action plan for the next few years, including appropriate training. The action plan would be implemented quickly to enable the organisation to move forward, and a communications strategy was also in place to complement this.
- Mr Bull said that one of his principal tasks would be to rebuild confidence in the effectiveness of the Council's Management. To this end, he would propose a re-structure, which would reinforce the developing joint relationship between the Council and the Primary Care Trust, and would introduce a new corporate management team with roles which were fit for the purpose of managing the organisation in the future. He wanted to ensure that officers were in a position where they were trusted, and worthy of trust, and that the quality of the advice they gave was of the highest possible standard, and the same regardless of members' political stances.

Members made the following comments:

- Councillors had always been required to rely on the advice of officers as part of the decision-making process, and it was important to make a priority of rebuilding the trust that had been lost in the wake of financial impropriety in the ICT Department. This would help to avoid any potential difficulties amongst councillors which might lead to referrals to the Standards Board for England.

- At the meeting of Council on 23<sup>rd</sup> November 2007, it was noted that councillors had made numerous positive and constructive suggestions about the issues surrounding Mr Crookall's report, and had demonstrated enthusiasm to embrace the proposed changes. Mr David Stevens reported that his presence had been permitted throughout the meeting, including the discussions from which members of the public had been excluded under Section 12 of the Local Government Act 1972. This was because the Standards Committee had agreed to monitor aspects of the action plan, and he felt that it indicated how well the Council continued to support the work of the Standards Committee.

**RESOLVED: (unanimously) that the report be noted, and the Standards Committee expresses its willingness to be involved in the proposed action plan as required.**

**28. CONTRACTUAL AND FINANCIAL STANDING ORDERS**

*[Note: The Committee agreed to consider this Agenda Item (6), and Agenda Item 5 (Independent Review of the Council's Contractual and Financial Arrangements) together, in view of the strong link between subject matters. ]*

Members considered the proposed amendments to Appendices 3, 4 and 5 of the Council's Constitution, which related to the Council's contractual and financial standing orders. The amendments had arisen from an independent review of the Council's contractual and financial arrangements by Mr. Ian Crookall, former Chief Executive of Buckinghamshire County Council.

**RESOLVED: (unanimously) that the proposed amendments to appendices 3, 4 and 5 of the Council's Constitution be endorsed so far as they touch on the responsibilities of the Standards Committee.**

**29. STANDARDS BOARD FOR ENGLAND BULLETIN 36**

Members noted the contents of Bulletin 36 from the Standards Board for England. Two issues in particular, namely local assessment, and political activities by local authority officers, required detailed consideration and were the subject of additional reports at Items 8 and 9 of the agenda.

**RESOLVED: (unanimously) that the report be noted.**

**30. LOCAL ASSESSMENTS**

The Head of Legal and Democratic Services presented his report in respect of Pages 4 to 6 of the Standards Board for England Bulletin 36, which provided a checklist of things for local authorities to consider in the run-up to the implementation of local assessment. From April 2008, most decisions relating to complaints against Herefordshire Local Authority, Parish or Town Councillors, would be devolved to local Standards Committees. This was in addition to the existing powers to hear and determine cases.

Bulletin 36 gave advice on the size and structure of Standards Committees, training needs, and how to deal with the various stages of the complaints process. The Committee agreed that some changes would be necessary in order to maintain a robust and resilient system, and decided on the following courses of action:

- The recruitment of one additional independent (external) member was essential to enable the Committee to use in any review process a member who had not been previously involved. The independent status of the additional member was deemed particularly important because it would be a requirement that all local hearings and reviews must have an independent Chairman. The additional appointment would also ensure cover in the event of any conflicts of interest, other commitments or sickness. Members agreed that additional representatives were not required from the local authority or from parish and town councils because the Committee had the ability to co-opt from these sectors, should it become necessary;
- The possibility of making a reciprocal arrangement with the Standards Committees of Worcestershire and Shropshire Councils to ensure impartial review when necessary;
- A review of the Council's Constitution to reflect any necessary changes;
- A Sub-Committee would be established for initial consideration of complaints.

**RESOLVED: (unanimously) that**

- (i) **the Head of Legal and Democratic Services update the Committee on local assessment as and when information becomes available;**
- (ii) **one additional external independent member be recruited;**
- (iii) **the Head of Legal and Democratic Services liaise with the Standards Committees of Worcestershire and Shropshire Councils to explore the possibility of a reciprocal arrangement in respect of local assessment;**
- (iv) **the Head of Legal and Democratic Services review the Constitution to reflect any necessary changes; and**
- (v) **a Sub-Committee be established to deal with the initial consideration of complaints.**

**31. RESTRICTIONS ON POLITICAL ACTIVITIES BY LOCAL AUTHORITY OFFICERS REPORT**

The Committee considered the Head of Legal and Democratic Services' report in respect of the implications of Sections 202-203 of the Local Government and Public Involvement in Health Act 2007. Before this Act came into force, local authorities had appointed an independent adjudicator to grant dispensations to staff in politically restricted posts who wishes to engage in political activity. Members noted that the role of the adjudicator had been abolished, and would instead be undertaken by Standards Committees. The Committee would also oversee the Council's list of politically restricted posts and offer general advice on applying the criteria for designating a post. The Act had set a new precedent for Standards Committees who had previously dealt exclusively with councillors.

**RESOLVED: (unanimously) that**

- (i) the report be noted; and
- (ii) the Head of Legal and Democratic Services makes a further report to the Committee when the Department for Communities and Local Government issues its national guidance, and the Committee will not embark on the task until such guidance is available.

**32. CONSULTATION ON ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND**

The Committee considered a consultation paper from the Department of Communities and Local Government (DCLG) which sought views on the detailed arrangements for putting local assessment into effect. The consultation required a response to 16 questions on a range of issues by 15 February 2008. Members commented on each part of the consultation, and made comments for submission to the DCLG which are appended to these minutes.

The Committee acknowledged that the brevity of the consultation period (one third of the time recommended by Government) might cause particular difficulties for parish councils who wished to comment, but only met bi-monthly or quarterly. It was agreed that this should also be mentioned in the response, which would be posted on the Council's Website.

**RESOLVED: (unanimously) that the Committee's response to the Department of Communities and Local Government (DCLG) in respect of its consultation paper on the arrangements for implementing local assessment (as appended to these minutes), be submitted to the DCLG by 15 February 2008, and the response be posted on the Council's website.**

**33. TRAINING ON THE NEW CODE AND AND LOCAL ASSESSMENTS**

The Committee considered its approach to joint training with Standards Committee members from Worcestershire and Shropshire County Councils, Hereford and Worcester Fire and Rescue Authority, and West Mercia Police Authority, on the new Code of Conduct and local assessment. The Head of Legal and Democratic Services said that he had written to these authorities and had received a positive response. He would arrange a meeting with them to agree a training plan.

Mr Richard Gething and Mr David Stevens reported on the joint Herefordshire Association of Local Councils (HALC) training session held on 25 October 2007, which had been well attended and received. A significant increase in the number of training sessions had been planned for 2008, and Mr Gething said that HALC would publicise these sessions as widely as possible, ensuring that all local councils received a letter, and would also seek to engage those councils who were not HALC members. HALC would also keep records of attendance in order to ensure the best possible coverage.

**RESOLVED: (unanimously) that the report be noted, and the Head of Legal and Democratic Services agree a joint training plan with Worcestershire and Shropshire Councils, and Hereford and Worcester Fire and Rescue Authority and West Mercia Police Authority.**

**34. STANDARDS COMMITTEE ANNUAL REPORT 2007**

The Committee considered the first draft of the Standards Committee Annual Report for 2007, and chose the cover design. The Chairman would make further amendments to the draft and liaise with the Democratic Services Officer over updates to biographies and photographs as necessary, with a view to finalising it for the Committee's approval.

**RESOLVED: (unanimously) that the Chairman and the Democratic Services Officer make any necessary amendments to the Standards Committee Annual Report for 2007, to produce a final version for approval by the Committee.**

**35. DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND**

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 during 2007.

**RESOLVED: (unanimously) that the report be noted.**

## APPENDIX

**RESPONSE TO THE DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT CONSULTATION PAPER IN RESPECT OF IMPLEMENTING LOCAL ASSESSMENT**

This appendix relates to Minute 32 above:

**HEREFORDSHIRE STANDARDS COMMITTEE**

## Response to Consultation - Orders and Regulations Relating to the Conduct of Local Authority Members in England

**Q1. Does our proposal to prohibit a member who has been involved in a decision on the assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach? Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?**

A1. Our committee has six members: two independent members, two parish/town council representatives, and two local authority members. Under the proposals, our members would not have a conflict of interest for a determination hearing, but we will need to make [presumably reciprocal] arrangements with other local standards committees to conduct reviews.

**Q2. Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?**

A2. If it is a local matter, then we feel that any such decision should be made locally, without the need for participation by the SBE.

**Q3. Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?**

A3. A statutory time limit might lead to a risk of judicial review, because some factors are beyond any Committee's control. An example of this might be if an individual were not available for interview over a long period of time (possibly deliberately). We feel that any timescale should be a matter of guidance, and not statutory.

<p><b>Q4. Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made? Are there any other circumstances which you think would also justify the withholding of information? Do you agree that in a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?</b></p>
<p>A4. Yes.</p>
<p><b>Q5. Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?</b></p>
<p>A5. Yes.</p>
<p><b>Q6. Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three months to six months suspension or partial suspension from office?</b></p>
<p>A6. We think that nine months suspension should be the absolute minimum period (and we prefer a power of twelve months suspension), for several reasons: first, because the power of a significant period of suspension is needed to send a clear signal that there is effective devolution to local standards committees; second, to ensure that in a moderately serious case standards committees do not routinely refer upwards on the grounds that they do not expect that the powers they have will be adequate; and third, because in respect of parish councils which meet bi-monthly or even quarterly lower suspension periods have commensurately less impact and effectiveness.</p>
<p><b>Q7. Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?</b></p>
<p>A7. We feel that it is essential that an independent member chairs. We are recruiting a third independent member to help us ensure that we are always in a position to achieve this.</p>
<p><b>Q8. Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?</b></p>
<p>A8. Yes.</p>



<p><b>Q9. Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?</b></p>
<p>A9. Yes, we feel the criteria identified are reasonable.</p>
<p><b>Q10. Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?</b></p>
<p>A10. If a national charging regime were imposed, it might not reflect the true cost of what is required. On the other hand, we feel that local charging would cause some parishes significant difficulties (not least with precept-setting). Given the suggested choices, we would opt for a "common sense" approach of evening things out over time: one Standards Committee would assist another. We prefer a system of bartering and flexibility, rather than the constraints and bureaucracy of a charging regime.</p>
<p><b>Q11. Would you be interested in pursuing joint arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?</b></p>
<p>A11. Yes. We have as yet no experience of working with other authorities, but we are exploring the possibilities. We are currently arranging joint training with two neighbouring authorities. Referring to the last part of the question, we feel that the parish representative should be local, and from a contiguous area.</p>
<p><b>Q12. Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?</b></p>
<p>A12. We feel that any sanctions should reflect those available to Standards Committees (bearing in mind our answer to Q6).</p>
<p><b>Q13. Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there any other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?</b></p>
<p>A13. Yes. No other situations thought to be appropriate.</p>

<p><b>Q14. Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect of these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposals to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?</b></p>
<p>A14. We have made numerous decisions under the existing dispensation regulations. Any inhibitions we might have are down to the poor drafting of the guidance, which Paragraph 61 seeks to address. We welcome the proposals as set out.</p>
<p><b>Q15. Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989 to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?</b></p>
<p>A15. No response - not applicable.</p>
<p><b>Q16. Do you agree with our proposal to implement the reformed conduct regime on 1 April 2008 at the earliest?</b></p>
<p>A16. Yes, if possible - the sooner the better.</p>

**Additional Comment: The brevity of the consultation period (one third of the time recommended by Government) might cause particular difficulties for parish councils who wish to comment, but only meet bi-monthly or quarterly.**

**Robert Rogers  
Chairman of Herefordshire Standards Committee**

**14<sup>th</sup> February 2008**

The meeting ended at 5.58 p.m.

**CHAIRMAN**

**DISPENSATIONS TO TOWN AND PARISH COUNCILS****Report By: Head of Legal and Democratic Services****Purpose**

1. To consider an application for a dispensation received from Lyonshall 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, when 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 give 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 who are entitled or required to participate.
5. In each case, the councillor must request the dispensation in writing, setting out why the dispensation is desirable. The Standards Committee must then decide whether, in all the circumstances, it is appropriate to grant the dispensation.
6. The 2002 regulations also specify two circumstances where a dispensation may not be granted; first, in respect of participation in business conducted more than 4 years after the date on which the dispensation was granted; and, secondly in relation to prejudicial interests concerning attendance at a scrutiny committee meeting which is scrutinising the activity of any other committee to which the member belongs, or for executive members in relation to their own portfolios.

**Lyonshall Parish Council**

7. Six out of ten members of Lyonshall Parish Council have requested a dispensation for as long a period as allowable, in relation to a housing needs survey, and possible housing developments containing affordable houses. The dispensation would enable them to discuss possible locations for the proposed developments. Five members live in properties adjacent to the development boundary, which are therefore possible exception sites. One member is a Managing Director of a local company which owns several of the possible exception sites. The Parish Council's quorum is three. The members requiring the dispensation are:

Mr Geoffrey Mitchell  
Mr John Parker  
Mr Ray Richards  
Mr Paul Avery  
Mr Graham Rutherford  
Mr Malcolm Thompson

**RECOMMENDATION**

**THAT the Committee considers granting the six members of Lyonshall Parish Council named in the report, a dispensation in relation to the housing needs survey and the proposed sites for development in and around Lyonshall.**

**BACKGROUND PAPERS**

- Application from the Clerk to Lyonshall Parish Council dated 20 January 2008

## **CONSTITUTION – EMPLOYEE CODE OF CONDUCT AND MEMBERS/OFFICERS PROTOCOL**

**Report By: Head of Legal and Democratic Services**

### **Wards Affected**

Countywide

### **Purpose**

1. This report asks members to consider the proposed new employee code of conduct and members/officers protocol viewed in lines of the recent changes.
2. The report seeks members views in relation to the codes and any consideration for amendment

### **Financial Implications**

3. There are resource implications in terms of highlighting these codes to both officers and members in a way that is meaningful and is embedded throughout the organisation.

### **Background**

4. It is a function of the Standards Committee to advise the Council on the adoption or review of the above codes as the Standards Committee originally had a significant input into such codes when originally approved.

### **Risk Management**

5. To ensure that any approved codes are used by both officers and members as a meaningful tool.
6. To consider how these codes are communicated appropriately by the use of the communications team and appropriate tools to do so.

### **Recommendations**

**THAT**

- (i) **the committee considers these codes**
- (ii) **the committee make any amendments or suggestions to the codes**

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Further information on the subject of this report is available from  
Alan McLaughlin, Head of Legal & Democratic Services on (01432) 260200

## Appendix

- Appendix 1 – Appendix 12 Annex 1 of the Constitution
- Appendix 2 – Appendix 14 of the Constitution

## Background Papers

None

# HEREFORDSHIRE COUNCIL CONSTITUTION

## CODES OF CONDUCT AND PROTOCOLS

### PROTOCOL FOR COUNCILLOR/OFFICER RELATIONS (BASED ON ADVICE FROM THE STANDARDS COMMITTEE)

#### **1. Introduction**

- 1.1 The purpose of this protocol is to guide Members and employees of the Council in their relations with one another.
- 1.2 Given the variety and complexity of such relations this protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues which most commonly arise.
- 1.3 This protocol also seeks to reflect the principles set out for or underlying the respective codes of conduct which apply to Members and employees. The shared object of this code is to enhance and maintain the integrity (real and perceived) of local government and they, therefore, demand very high standards of personal conduct in respect of both employees and Members.
- 1.4 The protocol reflects good practice. It aims to provide an open and honest working relationship between Members and employees which ensures the delivery of the Council's statutory and other proper functions in a transparent and accountable way.

#### **2. Principles**

- 2.1 That the provisions of the Model Code of Conduct for Members apply to all Members. Breach of those provisions can be the basis for a complaint to the Standards Board for England or the Monitoring Officer. The employees Code of Conduct is part of the terms of conditions of their employment. Employees are accountable to their Line Manager and while employees will seek to assist any Member they must not be asked by Members to go beyond the bounds of whatever authority they have been given by their Line Manager.
- 2.2 Any dispute over any provision of this protocol in relation to employees should be referred in the first instance to the responsible Head of Service or the Chief Executive. If agreement cannot be reached the Chief Executive will seek to resolve the issue in conjunction with the Leader of the Council and/or the Leader of the appropriate party group. Issues relating to employee conduct will be dealt with under disciplinary procedures. Any unresolved dispute relating to a Member's conduct under this protocol will be determined by the Standards Committee.
- 2.3 This protocol is also read in conjunction with the the Planning Code and the Protocol on Hospitality and any other policies of the Council, for example the Whistleblowing Policy (Public Interest Disclosure) and the Harassment and Bullying Policy.

#### **3. Members Code of Conduct**

- 3.1 The relevant Authority's (General Principles) Order 2001 specified the principles which were to govern the conduct of Members. These are set out in the schedule to this protocol. However, particular attention is drawn to principle No. 7:  
  
"7. Respect for Others – Members should promote equality by not discriminating

unlawfully against any person and by treating people with respect regardless of their race, age, religion, gender, sexual orientation or disability they should respect the impartiality and integrity of the Authority's statutory officers and its other employees."

### **3.2 The Members Code of Conduct provides: -**

#### General Obligations

A member must:

- (a) treat others with respect;
- (b) not do anything which may cause the Authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006);
- (c) not bully any person;
- (d) not intimidate or attempt to intimidate any person who is likely to be:
  - (i) a complainant
  - (ii) a witness
  - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member has failed to comply with the Members Code of Conduct;
- (e) not do anything which compromises or which is likely to compromise the impartiality of those who work for or on behalf of the Authority.

A member must, when reaching decisions:

- (a) Have regard to any relevant advice provided to them by –
  - (i) the Authority's Chief Finance Officer; or
  - (ii) the Authority's Monitoring Officer where that officer is acting pursuant to their respective statutory duties
- (b) Give reasons for those decision in accordance any statutory requirements and any reasonable additional requirement imposed by the Authority.

## **4. Employee Code of Conduct**

4.1 The Employee Code of Conduct was drawn up broadly in line with the Local Government Management's Board Code of Conduct for local government employees. Any variations affect the conditions and circumstances of Herefordshire Council.

### **(1) Standards**

Employees are expected to give the highest possible standard of service to the public and where it is part of their duties to provide appropriate advice to other employees and Members with impartiality and courtesy."



## **(2) Disclosure of Information**

(i) The law requires that certain types of information must be made available to Members, Auditors, Government Departments, Service Users and the public.

(ii) Under the Local Government Act 1972 the public have a right to see certain information. In most circumstances these rights are related to Committee Reports and background documents

(iii) Employees must not use any confidential information obtained in the course of their employment for personal gain or benefit nor shall they use it to pass onto others who might use it in such a way

(iv) Only employees authorised by a Head of Service to do so may talk to the press or otherwise make public statements on behalf of their Service or Directorate. Generally an employee contacted by the press should refer the matter to the Communications Unit who will deal with it as appropriate.”

(v) The Local Authorities Executive Arrangements (Access to Information) (England) Regulations 2000 provide additional rights of access to documents for Members of Overview and Scrutiny Committees

## **(3) Political Neutrality/Activities**

(i) Employees serve the Council as a whole. It follows, therefore, that they must serve all Members, not just the Members of any controlling group and must ensure that the individual rights of all Members are respected.

(ii) Some senior employees will be expected within the Council’s guidelines to advise political groups. These employees have a duty to advise minority groups as well as the majority group.

(iii) Some employees who are normally those in more senior positions are in politically restricted posts and by law are prevented from taking part in certain political activities outside their work. Employees who are in this position should have been told of this in writing and of the rules about claiming exemption but any employee who is in doubt about their position should contact their Head of Service.

## **(4) Relationships**

Some employees are required to give advice to Members as part of their job. Mutual respect between employees and Members is essential to good local government but close personal familiarity between employees and individual Members can damage the relationship and prove embarrassing to other employees and should, therefore, be avoided.”

## **5. Advice to Party Groups**

5.1 No officer can be a Member of their employer local authority. Also, senior officers, except those specially exempted, cannot be a member of any other local authority or an MP. Nor can they speak or publish written work for the public with the apparent intention of affecting public support for a political party.

- 5.2 Because political groups are a feature of modern local government and have a role in the successful running of the Council, on occasion officers may be asked to provide support and assistance to political groups.
- 5.3 This support can take many forms, ranging from a briefing meeting with a Group Leaders or spokesperson, to a presentation to a full party group meeting. It is an important principle that such support is available to all political or party groups. In accordance with the Council's Code of Conduct for employees, officers must not be involved in advising any political group of the Council or attend any meeting without the express consent of their Director or the Chief Executive.
- 5.4 Certain points must however be clearly understood by all those participating in this type of process, Members and officers alike. In particular:
- (a) officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;
  - (b) party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such;
  - (c) similarly, where officers provide information and advice to a political or party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Committee when the matter in question is considered; and
  - (d) Members often seek officers' assistance in drafting resolutions or amendments which they wish to move at a meeting. It is proper for an officer to advise on the wording of such a proposal to ensure it is accurate, practical and lawful but there can be no inference that the officer supports the substance or merits of the proposition.
- 5.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a political or party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers may not be able to provide the same level of information and advice as they would to a members only meeting.
- 5.6 Officers must respect the confidentiality of any political or party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group. It follows that whilst there is no reason why other such groups should not be aware that a Group has sought and received officer advice or be inhibited from requesting officer support themselves no political point should be made of that fact. Any particular cases of difficulty or uncertainty in this area of employee advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group Leaders.

- 5.7 Any particular cases of difficulty or uncertainty in this area of employee advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group Leaders.

## **6. Support Services to Members and Party Groups**

- 6.1 The only basis on which the Council can lawfully provide support service (e.g. stationery, typing, printing, photocopying, transport, etc...) to Members is to assist them in discharging their role of Members of the Council. Such support services must, therefore, only be used on Council business. They should never be used in connection with party political, campaigning activities or for private purposes.

## **7. Members' Access to Information, Council Documents and Employee Advice**

- 7.1 Members will need in the discharge of their duties to access information from employees, this will usually be most efficiently achieved through the Heads of Service or Directors who are able to provide an overview or direct the Member to the most appropriate employee. For individual cases Members may approach case officers, but junior staff are entitled to refer the Member to the responsible Service Manager or Head of Service.
- 7.2 Members who wish to obtain information from employees should request it as early as possible recognising that employees may require reasonable time to collate or research the information. Members will state any deadline for the provision of this information. This also applies where a Member wishes to obtain information to supplement a report after the agenda for a meeting has been issued.
- 7.3 Employees will make every reasonable effort to provide Members with accurate factual information and professional advice in a timely manner, unless this would exceed the officer's authority or there are lawful reasons to prevent disclosure of the information.
- 7.4 Members have the same statutory right as any member of the public to inspect any Council document which contains material relating to any business which is to be transacted at a Council or Committee meeting or a meeting of Cabinet and any relevant background papers. This right applies irrespective of whether or not the Member is a Member of the committee concerned or acting as a substitute. This right does not, however, apply to documents relating to items containing information which is exempt from publication. Correspondence held by the Monitoring Officer in relation to his/her duties is similarly exempt unless released by him/her in the interest of furthering any enquiry.
- 7.5 The common law right of Members is much broader and based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member to perform properly his/her duties as Member of the Council. This principle is commonly referred to as the 'need to know' principle and will be determined in the first instance by the particular Head of Service whose service holds the document in question. Any disputes may be referred to the Monitoring Officer whose decision shall be final. Written reasons will be provided on requests.
- 7.6 A member who requests to inspect documents which contain personal information about third parties will normally be expected to justify their request in specific terms.

- 7.7 A Member of one party group will not have a 'need to know' and, therefore, does not have a right to inspect any document which forms part of the internal workings of another party group and is in the possession of the Council or of an individual employee.
- 7.8 A member of an Overview and Scrutiny Committee of a Local Authority shall be entitled to a copy of any document which:
- (a) is in the possession or under the control of the Cabinet of that Authority; and
  - (b) contains material relating to: -
    - (i) any business that has been transacted at a private meeting or a public meeting of a decision making body of the Authority;
    - (ii) any decision that has been made by an individual Member of that Cabinet in accordance with Cabinet arrangements; or
    - (iii) any key decision that has been made by an officer of the Authority in accordance with Executive arrangements.
- 7.9 No Member of an Overview and Scrutiny Committee shall be entitled to a copy of such document or part of a document as contains exempt information or confidential information unless that information is relevant to an action or decision that he/she is reviewing or scrutinising; or which is relevant to any review contained in any programme of work of such a committee or sub-committee.
- 7.10 More detailed advice regarding Members' rights to inspect Council documents may be obtained from the Monitoring Officer (Head of Legal and Democratic Services, HOLD).
- 7.11 Any Council information is provided to a Member on the basis that it must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council. This forms part of the Council's Data Protection requirements. This obligation for confidentiality is part of the Members Code of Conduct and is set out in paragraph 3 in it.

## **8 Relationships Between Officers and Cabinet Members/Chairs of Committees/Leader**

- 8.1 It is important to the efficient discharge of the Council's functions that there should be a good working relationship between Members of the Cabinet, Officers, Heads of Service and Directors and between the Chair of a committee and the lead officer and other officers who deal with matters within the terms of reference of the body. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the employee's ability to deal impartially with other Members and other party groups.

8.2.1 Officer and Heads of Service frequently write reports having undertaken background research and professional and technical appraisals of proposals.

8.2.2 These reports are then presented by the Cabinet member with Portfolio, with the assistance of officers where necessary.

8.2.3 Members must accept that in some situations officers will be under a duty to submit an opinion or advice in a report on a particular matter. In those situations the officer will always be fully responsible for those elements of report submitted in the Member's name.

8.2.4 The principles set out in paragraph 8.3 and 8.4 below will apply to such elements of the report.

8.3 Where an officer wishes to consult a Cabinet Member or Chair as part of the preparation of a report to a decision making body within the Council's constitution, the following principles will apply. The Cabinet Member or Chair may ask the report author:

- (1) To include particular options;
- (2) To clarify the report by expanding, simplifying or re-phrasing any part of the report or including other particular information;
- (3) To check or correct any error or omission of any matter or fact including statements of summaries of policy or budget;
- (4) To check or correct any typing errors, omissions or duplications;
- (5) To check any estimate of costs or savings.

8.4 The Cabinet Member or Chair may not ask officers:

- (1) To exclude any option contained in the draft report;
- (2) To exclude or alter the substance of any statement in the draft report of any officers' professional opinion.
- (3) To alter the substance of any recommendations that compromises the officer's integrity or would result in illegality;
- (4) To check or correct any typing errors, omissions or duplications;
- (5) To exclude any report, comments or representations arising from consultations, publicity or supply of information to the community.

8.5 Certain statutory functions are undertaken by officers. Their reports on such matters are then their own full responsibility.

## **9. Local Members**

9.1 You will be kept fully informed about significant issues which affect your ward or bodies on which you represent the Council. Officers will be alert to advise members at the earliest possible stage of relevant development proposals. Over and above this general responsibility the Head of Legal and Democratic Services will:

- notify a Member that a report on any such local matter is being tabled or discussed as soon as the decision to place that item on the agenda of a Committee is taken;
- ensure that this report is sent to the Member as soon as it is published.

- 9.2 You will be invited to any public meeting organised by the Council to consider an issue affecting your ward. You will be notified of any consultative exercise at the outset of the exercise proposed for your ward or on an issue affecting your ward.
- 9.3 You will, wherever practicable, also be notified of any visits by the Chairman or Vice-Chairman of the Council or Committee Chairmen or Cabinet Members to Council sites or establishments in your ward, except where these are purely courtesy visits.
- 9.4 You will be notified of all decisions taken by the Cabinet or by Cabinet Members affecting your ward.

## **10. Scrutiny Arrangements**

- 10.1 Cabinet arrangements. However, these new arrangements raised particular issues for local authority employees because: -
- (a) The advice which officers have given to the Cabinet, its Members or to any group may now be subject to scrutiny and examined by an Overview and Scrutiny Committee.
  - (b) Officers may have written reports for presentation by a Cabinet Member with Portfolio or provided advice to the Cabinet. Where such a decision is subject to Scrutiny by an Overview and Scrutiny Committee in their overview and scrutiny roles, or when a decision is called-in, an officer may provide information or advice to an Overview and Scrutiny Committee. Members must recognise that there is an inherent tension between these two roles. As circumstances change or more information comes to light, advice may reflect the difference.
  - (c) Overview and Scrutiny Committees or their members will need active assistance from officers if they are to perform their role of scrutinising the Cabinet effectively.

These factors will require understanding by Members of the role that officers have to perform.

## **11. Overview and Scrutiny**

- 11.1 The scrutiny role of the Council is performed by Overview and Scrutiny Committees and Audit and Corporate Governance. Employees may need to attend an Overview and Scrutiny Committee to give evidence and assist it in its scrutiny.
- 11.2 Where an employee is required to attend before an Overview and Scrutiny Committee, to report to it or provide evidence for it, it shall be his/her duty to do so, or to provide an explanation as to why he or she is unable or unwilling to do so. If after considering his/her report the Overview and Scrutiny Committee insist on him/her providing the information requested he/she must do so.
- 11.3 Where an Overview and Scrutiny Committee has resolved to undertake a review it is the duty of Senior Officers to co-operate fully with the review or to arrange for the Head of Service or Director to act in their place. This duty extends beyond merely answering the Committee's questions and involves a requirement to assist the Committee in addressing the right questions and seeking the information which may be required to help them in their work.

11.4 Officers below of Service Manager level should not present such reports or assistance.

## **12. Publicity**

12.1 The Council abides by the provision of the DETR Local Authority Publicity Code (April 2001).

12.2 Information on Council services will be produced in collaboration with the Communications Unit and will be impartial reflecting Council approved policy.

12.3 All news releases will be written and issued by the Communications Unit following consultation with the Head of Service and the Cabinet Member concerned.

12.4 Publicity will not be party political and will report on and reflect Council policy.

12.5 Media requesting political comments will be referred to the political group Leaders.

12.6 It is the intention of the Council to make public information available on the web site accessible to Members and residents as resources allow.

## **13. The Role of the Head of the Paid Service (Chief Executive)**

13.1 The Chief Executive has a specific statutory function in relation to employees, appointment discipline, terms and conditions of employment and collective bargaining. Members will recognise and respect those responsibilities and duties.

**Herefordshire Council  
April 2008**





# OFFICER CODE OF CONDUCT

## 1. Introduction

- 1.1 This code has been formulated by the Council to provide a set of standards of conduct expected of employees at work and the link between that work and their private lives. The code takes into account the requirements of the law.
- 1.2 The Code applies to all Council employees. Those employees involved in processing applications for services or resources, licences or statutory consents and those involved in the procurement of goods and services need to pay particular attention to the code.
- 1.3 The Public is entitled to expect the highest standard of conduct from all employees who work for the Council.
- 1.4 The code will be made readily accessible in all work places to all employees for reference purposes. The code applies to all employees of the Council. Investigations of alleged breaches of this code will be dealt with under the Council's Disciplinary Procedure. If employees are in any doubt whether they may be in breach of this code they should seek advice from their Senior Officer or Head of Service.

## 2. Standards

- 2.1 Employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to other employees and members with impartiality and courtesy.
- 2.2 Employees should bring to the attention of their Line Manager any deficiency in the provision of service and must report any impropriety or breach of procedure and to consider, if appropriate, the Council's Whistleblowing Policy is attached to this Code as **Annex 1**.

## 3. Disclosure of Information

- 3.1 The law requires that certain types of information must be available to Members, Auditors, Government Departments, Service Users and the public.
- 3.2 Under the Local Government Act 1972 the public have a right to see certain information. In most circumstances these rights are related to Committee Reports and background documents.
- 3.3 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
- 3.4 Only employees authorised by their Line Manager or Head of Service to do so, may talk to the Press or otherwise make public statements on behalf of their Service or Directorate. Generally, an employee contacted by the Press should refer the matter to Communications who will deal with it as appropriate.

- 3.5 Information received by employees which is personal to a Councillor and does not belong to the Council should not be divulged without the prior approval of that Councillor, except where such disclosure is required by law.

## **4. Political Neutrality**

- 4.1 Employees serve the Council as a whole. It follows, therefore, that they must serve all Members not just Members of any controlling Group and must ensure that the individual rights of all Members are respected.
- 4.2. Some senior employees will be expected, within the Council's guidelines, to advise political groups. These employees have a duty to advise minority groups as well as the majority group.
- 4.3 Some employees, who are normally those in more senior positions, are in politically restricted posts and by law are prevented from taking part in certain political activities outside their work. Employees who are in this position should have been told of this in writing and of the rules about claiming exemption, but any employee who is in any doubt about their position should contact their Line Manager, Head of Service or Human Resources.
- 4.4 The political activities which are restricted for these Officers in politically restricted posts mainly cover the following areas: -
- (a) Standing as a candidate for election to the House of Commons, European Parliament or a Local Authority (other than a Parish Council).
  - (b) Holding office in a political party at any level, except in limited roles concerned only with the internal membership of the party.
  - (c) Canvassing at an election.
  - (d) Speaking in public or publishing any written or artistic work which appears to be intended to affect public support for a political party.
- 4.5 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.

## **5. Relationships**

### **5.1 Members**

Some employees are required to give advice to members as part of their job. Mutual respect between employees and Members is essential to good Local Government but close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and should, therefore, be avoided.

### **5.2 The Local Community and Service Users**

Employees must always remember their responsibility to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within the Community.

### **5.3 Contractors**

All relationships of a business or private nature with contractors, or potential contractors, must be made known to the appropriate Director, who will record the fact in a register kept for this purpose. Orders and contracts must be awarded on merit, by fair competition against other tenders and no favouritism should be shown to businesses run by current or recent employees or their partners, close relatives or associates.

Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private, financial or domestic capacity with contractors, should declare that relationship to their Director and/or the Head of Legal and Democratic Services will shall be recorded in a register kept for this purpose.

## **6. Appointments and Other Employment Matters**

- 6.1 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the work. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to and are parties with an applicant, or have a close personal relationship outside work with them.
- 6.2 Similarly, employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any employee who is a relative, partner, close friend.

## **7. Outside Commitments**

- 7.1 Employees off-duty hours are their personal concern but they must not subordinate their duty to their private interests or put themselves in a position where duty and private interests conflict with as an Officer or work of the Council.
- The Council would not wish to preclude employees unreasonably from undertaking additional work unless that work conflicts with or detrimentally affects the Council's interests or in any way affects their ability to undertake their Council Work.
- 7.2 However Officers above Scale 6 are expected to devote the whole of their service to the work of the Council and must not engage in any other business or take up any other additional appointment without the written agreement in advance of the Director.
- 7.3 If agreement is given employees must be made aware that no outside work of any sort should be undertaken in the workplace and use of facilities e.g. telephones, photocopying, etc... for this is forbidden, unless this is previously authorise and paid for.

## **8. Personal Interests**

- 8.1 Employees must declare to their Line Manager, or Head of Service if appropriate, non-financial interest that they consider could bring about conflict with the Council's interest. This could include involvement with an Organisation receiving Grant Aid from the Council, Membership of an NHS Trust Board, involvement with an

Organisation or Pressure Group which may seek to influence their Authority's policies. Membership of a Trade Union is exempted from this requirement.

- 8.2 Employees must declare any financial interests which could conflict with the Council's interest.
- 8.3 Employees must declare to their Senior Officer or Core Manager membership of any Organisation not open to the public – with a formal membership and a commitment of allegiance and which has secrecy about its rules or membership or conduct e.g. Freemasons.
- 8.4 Employees who have an interest, financial or non-financial, should not involve themselves in any decision on allocation of Council services or resources from which they, their friends or family might benefit, and should ensure that the matter is referred immediately to their Line Manager or Head of Service.

## **9. Equality Issues**

- 9.1 Employees have an obligation to ensure that policies relating to equality issues as agreed by the Council are complied with as well as the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

## **10. Separation of Roles During Tendering**

- 10.1 Employees should be clear on the separation of client and contractor roles within the Council. Senior employees who have both a client and a contractor responsibility must be aware of the need for accountability and openness.
- 10.2 Employees in contractor or client units must demonstrate fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 10.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors should not disclose that information to any unauthorised party or organisation.
- 10.4 Employees should ensure that no special favour is shown to current or recent former employees, or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.

## **11. Corruption**

- 11.1 It is a serious criminal offence for an employee to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour to any person in their official capacity. It is for the employee to demonstrate that any such rewards have not been corruptly obtained.

## **12. Use of Financial Resources**

- 12.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner ensuring value for money to the local community and to avoid legal challenge to the Council.

## **13. Hospitality**

- 13.1 Employees must treat with extreme caution any offer, gift, favour or hospitality made to them.
- 13.2 If there is a genuine need as a legitimate part of an employee's job to accept offers of hospitality this may be allowed. The decision whether to accept is one of common sense, however, any employee who is in doubt about the legitimacy of any offer of hospitality must ask his/her Director for advice.
- 13.3 When considering whether or not to accept hospitality employees must be sensitive to the timing of decisions for letting contracts for which the provider may be bidding and must never accept hospitality from a contractor during, or just prior to, a tendering period.
- 13.4 Acceptance by employees of hospitality at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal.
- 13.5 Any offer, gift, favour or hospitality as described in the above paragraphs should only be accepted where the employee is satisfied that any purchasing, planning or other Council decisions are not compromised. Employees should not place themselves in a position where their own integrity and the integrity of the Council may be called into question.
- 13.6 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council.
- 13.7 Employees must not accept significant personal gifts from contractors and outside suppliers. Insignificant tokens such as pens or diaries may be accepted.
- 13.8 A register is maintained by the Head of Legal and Democratic Services which is open to inspection by the Standards Committee of the Council. This register should be used by any employee of the Council who accepts any gift, favour or hospitality made to them and accepted by them personally or on behalf of the Council and signed by the Director. Forms for registration of such hospitality are available from the Head of Legal and Democratic Services.
- 13.9 If the Employee believes that an improper motive exists concerning a gift or hospitality, the employee should report this immediately to the Director, who will in conjunction with the Chief Executive, decide an appropriate action e.g. withdrawal of business and/or referral to the police. The Director of Resources and Head of Legal and Democratic Services must be informed.

## **14. Sponsorship - Giving and Receiving**

- 14.1 Where an outside organisation wishes to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily the basic conventions concerning acceptance of gifts and hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 14.2 Where the Authority wishes to sponsor an event or service neither the employee concerned, nor any partner, spouse or relative must benefit from such sponsorship in a direct way without their being full disclosure to the relevant Director of any such interest. Similarly where the Council through sponsorship, grant aid, financial or

other measures gives support in the community, employees should ensure that impartial advice is given and there is no conflict of interest involved.

## **15. Travelling and Subsistence**

- 15.1 Employees must put in claims for travelling and subsistence only incurred in carrying out their duties on behalf of the Council.
- 15.2 Employees must submit a travelling and subsistence claim form in accordance with the Council's policy for each calendar month by the 10<sup>th</sup> day of the following month. Claims made for more than two months at one time may not be paid and will need authorisation by the Head of Service.
- 15.3 Employees must provide the appropriate VAT receipt in respect of any such claims.
- 15.4 The Council will not pay any claim for alcohol on any occasion.
- 15.5 Employees are required to declare on the appropriate forms for travelling and subsistence that such expenses have been incurred in carrying out their Council duties. If an employee submits a claim for expenses not reasonably incurred during the performance of their Council duties the employee may be the subject of a disciplinary investigation which may amount to gross misconduct. The matter may also be reported to the police, if appropriate.

## **16. Disciplinary**

- 16.1 Employees should be aware that breaches of the Officer Code of Conduct and the Council's Financial and Contractual Regulations may result in disciplinary action being taken, and depending on the circumstances, may amount to gross misconduct.
- 16.2 This Code of Conduct neither supersedes the Council's disciplinary and grievance procedures, nor the provisions of the Local Government Conditions of Service, copies of which can be obtained from the Head of Human Resources.

## TRAINING AND PILOT

**Report By: Head of Legal and Democratic Services**

### Wards Affected

Countywide

### Purpose

1. To update members with regard to the joint training with Worcestershire and Shropshire and the pilot undertaken with regard to returns to the Standards Board.
2. To update the Standards Committee in respect of the progress with Worcester and Shropshire with regard to potential joint arrangements and to inform members of the recent pilot conducted by the Standards Board.

### Financial Implications

3. None.

### Background

4. As members are aware I was asked to liaise with the legal departments in Worcester and Shropshire to consider partnership arrangements for the future especially with regards to dealing with review of initial requests for investigation. In addition to consider joint training between all members of the relevant committees affected excluding district councils.

### Consideration

5. I met with legal representatives from Worcester and Shropshire on 15th February 2008 to discuss the above matter. Shropshire are keen to develop a partnership arrangement as they are now to become a single unitary with responsibilities for parish councils and an increased number of members. Both authorities are keen to agree a joint programme for training and feel that this training should be provided once the guidance is issued by the Standards Board for England in respect of how initial investigation requests will be dealt with, a subsequent review and hearing. It is anticipated that this training will be provided around September / October 2008. This was felt to be a realistic timescale for partners involved. This does not prevent members seeking to continue progress with Shropshire in respect of considering joint committee arrangements for reviews.

6. The Head of Legal and Democratic Services took part in a pilot of the Standards Board for England feedback form. As members are aware the Board will become regulatory and will require the Monitoring Officer to provide data on a regular basis. This is to be provided by an on-line service and the Head of Legal and Democratic Services participated in a pilot. It was anticipated that the pilot would take approximately 1 hour. Unfortunately due to the slowness and the lack of easy reading of the initial table it took approximately 2 hours. It is anticipated that the on-line service will be much quicker. The

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Further information on the subject of this report is available from  
Alan McLaughlin, Head of Legal & Democratic Services on (01432) 260200

Head of Legal and Democratic Services fed back this concern and it is being addressed. There may also be issues with regard to compatibility between the council's IT system and the web browser being used by the Standards Board. This again is being investigated by the Head of Legal and Democratic Services.

## **Recommendations**

### **THAT**

- (i) the report be noted; and**
- (ii) the Head of Legal and Democratic Services continue to liaise with Shropshire County Council with regard to partnership arrangements / joint committee**

## **Background Papers**

None



*[Presentation: retain same typeface and presentation as for 2006 Annual Report]*

**COVER**

**STANDARDS IN LOCAL GOVERNMENT**

**Herefordshire's contribution**

The Annual Report of the Standards Committee for 2007



**COVER PICTURE**

**HEREFORDSHIRE....covers 842 square miles (218,000 hectares). In area it is the second largest non-metropolitan unitary authority in England.**

**It has a population of 179,000, just over half of whom live in Hereford City, and five market towns (Bromyard, Kington, Ledbury, Leominster and Ross-on-Wye**

**In addition to Herefordshire Council, there are 134 Town and Parish Councils (and four Parish meetings), more than in any other unitary authority.**

**About 1,300 councillors are involved in representing Herefordshire communities.**

***Visit our pages on Herefordshire Council's website....***

Go to <http://www.herefordshire.gov.uk>

Take the quick link to **Standards and Ethics** on the right of the homepage

You will then be able to access

- *Our agendas, minutes and working papers*
- *An electronic version of this Annual Report, and the Annual Report for 2006*
- *The Constitution of Herefordshire Council*
- *The Model Code of Conduct*
- *Herefordshire Codes of Conduct on Planning, the use of Council resources, IT and Member/Officer relations*
- *Guidance on chairing meetings, and on how to apply for a dispensation when prejudicial interests would otherwise conflict out more than half of the members of a Town or Parish Council*
- *Briefing for those attending a hearing*
- *Our decisions on recent complaints*

*You will also find a link to the Herefordshire Association of Local Councils (HALC), our partners on local standards issues*

**Contact the Committee**

**By post:** Heather Donaldson, Standards Committee, Herefordshire Council, Brockington, 35, Hafod Road, Herefordshire HR1 1SH

**By email:** [hdonaldson@herefordshire.gov.uk](mailto:hdonaldson@herefordshire.gov.uk)

**Contact the Monitoring Officer**

**By post:** Alan McLaughlin, at the address above;

**email:** [amclaughlin@herefordshire.gov.uk](mailto:amclaughlin@herefordshire.gov.uk)

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## OPEN, FAIR AND PROPORTIONATE

### What we do

The Committee was established on 1<sup>st</sup> July 2001 under section 53 of the Local Government Act 2000 and first met on 8<sup>th</sup> February 2002.

- **We promote and maintain high standards of conduct by the members and co-opted members of Herefordshire Council, and of Town and Parish Councils in the County**
- **We advise on codes of conduct, and draft and revise them where necessary**
- **We train members on conduct issues, and help them to observe codes of conduct**
- **We hold local hearings and determine complaints against councillors which are referred to us by the Standards Board for England, or which come to us after a complaint is referred by the Board for local investigation**
- **With the introduction of the “local filter”, complaints about councillor conduct will come to us first and not to the Standards Board; it will then be for us to decide whether a complaint should be investigated and, on the basis of the investigation, whether to hold a hearing**
- **We respond to inquiries from the public on any aspect of our work**

*In all that we do, we seek to ensure that Herefordshire demonstrates best practice and is at the forefront of developments nationally.*

*The regulation of standards and ethics issues is now an established part of public life, and plays an important part in enhancing and maintaining confidence. In local government, as elsewhere, that regulation must be open, fair and proportionate. These principles remain at the heart of our work.*

**Our membership in 2007 was**

**Robert Rogers (Independent Member)(Chairman)**

Robert Rogers has been in the service of the House of Commons since 1972, and is now the House's Clerk of Legislation, and a Clerk at the Table. During his time at the House he has been involved in every area of its work. He writes on Parliamentary and governance issues, and is the co-author of *How Parliament Works*, the sixth edition of which appeared in 2006. He is a member (and has been Chair and Vice-Chair) of the Standards Committee of the Hereford and Worcester Fire and Rescue Authority, and a member of the Standards Committee of the West Mercia Police Authority. He is also Chairman of the Hereford Cathedral Perpetual Trust. He is married with two grown-up daughters and has lived in the County since 1977.

**Councillor John Stone**

**David Stevens (Independent Member: Deputy Chairman)**

**Richard Gething (Town and Parish Council Representative)**

**John Hardwick (Town and Parish Council Representative)**

**Until the elections in May 2007: Councillor John Edwards**

**Following the elections in May 2007: Councillor Beris Williams**

**We are advised and supported by**

**Alan McLaughlin, Head of Legal and Democratic Services and  
Monitoring Officer**

**Heather Donaldson, Clerk of the Committee**

**We also draw upon the services of Herefordshire Council Officers and  
Departments for support in arranging meetings and hearings, printing and  
publication, and website publication. We are very grateful for this support, and  
for the readiness with which it is provided.**

## **OVERVIEW OF 2007**

This was a year of considerable change in the local government standards and ethics framework. A new national Code of Conduct was introduced, requiring training and familiarisation, and the revision of our subsidiary codes and guidance.

The arrangements for an entirely new national approach to the handling of complaints about councillor conduct were finalised. We played a part in the formulation of these, and warmly welcomed the move from a centralised system to local ownership and control.

We continued to work closely with partners within the County and beyond: the Herefordshire Association of Local Councils, and Herefordshire Town and Parish Councils; the Standards Board for England; neighbouring authorities; and the West Mercia Independent Members' Forum.

We have been involved in a wide range of other activities, which are described in greater detail on the following pages.

There was one change in the membership of our Committee: John Edwards left the Council following the elections in May 2007. He was formerly Vice-Chairman of the Council, and Chairman of the Council from May 2005. We have benefited greatly from his deep knowledge of the County and his wise counsel. His place on the Committee was taken by Councillor Beris Williams, the new Vice-Chairman of the Council; and our member Councillor John Stone became Chairman of the Council.

Neil Pringle, the Chief Executive of the Council, left towards the end of the year. We have been very grateful for his strong support for the work of the Standards Committee, and for ensuring that we have the resources to do our job thoroughly and professionally. We were glad to welcome his successor, Chris Bull, to a meeting of the Committee in January 2008 shortly after his arrival.

## **ACTIVITIES IN 2007**

### **THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) ORDER 2007**

The long-awaited new Code of Conduct came into effect during the year. We contributed to the consultation run by the Department for Communities and Local Government early in the year, and recommended adoption to Herefordshire Council, which took place in July 2007. In addition, almost all the Town and Parish Councils in the County took formal decisions to adopt the new Code before it was statutorily enforced.

It was common ground that the first (2001) Code needed replacing, and the new version is in many ways an improvement (for example, it omits the controversial requirement to “whistleblow” and is in a clearer and more direct style). However, we regretted that, following the judgement in the *Livingstone* case, it applies only to conduct in a narrowly defined performance of official duty. We thought that the public’s view of reputational issues required a wider application, and argued for that; but without success.

### **GUIDANCE, PROTOCOLS AND THE CONSTITUTION**

The introduction of the new Code has required some amendment of Herefordshire codes and protocols on specific areas. We have revised the following:

Code for Members and Officers Dealing with Planning Matters;

Protocol on the Use of Council Resources by Members;

Protocol for Member/Officer Relations;

Code of Corporate Governance;

Communications Protocol.

and they, and the Constitution, are now consistent with the new Code of Conduct.

### **THE LOCAL FILTER**

This is a major change in the local government ethical framework. The Local Government and Public Involvement in Health Act 2007 provided for a change from a centralised system in which every complaint went to the Standards Board for England (SBE), which had the option of investigating it, or of referring the complaint for investigation to the authority concerned, whose Standards Committee could then hold a hearing and determine the matter.

We thought from the start that this was far from ideal. The centralised system was seen by many as remote and bureaucratic; the lack of local ownership was a real disadvantage. To their credit, the SBE were well aware of the problems, and made great efforts both to involve local standards committees and to speed up the process of assessment and investigation.

The move to the local filter means that all complaints will now come in the first instance to a standards committee. That committee will decide whether a complaint merits investigation. If there is an investigation, its findings will be considered by the committee, and if necessary there will be a hearing.

This change is very welcome. It will be a real challenge for standards committees, and we think we are well placed to meet that challenge.

- from our establishment in 2002 we have conformed first with best practice, and now with the statutory requirement, that all our meetings and hearings should be chaired by an independent member (not just “independent” in the purely political sense, but someone entirely independent of the Council)
- we have extensive experience of local investigations and hearings, more than most standards committees, and the practice and procedure for those has been developed case by case
- we took part in the SBE’s local filter pilot, in which a small number of standards committees dealt with scenarios reflecting the practical implications of dealing with complaints at a local level

Under the new system a complaint will first come to our Monitoring Officer. He will make an initial assessment and then seek our view as to whether the complaint should be investigated. We plan to give that task to a small sub-committee.

If the sub-committee decides that no investigation is necessary, that decision may be appealed. The hearing of that appeal must be entirely independent of our committee. We have good relations with other standards committees in the region, and plan to set up reciprocal arrangements for the hearing of appeals against decisions not to investigate.

If a complaint is investigated (and that investigation will always be undertaken by someone other than the Monitoring Officer to provide a properly independent view), we must then decide whether a hearing and determination is necessary. The SBE’s guidance sees no difficulty about the members involved in the first stage taking part in the consideration of the outcome of an investigation (and in a hearing if necessary), so we do not need a further independent element for this task.

At six members, our committee is one of the smallest standards committees. We have found that this has great advantages; we work together very closely; and we maintain a high degree of embodied knowledge and experience. However, we have to ensure that we are able to operate effectively if one or more of our members is unavoidably absent, or “conflicted out” because they know the subject of the complaint, or otherwise have an incompatible interest. If this affects either of our two Herefordshire Councillor members, we are able to co-opt replacements. A similar procedure can be used in respect of our two Town and Parish Council representative members. This is not the case with our independent members, however, and so to provide a reserve capability we will be recruiting an additional independent member.

The costs of the local filter will of course depend entirely on the number of complaints with which it has to deal. But we may assume that the present level of complaints will need to be dealt with at local level (only the most serious complaints, or those with which a standards committee feels for whatever reason that it cannot handle, will go to the SBE). This will have resource implications for every authority in England; and these may well be greater for unitary and district councils, which have responsibility for Town and Parish councillors in addition to those of the principal authority.



It is vital for the credibility of the new process that it is handled thoroughly and professionally; and we have every confidence that Herefordshire Council will continue to provide us with the resources that we need to do our job effectively.

### **ELECTIONS AND “PURDAH”**

The period before an election is usually a time when feelings run high, and charge and counter-charge are part of the political exchange. It is important that the formal process of complaint and investigation is not used in this debate.

Our Monitoring Officer produced guidance for Herefordshire Council about the statutory restrictions on Council publicity in the run-up to the May 2007 elections (the “purdah period”), and we supplemented this with a leaflet for Town and Parish Councils.

In presenting our report to the last meeting of Council before the elections, our Chairman stressed the importance of making a clear distinction between political debate and personal charge. With only one exception, his advice was followed.

### **TRAINING**

Following the May 2007 elections, we contributed to the induction briefing pack and the Councillors’ induction programme. Our Chairman gave a talk to members on standards and ethics, and on the role of the Committee.

We held joint training sessions with the Herefordshire Association of Local Councils (HALC) in June and October 2007. We focused on the implications (and implementation) of the new Code of Conduct, and on prejudicial and personal interests, as part of HALC’s broader training programme for Town and Parish councillors. We continue to work closely with HALC; the excellent relationship we have with them is greatly valued, and will be drawn upon in the SBE pilot project which we describe in the *Outlook for 2008* below.

We are arranging joint training for Standards Committee members from Herefordshire and Worcestershire County Councils, the Hereford and Worcester Fire and Rescue Authority, and the West Mercia Police Authority. This will concentrate on the practical operation of the new Code of Conduct and the Local Filter.

### **HEARINGS AND LOCAL INVESTIGATIONS**

We have produced briefing papers for those involved in, or attending, Standards Committee hearings. This can often be a daunting and stressful experience, and we are keen that participants should understand the process and be aware of what to expect at a hearing. Together with a new procedure note for officers, this will provide comprehensive guidance for everyone involved.

We have considered the final reports of investigations relating to closely related complaints against eight councillors (involving in all around a thousand pages of evidence). In each case, we found that there was no failure to follow the Code of Conduct. The full texts of all our decision notices can be found on the Council’s website (see page 2).

## **THE STANDARDS BOARD FOR ENGLAND**

We have maintained our close relations with the SBE, and have enjoyed working with Sir Anthony Holland, the Chairman; David Prince, the Chief Executive; Paul Hoey, Head of Policy and Guidance; and Sara Goodwin, Head of Legal, together with their colleagues. We look forward to establishing similarly close working relations with Sir Anthony's successor after 30<sup>th</sup> June 2008, and with Glenys Stacey, who replaces David Prince on 2<sup>nd</sup> June 2008.

We have continued to monitor the Board's handling of complaints, and are pleased to see continued improvement in the speed with which these are dealt with, and the readiness to refer cases for local investigation – especially useful in the transition to the local filter.

## **DISPENSATIONS**

It has been a particularly busy year for requests from Town and Parish councils for "dispensations" – that is, for our permission for members who have a prejudicial interest to be able to participate in council business when the subject of that interest is being discussed. This is partly due to the impact of the May 2007 elections, which brought in new members.

Our plain-language guide (available on the Council website) explains the background to dispensations, the legal basis for which is complex. We sought advice from the SBE in respect of whether the regulations applied the "50% test" to the total membership of a council or to its quorum as we thought the wording to be ambiguous. The SBE agreed with us, but suggested that we should make our own interpretation on the basis that any reasonable interpretation is unlikely to be challenged. We have adopted the more generous interpretation, because we are concerned that the business of parish and town councils might otherwise be unnecessarily obstructed.

## **WEST MERCIA INDEPENDENT MEMBERS' FORUM**

Our two independent members, Robert Rogers and David Stevens (and Richard Gething in his other role as independent Vice-Chair of the Hereford and Worcester Fire and Rescue Authority Standards Committee) have taken an active part in the Forum, and in the meetings at Shrewsbury in January 2007, at which the guest was Patricia Hughes, Deputy Chair of the SBE, and July 2007, which was addressed by David Laverick, President of the Adjudication Panel for England. Both generated lively question and answer sessions.

The Forum continues to be a useful way of exchanging experience and best practice among standards committees (and supporting independent members in those authorities where their role is not fully recognised), and a report is made to our committee on each occasion.

## **STANDARDS BOARD FOR ENGLAND SUMMER ROADSHOW**

David Stevens and Richard Gething represented the Committee at the SBE Roadshow in Birmingham on 14 June. It focused primarily on the new Code, and was a valuable forum for sharing views, and Richard and David represented our views energetically.

## **SIXTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES**

The Committee was well represented at the Annual Assembly of Standards Committees in October. All members attended, and the Chairman and the Head of Legal and Democratic Services both led seminars.

It was once again an invaluable experience, especially with its focus on the new Code of Conduct and on the practical implications of local assessment. As ours is a committee with a stable membership and a good deal of experience, we were delighted that the Assembly events were targeted at different levels of training and experience amongst Standards Committees – as we had proposed in 2006.

We also had the opportunity to share our 2006 annual report, chairing checklist, and hearing guidance with other authorities. There was a very good reaction, and numerous requests to take the documents away and replicate them. We felt that this said a lot for best practice in Herefordshire.

## **WEBSITE**

As foreshadowed last year, we have developed our web presence. The Standards Committee now has its own web pages on the Council website, where you can find more information about what we do, view agendas, minutes, and hearing details, and download forms and practical guidance. There are also links to other related organisations such as the Standards Board and the Herefordshire Association of Local Councils. More information appears on page 2 of this Report.

## **OUTLOOK FOR 2008**

The main challenge will be the practical implementation of local assessment, investigation and hearings (see pages 9 to 11). We feel we are well equipped for this, and look forward to local ownership of the process.

We hope to run a Standards Board for England “model of excellence” pilot based on our close and successful relationship with the Herefordshire Association of Local Councils.

We will maintain and extend our training programme, both in conjunction with other authorities, and with the aim of reaching more Town and Parish councillors as part of our risk management policy.

We will continue to be active in the other areas covered in this Annual Report, building on the Committee’s six years’ experience, and following the principle that the system for which we are responsible in Herefordshire should be **open, fair and proportionate**.



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### Contact

Enquiries line: 0845 078 8181

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[www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)

email: [bulletin@standardsboard.gov.uk](mailto:bulletin@standardsboard.gov.uk)

### Welcome to Issue 37 of the *Bulletin*.

With the implementation of the changes to the standards framework drawing closer, this *Bulletin* looks at some of the ways in which local authorities can prepare now. We also examine how the Standards Board for England is working to make the transition to local assessment as smooth as possible.

The Local Government and Public Involvement in Health Act 2007 (Commencement No.2 and Savings) Order 2008 was made on 30 January 2008 to bring the provisions concerning the standards framework into force.

The Standards Board is working on guidance to assist authorities with their new responsibilities, and has produced a training syllabus. This aims to support authorities in developing core training for standards committees and monitoring officers.

In this edition, we look at publicising the local assessment of complaints. We also examine requirements for the recruitment of independent members and parish representatives to standards committees. The system of reporting for authorities under the new framework, which will help the Standards Board monitor local arrangements, is discussed.

In addition, this issue features useful articles on interests in relation to setting the authority's annual budget, and on appeals to the Adjudication Panel for England. We also provide information on booking for our Seventh Annual Assembly of Standards Committees.

Finally, it gives me great pleasure to introduce our new Chief Executive, Glenys Stacey. Glenys will start at the Standards Board in April and will succeed me in the role of chief executive following my retirement at the end of May.



**David Prince**  
Chief Executive

## Government's consultation on new regulations and orders

Communities and Local Government (CLG) launched a consultation in January 2008 on its proposals for the new orders and regulations arising from the Local Government and Public Involvement in Health Act 2007. These provided a revised ethical framework for the conduct of local authority members in England.

The consultation included proposals for regulations on the local assessment of complaints, the size, composition and proceedings of standards committees, and the sanctions available to standards committees.

The consultation closed on 15 February 2008. One of the consultation questions related to the effective introduction date for the orders and regulations. The Standards Board for England's own response urged 1 April 2008. Decisions on the timing of the changes, as well as the detailed changes themselves, will be for CLG ministers to take in the light of the consultation responses.

We understand that a considerable number of responses received so far have supported an implementation date of 1 May 2008. This suggestion will be considered by CLG along with the other responses received.

## Guidance on the local framework

As we mentioned in *Bulletin 36*, the Standards Board for England will be producing guidance to support local authorities in the implementation and function of the locally managed framework.

The published guidance will consist of five parts:

- the role and make-up of standards committees
- local assessment and how it will operate
- local investigations

- local determinations
- monitoring and audit arrangements

The guidance is subject to the regulations that will support the changes to the framework. We are working to publish it as soon as possible after the regulations are confirmed.

Each part of the guidance will contain two sections. The first section will be the actual guidance, which sets out the responsibilities of relevant authorities and what they need to do to meet them. A second section will contain a set of tools that will enable them to meet those responsibilities, such as templates for decision notices, letters and forms.

We will publish each part of the guidance on our website as soon as it is confirmed. This is so that local authorities can use them to prepare for the local assessment of complaints. Following this, we will produce a binder containing all of the guidance in a loose-leaf format. This will allow us to make amendments over time if necessary.

## Provisions concerning the ethical framework recently brought into force

The Local Government and Public Involvement in Health Act 2007 (Commencement No.2 and Savings) Order 2008 was made on 30 January 2008. The following are the main provisions concerning the ethical framework, which the order brings into force:

### (1) Provisions brought into force on 31 January 2008

- The partial commencement of Section 183 amends the power of the Secretary of State to make orders about general principles, model codes of conduct and those codes adopted by relevant authorities.

- Section 184 amends Sections 37, 52 and 54 of the Local Government Act 2000 so that certain references to an authority's code of conduct include reference to the mandatory provisions.
  - The partial commencement of Section 185 allows the Secretary of State to make regulations about allegations made to standards committees of failure to comply with their authority's code of conduct.
  - Sections 188 and 189 make provision about sub-committees of standards committees of relevant authorities, and allows the Secretary of State to make regulations about two or more relevant authorities establishing a joint standards committee.
  - Section 190 allows the Standards Board for England to issue guidance to ethical standards officers. It also allows the Standards Board to do things which aim to help, or are incidental or conducive to standards committees and monitoring officers exercising their functions.
  - Section 192 deals with ethical standards officers' reports. Among other things, it allows them to send reports to a standards committee which the committee would not otherwise be entitled to see, if it will help the committee to discharge its functions.
  - Sections 193 to 195 amend the powers and functions of monitoring officers and standards committees. This is because the task of initially assessing allegations of misconduct by members is moving to a local level.
  - The partial commencement of Section 198 allows the Secretary of State to make regulations about the powers and conduct of English case tribunals.
- (2) Provisions brought into force on 1 April 2008**
- Section 187 amends Section 53(4) of the Local Government Act 2000 to require a standards committee to be chaired by an independent person.
  - Section 191 deals with ethical standards officers' powers to investigate. The saving contained in article 7(3) of this order preserves the existing legal framework for cases referred to the Standards Board before 1 April 2008. **Note:** There is a typographical error in article 7(3) which will be addressed before 1 April 2008.
  - Section 196 increases the scope for consultation by ombudsmen. It allows them to consult with standards committees when carrying out an investigation.
  - Section 200 amends the Data Protection Act 1998 (c.29) by adding to the list of exemptions contained in Section 31. The exemptions now include data processed by a monitoring officer or an ethical standards officer under Part III of the Local Government Act 2000, where disclosing it would be likely to prejudice the proper discharge of that function.
  - Section 201 makes supplementary provision relevant to provisions of Part III of the 2000 Act and consequential amendments to the Local Government Act 1972, the Audit Commission Act 1998 and the Greater London Authority Act 1999.
  - Section 202 amends Section 3 of the Local Government and Housing Act 1989. This is done by transferring the function of granting exemptions from political restriction on members of relevant authorities in England from an independent adjudicator appointed by the Secretary of State to standards committees. It also empowers the Secretary

of State to make regulations requiring an authority which is not a relevant authority and so not required to have a standards committee, to establish such a committee. This is to exercise the functions of granting and supervising exemptions from political restriction. The section also provides for the Secretary of State to issue general guidance about exercising this function.

- Section 203 makes amendments in consequence of Section 202.

For more information, please call us on **0845 078 8181** and ask to speak to our Legal Department.

## **Publicising the local assessment of complaints**

The success of the ethical framework rests on transparency and accessibility. The public needs to be aware of the new role of standards committees, and where to turn if they reasonably suspect that a member has breached their Code of Conduct.

This is particularly important now that complaints will be assessed locally, and if someone's area is covered by two or more standards committees, for example a district and county council. People will also need to know where to go if they have a complaint about a parish councillor.

We have prepared a template complaint form which gives clear information on how to make a complaint. This will be part of the toolkit section of the guidance on local assessment (please see the article on page 2 for more details).

Authorities can adapt the form to their own requirements. We expect that some authorities may want to absorb complaints in relation to the Code of Conduct into their existing integrated complaints system.

Under this approach, all complaints would pass through a central point and find their way to the correct place. If there is no central clearing point for complaints, the public will need clear advice about where to direct their complaint.

While this is a matter for local discretion, we expect authorities to be as imaginative as possible in publicising the new system and how it works. Examples of good practice include:

- Prominent and easy-to-navigate links on the authority's website, especially on the 'democracy' and 'councillors' pages.
- Leaflets on display, and available in one-stop-shops, libraries (including mobile libraries), planning, housing and social work departments and area offices, and from parish clerks and offices in the district.
- Posters and publicity in Citizens Advice Bureaux and community groups, including those serving people who are traditionally more difficult to reach.
- Advertisements and articles in the local press and in the authority's own newsletter.
- Information broadcast on local radio.
- An 'Information for Citizens' section on public agendas.
- Leaflets put out at meetings and available on the agenda table.
- Publicity during Local Democracy Week and at other events such as community forum activities.
- A helpline.
- Assistance for people with a disability or whose first language is not English.



## Independent members and parish representatives in the local framework

The Local Authorities (Standards Committee) Regulations 2001 provide for the size and make-up of standards committees, and for the appointment of parish and independent members. Authorities are required to have at least three people on their standards committee and at least one must be an independent member.

Further to this, the Local Government and Public Involvement in Health Act 2007 requires all standards committees to have an independent chair. The assessment of Code of Conduct complaints will soon become the responsibility of standards committees. It is therefore vital that local authorities begin the process, if they have not already done so, of recruiting the necessary number of high calibre independent members.

The Standards Board for England recommends that each standards committee has a minimum of three independent members. If the authority is responsible for parish councils it recommends that each standards committee has at least three parish or town council representatives. This is so that the standards committee will have a different independent member, and parish representative if applicable, available to undertake each of the assessment and review functions. It also gives enough flexibility should an independent member or parish representative be unavailable or have a conflict of interest.

A person is only eligible to become an independent member if they meet the following criteria:

- They have not been a member or employee of the authority for five years before the date of appointment.
- They are not a member or officer of any authority currently.

- They are not a close relative or close friend of a member or employee of the authority.
- They filled in an application for the position.
- They have been approved by the majority of members of the authority.
- The position has been advertised in at least one newspaper distributed in the authority's area.

The successful recruitment of independent members and parish representatives is important for the effective operation of standards committees. In order to attract the greatest number of high calibre people, authorities should advertise as widely as possible. You may wish to consider additional methods of recruitment in addition to advertising in the local press. These could include:

- Advertising on your website or your local radio station.
- Placing flyers in libraries, adult learning centres or places of worship.
- Advertising through other authorities' partnerships or through the local voluntary or community sector.
- Contacting neighbouring authorities who may have good candidates that they don't have room to appoint.

As part of the recruitment campaign for independent members, standards committees may wish to set up a panel of suitably trained members to shortlist and interview potential candidates. The monitoring officer should play an active role and be involved throughout the recruitment process, advising the panel on the appropriate steps.

## New reporting system for authorities on local assessment

The introduction of local assessment means that local authorities will be required to report information about receiving and investigating cases to the Standards Board for England.

We have been asked by the government to ensure the effectiveness of the local framework. This is to ensure confidence that local representatives are serving the public openly and fairly, and being held to account effectively if they fall below the accepted line.

To do so there needs to be a constructive monitoring procedure, which is light touch and proportionate to identified risk. Consequently, we have tried hard to design a system that will allow monitoring officers to tell us the information that we need to perform our duty as a strategic regulator, without being overly burdensome. The system was piloted with a wide cross-section of monitoring officers. We tried to tailor the questions so that they mirror the type of information monitoring officers will be reporting to their authority.

At intervals, normally at the end of each quarter, the monitoring officer, or other designated person in the authority, will complete a simple online questionnaire. The questionnaire does not take long to complete.

If there are no complaints to report, the monitoring officer just answers a few quick questions about the composition of the standards committee, and then ticks a box to indicate that there were no complaints in that period. At the end of the following quarter, if there are still no complaints and the details about the standards committee have not changed, notification will be even easier. The monitoring officer will just need to log onto the system, place a tick in a box and then press a submit button.

If there are complaints to report, then there is an additional section of the form where the monitoring officer has to provide some details

about each complaint. The questions cover standard areas like the complaint source and outcome, and significant dates in the process. We need to know things like how long investigations are taking and whether mediation has been successful.

The idea behind collecting this information is to allow us to help local authorities by being aware of and sharing effective practice, identifying trends, and managing risks.

Although the quarterly information returns will give us the quantitative data we need for monitoring local case handling, we will also supplement this with additional data collected on an annual basis. This annual data will enable you to tell us about the plans and activities of your standards committees and will provide an opportunity for you to share effective practice with us. We will again do our best to make sure that this annual data collection is not an onerous task.

In addition, the legislation allows us to request further information from authorities. However, we will only do this if the regular monitoring raises concerns about performance at an individual level. If this does happen, we have put in place a small support team who will work with you to see if there is additional guidance you may need, or particular training issues we can help you address.

While the law does allow us to remove local powers, this will be very much a last resort if all other avenues of support fail. We hope our support team will become an important resource for you to draw upon to do your jobs even more effectively.

The quarterly returns system is due to go live at the same time as the new assessment arrangements, and monitoring officers will be contacted soon with details of how to access and use the questionnaire. Data submissions will not be due until after the close of the first quarter. We are aiming to provide high quality support for this system, with a comprehensive user guide and telephone helpline.

## Prejudicial interests and setting the authority's annual budget

There is an exemption regarding prejudicial interests under paragraph 10(2)(c)(vi) of the Code of Conduct. This provides that a member does not have a prejudicial interest in any business of the authority where that business relates to the **functions** of "setting council tax, or a precept under the Local Government Finance Act 1992". This exemption applies even where a member might otherwise have an interest under paragraph 10. So what is the scope of the exemption?

There are many different ways to present the annual budget for the next municipal year and there are many different procedures used by authorities to set a budget. The Standards Board for England believes that the words "relates to the functions" are wide enough to cover the formal council tax or precept-setting meeting of the authority. It can also cover those meetings at which the preparatory work is decided, leading up to the council tax or precept-setting meeting.

Therefore, the exemption in paragraph 10(2)(c)(vi) should cover members for most council budget-setting meetings. However, it does not cover members who are also being asked to consider whether to hand over money, usually in the form of grants, for organisations that form one or more of their personal interests and for which specific budgetary provision has been, or is being made.

In other words, just setting aside money in an annual budget for an organisation is a function that relates to setting council tax and so qualifies for the 10(2)(c)(vi) exemption. However, the formal decision to hand it over, at whatever meeting, would trigger a prejudicial interest that is not exempted by 10(2)(c)(vi).

Usually the formal decision to hand over the money is actually made by an officer under the authority's scheme of delegation which allows them to take decisions. This is as long as it does not incur expenditure beyond that which has been budgeted.

We believe that no member has a prejudicial interest in motions which call on members to adopt the budget with details which are set out in an officer report. These general motions are clearly part of the council tax-setting process. Therefore, all members can attend, debate and vote on that motion, whatever the effects might be on their personal interests.

Difficulties can arise with members, normally executive members, at the early stages of the annual budget preparation when specific amounts of money may be allocated to bodies in which the member has a personal interest. If the decision being made is clearly part of the budget-setting process for your authority then the exemption in paragraph 10(2)(c)(vi) appears to apply. However, if there is any doubt about the status of the decision, the prudent course would be to declare a prejudicial interest or seek a dispensation from the standards committee.

## Appeals to the Adjudication Panel for England

A recent case has highlighted the need for standards committees to take care when giving councillors information about appeals following a standards committee hearing. In the case, the standards committee's written decision did not give a contact address for the President of the Adjudication Panel for England. The decision was also worded in a way which suggested that the President could be contacted via the Standards Board for England.

The rules on appeals in relation to standards committee decisions are covered by Part III of the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003. Paragraph 8 of the regulations requires the standards committee to give written notice of the finding as soon as reasonably practicable. This should be given both to the member and to the other people specified in this paragraph. For example, any parish councils concerned and any person who made an allegation that gave rise to the investigation.

Paragraph 9(1) of the regulations provides that the member who is the subject of the finding may "by way of notice in writing given to the President of the Adjudication Panel, seek permission to appeal". Paragraph 9(2) states that such notice must be received by the President of the Adjudication Panel within 21 days of the member's receipt of notification of the finding. Notification of the finding is considered to be the date on which the member receives the full written decision. In practical terms, this is usually a number of days after the hearing itself.

While there is no obligation to specify the contact details of the President, it is good practice to include both the postal address and the Adjudication Panel's website details in the decision notice. The postal address is:

The Adjudication Panel for England  
23 Victoria Avenue  
Harrogate  
North Yorkshire  
HG1 5RD

The website address is [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk), and the office of the Adjudication Panel can be emailed via [enquiries@adjudicationpanel.co.uk](mailto:enquiries@adjudicationpanel.co.uk).

Standards committees might also wish to refer members to the 'Application for permission to appeal form' on the Adjudication Panel's website. This is the first link on the Procedures section of the site, and helpfully sets out what information should be provided when applying for permission.

### Annual Assembly delegate fee frozen

This year's Annual Assembly of Standards Committees is called **Delivering the goods: local standards in action**. The event will provide an invaluable opportunity for delegates to share experiences and learn from those who have been through the local assessment process.

We recognise how important it is that as many people as possible have the chance to attend. So we have frozen the cost of places at this year's conference at the same price as 2007 – £430 plus VAT.

The 2008 conference microsite – [www.annualassembly.co.uk](http://www.annualassembly.co.uk) – goes live in March, when delegates will be able to book places using quick and easy online booking. The site will also provide more information about what's on at the conference.

To register your interest in the conference, please email [annualassembly2008@standardsboard.gov.uk](mailto:annualassembly2008@standardsboard.gov.uk)

### Upcoming events

The Standards Board for England is running sessions at both the Labour and Conservative party local government conferences. Details are:

**The case for the Code of Conduct**  
Conservative local government conference,  
1 March 2008, Warwickshire.

A session looking at some of our investigations from the last five years. This will illustrate the need for a mechanism to deal with the minority of councillors who damage public trust in local government. The session will be followed by a discussion chaired by Councillor Sir Ron Watson, CBE.

**Partnerships, standards and leadership**  
Labour local government conference,  
2 March 2008, Birmingham.

A presentation and discussion, organised in partnership with the Improvement and Development Agency (IDeA) looking at local government partnership working. A chance to discuss the key issues of leadership, high standards, culture, values and behaviour in addressing the accountability gap often presented by partnership working.



### **New Chief Executive**

Glenys Stacey has been appointed as the new Chief Executive of the Standards Board for England. She will begin in April and, after a handover period, will succeed David Prince who retires at the end of May. Glenys will be out and about meeting stakeholders and those of you involved in standards locally.

Experienced in the public sector, Glenys is a solicitor and former Chief Executive of the Criminal Cases Review Commission, responsible for investigating suspected miscarriages of justice. She is also a former Chief Executive of the Greater Manchester Magistrates' Courts Committee, managing summary justice delivery in Greater Manchester.

Glenys comes to the Standards Board from her latest role as Chief Executive of Animal Health, where she has been leading a national organisation through development and reform. She has also headed the country-wide field response to animal disease outbreaks.

Glenys Stacey said:

"I am delighted to be joining the Standards Board for England at such an interesting time – both for the Standards Board as it evolves to become a strategic regulator, and for local government as its remit is changing and growing. I hope and trust that my experience of the good work of local authorities and in leading professional organisations in the public sector will stand me in good stead, and I am looking forward very much to taking up the post."

Welcoming the appointment, Sir Anthony Holland, Chair of the Standards Board, said:

"As a solicitor with experience of developing and running complex service organisations, Glenys is exactly the person we need to lead the Standards Board for England in its new role of providing

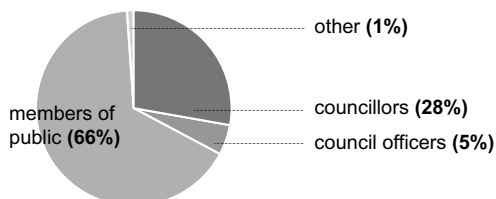
both the vital support and the independent, national oversight needed to make the locally-based ethical standards system work."

## Referral and investigation statistics

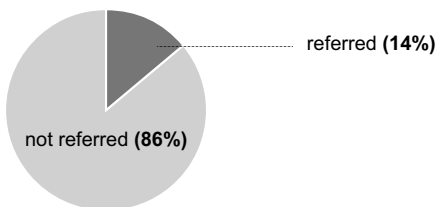
The Standards Board for England received 2,869 allegations between 1 April 2007 and 31 January 2008, compared to 2,819 during the same period in 2006-07.

The following charts show referral and investigation statistics during the above dates.

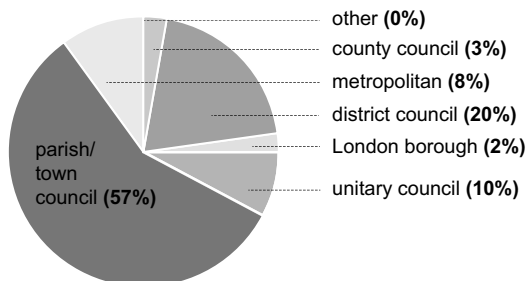
Source of allegations received



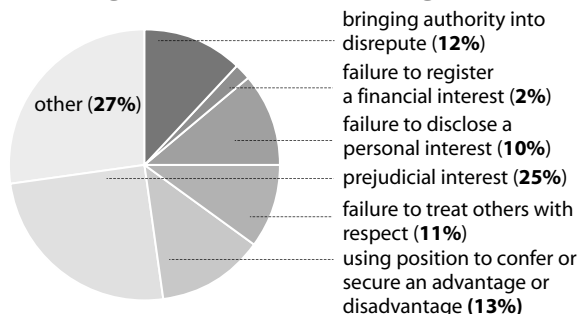
Allegations referred for investigation



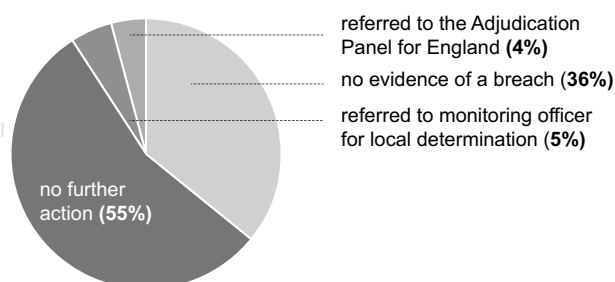
Authority of subject member in allegations referred for investigation



Nature of allegations referred for investigation



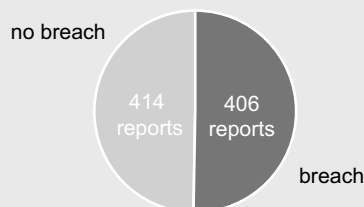
Final findings



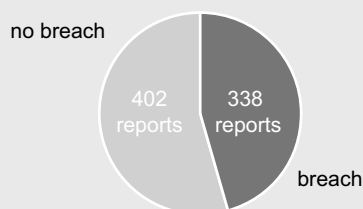
## Local investigation statistics

For the period 1 April 2007 to 31 January 2008, ethical standards officers referred 223 cases for local investigation – equivalent to 51% of all cases referred for investigation. Since 1 April 2007 there have been eight appeals to the Adjudication Panel for England following standards committee hearings. Of all cases referred for local investigation since November 2004, we have received a total of 1,036 reports – please see below for a statistical breakdown of these cases.

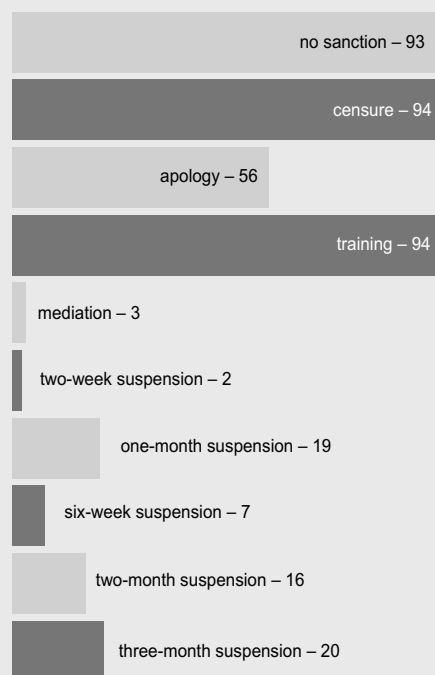
Monitoring officers' recommendations following local investigations



Standards committee hearings



Standards committee determinations



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