

A G E N D A

Standards Committee

Date: **Friday, 4th July, 2008**

Time: **2.00 p.m.**

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

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

For any further information please contact:

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Herefordshire Council

AGENDA

for the Meeting of the Standards Committee

To: Robert Rogers (Independent Member) (Chairman)

Richard Gething (Parish and Town Council Representative)

John Hardwick (Parish and Town Council Representative)

David Stevens (Independent Member)

John Stone (Local Authority Representative)

Beris Williams (Local Authority Representative)

	Pages
1. APOLOGIES FOR ABSENCE To receive apologies for absence.	
2. DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the agenda.	
3. MINUTES To approve and sign the minutes of the meeting held on 18 April 2008.	5 - 12
4. CODE OF CORPORATE GOVERNANCE To consider and agree a revised Code of Corporate Governance for the Council, following the new governance framework and guidelines. Wards: County Wide	13 - 46
5. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS To consider applications for dispensations received from parish and town councils. <i>(Note: at the time that this agenda went to print, no applications had been received. If any applications for dispensations are received before the meeting, an oral report will be given.)</i> Wards: County Wide	
6. LOCAL ASSESSMENT: INITIAL HANDLING OF COMPLAINTS To consider the proposed complaint form, guidance notes and assessment criteria in accordance with local assessment guidance issued by the Standards Board for England. Wards: County Wide	47 - 94

7.	ALTERNATIVE ACTIONS SEMINAR	95 - 104
	To consider the report of the Assistant Chief Executive – Legal and Democratic, in respect of a Standards Board for England Seminar on alternative action (i.e. other than conducting investigations and hearings), and to devise a strategy in relation to this.	
	Wards: County Wide	
8.	ROLE AND COMPOSITION OF THE STANDARDS COMMITTEE AND ITS SUB-COMMITTEES	105 - 124
	To consider revisions to the Council’s Constitution in respect of the Standards Committee and its Sub-Committees, in the light of the Standards Committee (England) Regulations 2008 and the guidance issued by the Standards Board for England entitled: “the Role and Make Up of Standards Committees”.	
	Wards: County Wide	
9.	JOINT WORKING WITH OTHER STANDARDS COMMITTEES	125 - 126
	To consider progress made with proposals for joint Standards Committee working arrangements.	
	Wards: County Wide	
10.	JOINT TRAINING ARRANGEMENTS	127 - 128
	To consider joint training arrangements with other Local Authority Standards Committees.	
	Wards: County Wide	
11.	RECRUITMENT OF AN INDEPENDENT MEMBER	
	To receive an oral report on progress made with recruiting an additional Independent Member for the Standards Committee.	
	Wards: County Wide	
12.	STANDARDS COMMITTEE HEARING ARRANGEMENTS	
	To consider a proposed Committee and officers’ guide on the arrangements for local determination hearings.	
	(Note: This report will be sent “to follow”.)	
	Wards: County Wide	
13.	MEMBER/OFFICER RELATIONS PROTOCOL	129 - 144
	To consider revisions to the Council’s Constitution in respect of the Protocol for Member/Officer Relations.	
	Wards: County Wide	
14.	STANDARDS BOARD FOR ENGLAND/HEREFORDSHIRE ASSOCIATION OF LOCAL COUNCILS JOINT PILOT PROJECT	
	To consider an oral update on the Joint SBE/HALC Pilot Project.	
	Wards: County Wide	

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

15. LOCAL ASSESSMENT: RETURNS REPORT TO THE STANDARDS BOARD FOR ENGLAND

To update the Committee about progress made with complaints during the period up to 30th July 2008.

(Note: at the time that this agenda went to print, no complaints had been received. If any complaints are received before the meeting, an oral report will be given.)

Wards: County Wide

(This item discloses information which is subject to an obligation of confidentiality)

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. A list of the background papers to a report is given at the end of each report. A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Standards Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday, 18th April, 2008 at 2.00 p.m.

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

36. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

37. DECLARATIONS OF INTEREST

The Chairman, Mr Robert Rogers, declared a prejudicial interest in Agenda Item 14 (Minute 49 below refers - Application for a Dispensation Received from a Town Council) and left the meeting for the duration of this item.

38. MINUTES

RESOLVED: (unanimously) that the minutes of the meeting held on 18 January 2008 be approved as a correct record and signed by the Chairman.

39. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS

The Committee considered a report outlining an application for a dispensation which had been received from Lyonshall Parish Council.

Members referred to the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002, which enabled them to grant dispensations in circumstances when the number of councilors that would be prohibited from participating in the business of the Council (due to them having a prejudicial interest) would exceed 50%.

Six out of ten members of Lyonshall Parish Council had requested a dispensation for the maximum period permissible, in relation to a housing needs survey which had been conducted in and around the village, and proposals which might arise from the survey in respect of developments containing elements of affordable housing. Five of the members lived near to possible "exception sites" for development, and the sixth was the Managing Director of a local company owning several of these sites. The dispensation would enable the Parish Council to discuss matters relating to the housing needs survey and any potential developments.

RESOLVED: (unanimously) that the request for a dispensation received from Messrs Geoffrey Mitchell, John Parker, Ray Richards, Paul Avery, Graham Rutherford and Malcolm Thompson of Lyonshall Parish Council, in relation to a housing needs survey and potential affordable housing developments in Lyonshall, be granted until 18 April 2012.

40. EMPLOYEE CODE OF CONDUCT AND MEMBERS/OFFICERS PROTOCOL

The Committee considered the report of the Head of Legal and Democratic Services in respect of a proposed new Protocol for Officer/Councillor Relations and an Officers' Code of Conduct, which formed Appendices 12 (Annex 1) and 14 of the Council's Constitution respectively.

Members felt that the Officer Code of Conduct fell outside the Committee's remit because, with one exception relating to political activity by officers in politically restricted posts, the Committee dealt exclusively with conduct relating to elected and co-opted councillors. In addition, Members felt that further background information was required in order to consider properly the Protocol for Officer/Councillor Relations, so that they were fully aware of the history surrounding the proposed changes. They requested supporting documentation illustrating what changes had been made so that they could make appropriate comparisons, explicit reasons why revisions to the documents had become necessary, and precision about which elements of the Codes and Protocols were the Committee's responsibility (and which were not).

In view of the fact that Council would be considering the documents in the near future, the Committee agreed to receive the additional information and make its comments by email so that they would be in time for the next stage of the process. Members agreed that, because the public would not be party to their consideration of the documents by email, the outcome of their correspondence would be reported at the next Standards Committee meeting and published on the Council's website.

RESOLVED: (unanimously) that

- (i) consideration of the report be deferred to obtain further information;**
- (ii) upon receipt of the required information, the Committee considers its response by email to ensure that it is taken into consideration at Annual Council on 16 May 2008, and this response be published on the Council's website and reported at the Standards Committee meeting to be held on 04 July 2008.**

41. TRAINING UPDATE, AND STANDARDS BOARD FOR ENGLAND PILOT PROJECT

The Legal Practice Manager reported on progress made with arrangements for joint training with the Standards Committees of Worcestershire and Shropshire, and the Hereford and Worcester Fire and Rescue Authority and the West Mercia Police Authority. The training would focus on the new Code of Conduct and local assessment, and would take place in September/October 2008. The Standards Board for England would be producing guidance and materials on these subjects in due course, and the timing of the training programme would allow the materials to be incorporated.

As part of the preparation for local assessment, the Head of Legal and Democratic Services had participated in an online pilot project run by the Standards Board for England regarding the provision of data. From 08 May 2008 onwards, the Standards Board would require Monitoring Officers to provide information on a regular basis in respect of local assessment, using an online form. He had given feedback on this to the Standards Board.

Mr Richard Gething provided a list of delegates who had attended the Herefordshire Association of Local Councils (HALC) training session in October 2007 in respect of the new Code of Conduct. He said that he would have more up-to-date training information shortly, and would forward it to the Head of Legal and Democratic Services. He said that HALC would attempt to include all parish and town councillors who had not attended to ensure that they were sufficiently equipped for their roles. HALC's Chief Executive was currently arranging additional Code of Conduct training sessions for 2008/09, and the programme for this would be presented to the next Standards Committee meeting in July 2008. The Legal Practice Manager reported that the Council also kept records of the specific training sessions that its councillors had attended. He said that, following the May 2007 elections, all councillors, whether new or experienced, had received Code of Conduct training. There were also measures in place to provide bespoke training for any councillors who were appointed mid-term following a by-election. The Committee emphasised the need to keep comprehensive training records to ensure that all councillors were given every opportunity to attend courses.

RESOLVED: (unanimously) that

- (i) the report be noted;**
- (ii) the Head of Legal and Democratic Services continue to liaise with Shropshire County Council in order to form partnership arrangements/a joint committee to fulfill the requirements of local assessment; and**
- (iii) updated information on HALC's training to date, and its programme of courses 2008/09 be considered at the Committee's next meeting on 04 July 2008.**

42. LOCAL ASSESSMENT

The Legal Practice Manager reported that the Standards Committee Regulations 2008 (Statutory Instrument 2008 No. 1085), supporting local assessment had been laid before Parliament on 17 April 2008, and he tabled the Regulations at the meeting. Furthermore, the Standards Board for England (SBE) had confirmed that local assessment would be effective from 08 May 2008, and guidance and a toolkit of resources would appear on the SBE website shortly. The Committee observed that the Regulations had provided an increase in the maximum term of suspension which Standards Committees could impose on councillors at hearings, specifically from three months to six months. The Committee felt that a twelve month suspension period would remain a more realistic sanction for those councils which only met bi-monthly or quarterly, but in all other respects, the Regulations had reflected the observations that the Committee had made in respect of the Department of Communities and Local Government's consultation early in 2008.

The Committee also considered a recruitment pack for Independent Members to Standards Committees, which had been produced by Newark and Sherwood District Council. They agreed that the pack was a thorough and comprehensive piece of work which could be adapted to suit the requirements of Herefordshire. The

Chairman said that he would discuss the recruitment of one additional independent member with the Head of Legal and Democratic Services, with a view to engaging in the process as a matter of urgency.

Mr Gething felt that there was merit in finding suitable additional candidates for parish and town council representatives through HALC, who would be in a position to serve as co-opted members should the need arise. It would also be necessary to devise induction training for these candidates so that they were aware of all the issues surrounding local assessment and the hearings process.

RESOLVED: (unanimously) that

- (i) **the Chairman, the Head of Legal and Democratic Services and the Democratic Services Officer liaise with a view to devising a recruitment pack and advertising for an additional Independent Member for the Standards Committee as a matter of urgency; and**
- (ii) **HALC be requested to consider suitable candidates to be co-opted as parish and town council representatives for the local assessment process, and appropriate training be devised for them jointly by HALC and the Standards Committee.**

43. STANDARDS COMMITTEE ANNUAL REPORT

The Committee considered a revised draft of its annual report for 2007, and made some minor amendments to the wording. In addition to the amendments, there was still a small amount of work to be done on Members' biographies, and some photographs required updating.

Arising from the discussion, Members also requested an update on progress made with revisions to the Council's Code of Corporate Governance. Ms Samantha Jones, Corporate Lawyer, was present at the meeting, and reported that she had been tasked with compiling a definitive Code from a series of amendments that had been made, including those of the Standards Committee. In addition, the Code required significant revisions following new guidance issued by the Audit Commission, and its format would be completely re-structured. She said that she would circulate a draft to the Committee as soon as it was available.

RESOLVED: (unanimously) that

- (i) **the Democratic Services Officer make all the necessary amendments to the Standards Committee Annual Report for 2007, and subject to approval of the final draft by the Chairman, arrange for it to be designed, printed and distributed; and**
- (ii) **the Corporate Lawyer circulate a draft of the revised Code of Corporate Governance as soon as it is available.**

44. SEVENTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Committee considered information in respect of the Seventh Annual Assembly of Standards Committees, which would be held at the International Conference Centre in Birmingham on 13 and 14 October, 2008. The conference theme this year would be: "Delivering the Goods: Local Standards in Action", and would focus on meeting the challenges of the new local standards framework.

Members agreed that the conference would be of enormous benefit because of the invaluable training opportunities that it presented, and especially in the light of the imminent local assessment regime. Five members expressed a wish to represent the Standards Committee, and it was agreed that the Hereford and Worcester Fire and Rescue Authority be requested to meet the costs of those members who were common to both committees.

The Chairman noted that he had been asked by the Association of Independent Members of Standards Committees to speak at a fringe event with the Chairman of the Committee on Standards in Public Life, and expressed his regrets that official duties would prevent both his accepting the invitation, and attending the Assembly.

RESOLVED: (unanimously) that

- (i) **Councillor John Stone, Councillor Beris Williams, David Stevens, Richard Gething and John Hardwick attend the Seventh Annual Assembly of Standards Committees in Birmingham on 13 and 14 October 2008; and**
- (ii) **the Hereford and Worcester Fire and Rescue Authority be requested to meet the costs of those members who were common to both committees.**

45. STANDARDS BOARD FOR ENGLAND BULLETIN 37

Members noted the contents of Bulletin 37 from the Standards Board for England.

RESOLVED: (unanimously) that the report be noted.

46. STANDARDS BOARD FOR ENGLAND/NATIONAL ASSOCIATION OF LOCAL COUNCILS PILOT PROJECT

Mr Gething reported on a pilot project which was being conducted by the Standards Board for England (SBE), on joint agreements between Associations of Local Councils and Standards Committees. The project would attract a small grant of £250.00 per day, and it was anticipated that it would require twelve days' work spread over approximately six months. The Herefordshire Association of Local Councils (HALC) was one of six Associations that had been asked to complete the pilot, the others being Lincoln, Cornwall, Hampshire, Cheshire and Northamptonshire. The SBE had chosen a diverse mix of urban and rural areas for the pilot, and had selected Herefordshire in particular as an exemplar of excellent working relationships with both its local Monitoring Officer and Standards Committee.

The project aimed to produce a model for compacts between local Associations, Monitoring Officers and Standards Committees, by monitoring the following activities:

- Informal meetings between the Standards Committee and the Local Association to ensure that there was agreement over the Code of Conduct;
- The production of joint guidance leaflets;
- A minimum of two joint training events per year;
- The Monitoring Officer and Committee Members attending a minimum of six parish/town council meetings between June and December 2008;
- Collecting supporting evidence of the extent of Code of Conduct training amongst parish/town councils.

Members commented that the only activity currently not undertaken by the Standards Committee was attendance at parish/town council meetings. Mr David Stevens reported that he had previously attended some meetings as a casual observer, and he suggested that it would be preferable for the members of the Standards Committee to adopt a different approach to this, making it clear who they were and why they were attending, thus ensuring complete transparency. The Committee emphasised the importance of explaining in advance to parish and town councils that the Standards Committee would undertake a round of selected visits, to avoid any anxiety or misunderstandings. The main purpose of the visits would be for members to answer any questions about its work and the local filter. Mr Gething said that he would ask HALC to include an article about it in its next circular.

In the past, informal meetings with HALC had usually been attended by the Chairman and the Head of Legal and Democratic Services, and members felt that there was merit in involving all of the Standards Committee in future meetings, and making it a regular booking before each main Standards Committee meeting.

Members agreed to consider producing a guidance leaflet on Planning issues as a joint project.

Mr Gething said that he would report on progress made with the pilot project at the Committee's next meeting. The Committee asked Mr. Gething to convey its thanks and congratulations to HALC for being instrumental in the project.

RESOLVED: (unanimously) that:

- (i) the SBE/HALC Pilot Project be welcomed and supported;**
- (ii) all members of the Standards Committee be involved in informal briefings with HALC;**
- (iii) HALC be requested to include an article about visits by Standards Committee members in its next circular;**
- (iv) as part of the pilot project, a joint Standards Committee/HALC guidance leaflet be produced in respect of Planning matters; and**
- (v) a progress report be considered by the Standards Committee at its next meeting on 04 July 2008.**

47. DATES OF FUTURE MEETINGS

Members noted the following dates of future meetings:

- 04 July 2008
- 17 October 2008
- 16 January 2009
- 17 April 2009

In addition, the Democratic Services Officer reported that the following were provisional dates to be used if required under the new local assessment regime:

- 06 June 2008
- 08 August 2008
- 12 September 2008
- 14 November 2008

- 12 December 2008
- 13 February 2009
- 13 March 2009
- 15 May 2009

48. 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 2008.

RESOLVED: (unanimously) that the report be noted.

49. APPLICATION FOR A DISPENSATION RECEIVED FROM A TOWN COUNCIL

[Note: The Chairman, Mr Robert Rogers, declared a prejudicial interest in respect of this item, vacated the Chair and left the meeting. Mr David Stevens took the Chair for the remainder of the meeting.]

The Committee considered a report outlining an application for a dispensation received from Kington Town Council. The Committee had granted a dispensation for the same matter at its meeting on 30 June 2007, and this request, although a new dispensation, would have the effect of extending the previous one.

Members referred to the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002, which enabled them to grant dispensations in circumstances when the number of councillors that would be prohibited from participating in the business of the Council (due to them having a prejudicial interest) would exceed 50%.

Members expressed concern that the matter had not yet been resolved, and taking into consideration all of the circumstances surrounding the application, felt that a dispensation of four months was adequate.

RESOLVED: (unanimously) that the request for dispensation received from:

Mr P. Williams	Mr H. Jones
Mr D. Cresswell	Mr S. Reynolds
Mrs E. Newman	Mr B. Thomas
Mrs B. Trumper	Mr T. Bounds
Mr M. Turner	Mr A. Lloyd

be granted, subject to the following conditions.

- **The dispensation will run for a limited period of four months from the date of Herefordshire Council's letter informing the Town Council of the grant of dispensation, and after that time it will expire; and**
- **The dispensation applies only to the matters stated in the Town Council's application dated 14 April 2008, and to no other matters.**

The meeting ended at 3.17 p.m.

CHAIRMAN

CODE OF CORPORATE GOVERNANCE

Report By: Assistant Chief Executive - Legal and Democratic

Wards Affected

County Wide

Purpose

1. To consider and agree the revised Code of Corporate Governance for the Council following the new governance framework and guidelines.

Financial Implications

2. None.

Background

3. The Committee will recall having received a report on the Code of Corporate Governance. The code has been revised taking into account the framework agreed by Cabinet on 27th March 2008 (attached as Appendix 2) and reflects the requirements outlined in the CIPCA/SOLACE publication '*Delivering Good Governance in Local Government*'. Cabinet requested that the Monitoring Officer carry out a review of the Code to meet the new regulations and guidance. The (draft) revised Code of Corporate Governance (attached as Appendix 1) takes into account the new framework.
4. The CIPFA/SOLACE guidance in '*Delivering Good Governance in Local Government*' sets out six core principles on which effective governance should be built, each of which have a number of key requirements to ensure that the principles are embedded in the Council's policies, procedures and systems (see Appendix 1).
5. The six core principles are:
 - i. Focusing on the purposes of the Council and on outcomes for the community and creating and implementing a vision for the local area
 - ii. Members and Officers working together to achieve a common purpose with clearly defined functions and roles
 - iii. Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
 - iv. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
 - v. Developing the capacity and capability of member and officers to be effective.

Further information on the subject of this report is available from
Alan McLaughlin, Assistant Chief Executive - Legal & Democratic on (01432) 260200

- vi. Engaging with local people and other stakeholders to ensure robust public accountability.

Consideration

6. An annual review of the Code of Corporate Governance will be conducted to produce an Annual Governance Statement, in order formally to meet audit and accounting regulations.
7. The Code of Corporate Governance is needed to meet the requirements of the Audit and Accounts Regulations 2003 (as amended) and to ensure that governance arrangements continue to meet best practice

Recommendations

THAT

the Committee approves the Code of Corporate Governance which was considered by the Audit and Corporate Governance Committee on 3 July 2008, subject to any comments or amendments, for approval by Cabinet.

Background Papers

None

Appendices

- Appendix 1 – (Draft) Revised Code of Corporate Governance
- Appendix 2 – Cabinet Report by Director of Resources – 27th March 2008.

REVISED CODE OF CORPORATE GOVERNANCE

1. Foreword

- 1.1 Herefordshire Council is committed to the highest standards of governance. It must meet high ethical standards of conduct in everything it does; it must comply with legal requirements; and it must use public money and other resources economically, efficiently and effectively.
- 1.2 In order to discharge these responsibilities, Members and senior Officers must ensure the proper governance of the Council's affairs and the stewardship of its resources.
- 1.3 The Council's Code of Corporate Governance is consistent with the principles of and reflects the requirements within the CIPFA/SOLACE Framework, 'Delivering Good Governance in Local Government in Local Government.
- 1.4 Whilst all Councillors and Managers are responsible for the effective application of the Code, the Director of Resources for the Council is responsible for compliance of the code in matters of financial probity, performance and risk. The Assistant Chief Executive Legal and Democratic, who is also the Monitoring Officer, is responsible for the effective compliance of the Code in respect of legal obligation and ethical standards.
- 1.5 In order to strengthen standards of governance, and to comply with legislation, there will be an annual review of the effectiveness of the Code of Corporate Governance.
- 1.6 Governance is about how the Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open and accountable manner.
- 1.7 It comprises the systems, processes, culture and values by which the Council is directed and controlled, and through which it accounts to, engages with and leads the community.
- 1.8 The Council is committed to the six core principles of good governance:
 - i. Focusing on the purposes of the Council and on outcomes for the community and creating and implementing a vision for the local area
 - ii. Members and Officers working together to achieve a common purpose with clearly defined functions and roles
 - iii. Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
 - iv. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
 - v. Developing the capacity and capability of members and officers to be effective
 - vi. Engaging with local people and other stakeholders to ensure robust public accountability.

2. The Six Core Principles of Good Governance

2.1 Focusing on the purposes of the Council and on outcomes for the community and creating and implementing a vision for the local area.

2.1.1 Through carrying out our responsibilities and in our influence of the wider community, the Council will:

- i. Demonstrate strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcomes for citizens and services users.
- ii. Ensure that users receive a high quality of services whether directly or by commissioning.
- iii. Ensure that the authority makes best use of resources and that tax payers and service users receive excellent value for money.

2.1.2 The Council will maintain effective arrangements to:

- i. Develop and promote the authority's purpose and vision.
- ii. Review on a regular basis the authority's vision for the County and its implications for the authority's governance arrangements.
- iii. Ensure that the partnerships are underpinned by partnership agreements setting out a common vision of their work that is understood and agreed by all partners.
- iv. Publish an Annual Report on a timely basis, presenting an objective and understandable report on the authority's activities and achievements, its financial position and performance. This would include the statements that:
 - (a) Explain the Council's responsibilities for the Annual Statements of Accounts.
 - (b) Confirm that the Council complies with relevant standards and the Code of Corporate Governance.
 - (c) Explain the effectiveness of the Council's systems for managing risk and internal control.
- v. Measure the quality of service for users and make sure that the information needed to review service quality effectively and regularly is available. Cabinet has approved a data quality policy.
- vi. Put in place effective arrangements to identify and deal with failure in service delivery.
- vii. Measure value for money and make sure that the authority or partnership has the information needed to review value for money and performance effectively.
- viii. Measure the environmental impact of policies, plans and decisions.
- ix. Regularly review arrangement for how the Council's financial and operational reporting processes are independently scrutinised, including internal and external audit review of this code.

2.2 Members and Officers working together to achieve a common purpose with clearly defined functions and roles

2.2.1 The Council through its constitution and monitoring procedures will:

- i. Ensure effective leadership throughout the authority, being clear about executive and non executive functions and the roles and responsibilities of the scrutiny function.

- ii. Ensure that a constructive working relationship exists between authority members and officers and that the responsibilities of members and officers are carried out to a high standard.
- iii. Ensure relationships between the authority, its partners and the public are clear so that each knows what to expect of the other.

2.2.2 The Council will:

- i. Set out within the Constitution a clear statement of the respective roles and responsibilities of the Executive and of the Executive Members individually and the authority's approach towards putting this into practice.
- ii. Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers within the Constitution.
- iii. Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for collective decisions of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required. The Scheme of Delegation is contained in the Council's Constitution.
- iv. Make the Chief Executive responsible and accountable to the authority for all aspects of operational management. The Chief Executive, as the Head of Paid Service, has designated authority under the Scheme of Delegation as outlined in the Constitution.
- v. Develop protocols to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained.
- vi. Make a senior officer (the S151 Officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control. This function is carried out by the Council's Director of Resources, and the role defined within the Council's Constitution. Regular financial reports are submitted to Audit and Corporate Governance Committee, Cabinet and Council.
- vii. Make a senior officer (the Monitoring Officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with. The function of the Monitoring Officer, is designated to the Assistant Chief Executive Legal and Democratic.
- viii. Develop and monitor protocols to ensure effective communication between members and officers in their respective roles as outlined in the Council's Code of Conduct and Scheme of Delegation.
- ix. Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process, including an effective remuneration panel. An Independent Remuneration Panel for Members Allowances has been established by the Council which provides recommendations on the remuneration of Members and Member positions to Council. Officer remuneration is determined by national pay negotiations.
- x. Ensure that effective mechanisms exist to monitor service delivery. The Performance Improvement Cycle sets out the reporting process for monitoring the Council's targets.
- xi. Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the

local community and other key stakeholders, and that they are clearly written and communicated.

- xii. When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority.
- xiii. When working in partnership ensure that there is clarity about the legal status of the partnership and ensure that representatives of the partner organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions.

2.3 Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour.

2.3.1 The Council will:

- i. Ensure authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- ii. Ensure that organisational values are put into practice and are effective.

2.3.2 To support these principles, the Council will:

- i. Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect. The Council has an agreed Code of Conduct for adherence by all Members and Officers.
- ii. Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through coded of conduct and protocols. The Council has an agreed Code of Conduct for adherence by all Members and Officers.
- iii. Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.
- iv. Develop and maintain shared values including leadership values for both the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners.
- v. Develop and maintain an effective Standards Committee. The Council has an established Standards Committee, which is chaired by an Independent Member.
- vi. Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority.
- vii. In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively.

2.4 Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

2.4.1 The Council will:

- i. Be rigorous and transparent about how decisions are taken, listening and acting on the outcome of constructive scrutiny.

- ii. Use good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.
- iii. Ensure that an effective risk management system is in place.
- iv. Use our legal powers to the full benefit of the citizens and communities in their area.

2.4.2 The Council's arrangements will:

- i. Develop and maintain an effective scrutiny function that encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which the authority is responsible.
- ii. Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based. Information relating to the decision making processes are maintained under the Council's retention policy.
- iii. Put in place arrangements to safeguard members and employees against conflicts of interest and establish appropriate processes to ensure that such arrangements and processes continue to operate in practice. A register of Members Interests is maintained and updated on a regular basis.
- iv. Develop and maintain an effective audit committee (or equivalent) which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee. The Audit and Corporate Governance's terms of reference are outlined in the Council's Constitution.
- v. Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints. The Council has an established comments, complaints and compliments policy for dealing with complaints expeditiously which is available to the public in several forms (including leaflet and the website).
- vi. Ensure that those making decisions whether for the authority or a partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications.
- vii. Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately. Reports to meetings which support the Council's formal governance structures make reference to legal and financial implications as defined by appropriate officers.
- viii. Ensure that risk management is embedded into the culture of the authority, with members and managers at all levels recognising that risk management is part of their jobs. The Council has a combined risk management strategy, policy and toolkit as agreed by the Cabinet on 1 May 2008.
- ix. Ensure that arrangements are in place for whistle blowing to which staff and all those contracting with the authority have access. The Council's policy on whistleblowing is publicly available in several forms (including via the website and in a leaflet form. The policy is also accessible to staff via the Council's intranet.
- x. Actively recognise the limits of lawful activity placed on both Members and Officers by, for example, the *ultra vires* doctrine but also strive to utilise powers to the full benefit of the communities which the Council serves.

- xi. Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law.
- xii. Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice – into our procedures and decision-making processes.

2.5 Developing the capacity and capability of members and officers to be effective

2.5.1 The Council is committed to developing the capacity and capability of both Members and Officers, and will:

- i. Ensure that Members and Officer have the skills, knowledge, experience and resources they need to perform well in their roles
- ii. Develop the capability for Member and evaluate their performance, as individuals and as a group.
- iii. Encourage new talent for membership of the authority so that best use can be made of individual's skills and resources in balancing continuity and renewal.

2.5.2 In order to meet this commitment, the Council will:

- i. Provide induction programmes tailored to individual needs and opportunities for member and officer to update their knowledge on a regular basis. Newly appointed Members have access to a structured induction programme providing information on the scope of the Council's functions. A programme of seminars has been established to provide regular updates to Members on issues relating to Council activities. A review of member development support is currently underway. Officers new to the authority attend appropriate training including a Central Induction day. Newly appointed Officers are supported by their relevant line manager who establishes an appropriate structured programme of induction.
- ii. Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority, with proper management and supervision by top management.
- iii. Assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively.
- iv. Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.
- v. Ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs. Defining the support required to addressing members development needs are currently being addressed.
- vi. Ensure that effective arrangements designed to encourage individuals from all section of the community to engage with, contribute to and participate in the work of the authority, and improve publicity regarding the right of the public to attend committee meetings.

- vii. Ensure that career structures are in place for member and officers to encourage participation and development.

2.6 Engaging with local people and other stakeholders to ensure robust public accountability.

2.6.1 The Council will continue to develop active engagement with residents and communities and will:

- i. Exercise leadership through a robust scrutiny function, effectively engaging local people and all local institutional stakeholders, including partnership, and developing constructive accountability relationships.
- ii. Take an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning
- iii. Make best use of human resources by taking an active and planned approach to meet responsibilities to staff.

2.6.2 To support these principles and to meet this commitment, the Council will:

- i. Make clear to themselves, all staff and the community to whom they are accountable and for what.
- ii. Consider those institutional stakeholders to whom the authority is accountable and assess the effectiveness of the relationship and any changes required.
- iii. Produce an annual report on the activity of the scrutiny function.
- iv. Ensure that clear channels of communication are in place with all sections of the community and other stakeholder, and put in place monitoring arrangements to ensure that they operate effectively.
- v. Hold meetings in public unless there are good reasons for confidentiality
- vi. Ensure that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands and be reviewed regularly.
- vii. Establish a clear policy of the types of issues that the Council will meaningfully consult on or engage with the public, including a feedback mechanism for those consultees to demonstrate what has changed as a result of their input.
- viii. On an annual basis, publish a performance plan, giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.
- ix. Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnership, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.
- x. Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision-making.

3. Monitoring and Review

3.1 The Council will monitor and review the arrangements in place with in the Council to meet and demonstrate compliance with the code on an ongoing

basis, to ensure they remain effective, up to date and continue to reflect best practice.

- 3.2 A report on compliance with the Code including a review of the assurance framework in place will be considered by the Audit and Corporate Governance Committee annually, to enable them to assess the adequacy and effectiveness of the code and the extent of compliance and formally report their findings to Council.

ANNUAL GOVERNANCE STATEMENT 2008

PORTFOLIO RESPONSIBILITY: CORPORATE STRATEGY AND FINANCE

CABINET

27 MARCH 2008

Wards Affected

County-wide.

Purpose

1. To consider and agree, in the light of comments made by the Audit & Corporate Governance Committee, the proposed framework for preparing an Annual Governance Statement as set out in the appendices to this report.

Key Decision

2. This is not a Key Decision.

Recommendation(s)

- THAT (a) Cabinet considers and agrees the proposed framework for preparing an Annual Governance Statement as set out in the appendices to this report; and**
- (b) Cabinet requires the Monitoring Officer to carry out a review of the Council's Code of Corporate Governance to ensure it meets the new regulations and guidance on the delivery of good governance in local government.**

Reasons

3. To ensure the Council complies with the latest regulations and guidance on the delivery of good governance within local government.

Considerations

4. Regulation 4 of the Accounts and Audit Regulations 2003 require the Council to conduct a review, at least once a year, of the effectiveness of its system of internal control and publish a Statement on Internal Control with its annual statement of accounts.
5. The Department for Communities & Local Government Circular 03/2006 and the Use of Resources 2008 assessment require a change in approach with the Council replacing the Statement on Internal Control with an Annual Governance Statement (AGS).
6. The Society of Local Authority Chief Executives and Senior Managers (SOLACE) and the Chartered Institute of Public Finance & Accountancy (CIPFA) have jointly

Further information on the subject of this report is available from
Mrs Sonia Rees, Director of Resources on tel (01432) 383519

published guidance on delivering good governance in local government in line with the latest regulations.

7. The key lines of enquiry for the Use of Resources assessment for 2008 highlight the need for the Council to have arrangements in place to maintain a sound system of internal control. The criteria are as follows:
 - (a) An appropriate member group has responsibility for review and approval of the governance statement, and considers it separately from the accounts statement (Level 2 – only at minimum requirement, adequate performance).
 - (b) The Council has conducted an annual review of the effectiveness of its governance framework, including the system of internal control, and reported on this in the governance statement (Level 2 – only at minimum requirement, adequate performance).
 - (c) The sources to support the governance statement have been identified and are reviewed by senior officers and members (Level 2 – only at minimum requirement, adequate performance).
 - (d) There are action plans in place to address any significant governance issues reported in the governance statement (Level 2 – only at minimum requirement, adequate performance).
 - (e) The Council has put in place an assurance framework that maps the Council's strategic objectives to risks, controls and assurances (Level 3 – consistently above minimum requirements, performing well).
 - (f) The assurance framework provides members with information to support the governance statement (Level 3 – consistently above minimum requirements, performing well).
 - (g) The assurance framework is fully embedded in the Council's business process (Level 4 – well above the minimum requirement, performing strongly).
 - (h) The Council can demonstrate corporate involvement in/ownership of the process for preparing the governance statement (Level 4 – well above the minimum requirement, performing strongly).
8. The Audit & Corporate Governance Committee considered a suggested framework for complying with the new regulations and guidance on 25th January 2008 and on 29th February 2008. The appendices to this report incorporate the comments made by the Audit & Corporate Governance Committee on both occasions.
9. The Audit & Corporate Governance Committee suggests that Cabinet arranges for the review of the Council's Code of Corporate Governance in the light of the new requirements for an Annual Governance Statement.
10. The Director of Resources, the Council's Section 151 Officer is responsible for the efficiency and effectiveness with regards to financial probity, performance and risk elements of the Statement.
11. The Head of Legal & Democratic Services, the Council's Monitoring Officer, together with the Standards Committee, is responsible for the efficiency, effectiveness and compliance with regards to legal probity and the ethical framework elements of the Statement.

Financial Implications

12. None arising as a direct result of this report.

Risk Management

13. The Council has a legal obligation to produce an Annual Governance Statement; this is also a requirement of the Use of Resources assessment. The risk is that the Council does not comply. Approval of Appendices 1 to 3 will aid compliance. In addition, the Council has nominated a Member of the Council's Corporate Management Board to oversee compliance.

Alternative Options

14. There are no Alternative Options.

Consultees

15. The Audit & Corporate Governance Committee has been consulted on a new proposed framework for preparing the Annual Governance Statement

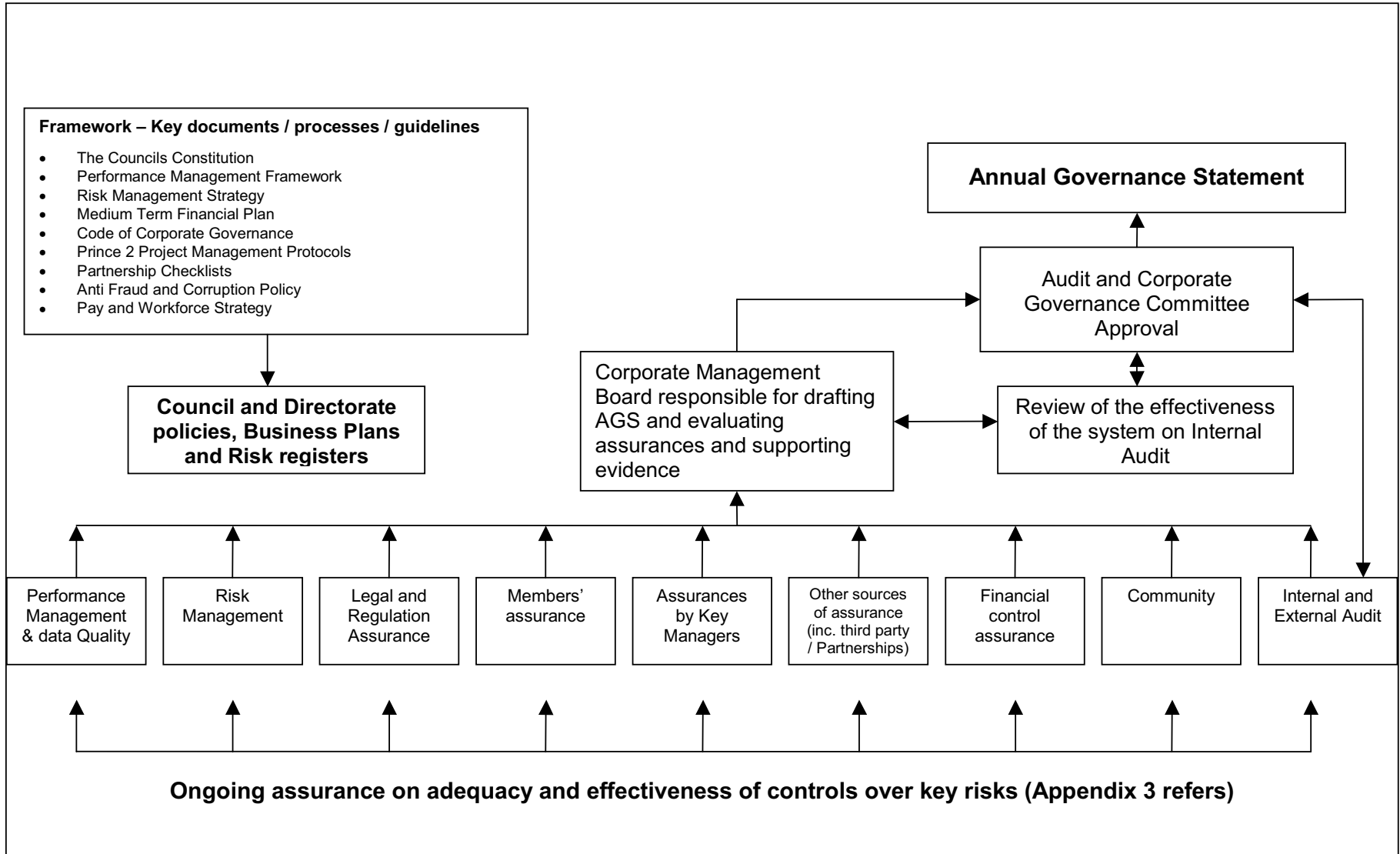
Appendices

16. Appendices 1 – 3 outline the principles, framework and sources of evidence for the Annual Governance Statement.

Background Papers

None identified.

ANNUAL GOVERNANCE STATEMENT FRAMEWORK 2007/08



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ANNUAL GOVERNANCE STATEMENT FRAMEWORK 2007/08

Delivering Good Governance In Local Government

PRINCIPLE 1 – Focusing on the purpose of the authority, on outcomes for the community and creating and implementing a vision for the local area

The code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
1.1 Develop and promote the authority's purpose and vision	1.1.1 Local area or performance agreements 1.1.2 Community strategy 1.1.3 Corporate and service planning
1.2 Review on a regular basis the authority's vision for the local area and its impact on the authority's governance arrangements	1.2.1 Code of Governance
1.3 Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all parties	1.3.1 Partnership protocol 1.3.2 Code of Governance
1.4 Publish an annual report on a timely basis to communicate the authority's activities and achievements, its financial position and performance	1.4.1 Annual financial statements 1.4.2 Annual business plan 1.4.3 Annual report 1.4.4 A timetable for completing the above
1.5 Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available	1.5.1 This information is reflected in the authority's: a) Corporate plan b) Annual operating plan c) Medium Term Financial Strategy d) Integrated Performance Reports e) Customer Surveys f) Equality Impact Assessments
1.6 Put in place effective arrangements to identify and deal with failure in service delivery	1.6.1 Complaints procedure 1.6.2 Scrutiny process
1.7 Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively. Measure the environmental impact of policies, plans and decisions.	1.7.1 The results are reflected in authority's performance plans and in reviewing the work of the authority. 1.7.2 Scrutiny process

Delivering Good Governance In Local Government

PRINCIPLE 2 – Members and officers working together to achieve a common purpose with clearly defined functions and roles

The local code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
2.1 Set out a clear statement of the respective roles and responsibilities of the executive and of the executive members individually and the authority's approach towards putting this into practice	2.1.1 Constitution 2.1.2 Record of decisions and supporting materials
2.2 Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and senior officers	2.2.1 Constitution
2.3 Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for collective decision of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required	2.3.1 Constitution
2.4 Make a chief executive or equivalent responsible and accountable to the authority for all aspects of operational management	2.4.1 Conditions of employment 2.4.2 Scheme of delegation 2.4.3 Statutory provisions 2.4.4 Job descriptions/specification 2.4.5 Performance management system and report to Cabinet.
2.5 Develop protocols to ensure that the leader and chief executive (or equivalent) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained	2.5.1 New chief executive and leader pairing consider how best to establish and maintain effective communication
2.6 Make a senior officer (the S151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control	2.6.1 Section 151 responsibilities 2.6.2 Statutory provision 2.6.3 Statutory reports 2.6.4 Budget documentation 2.6.5 Job description/specification
2.7 Make a senior officer (usually the monitoring officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with	2.7.1 Monitoring officer provisions 2.7.2 Statutory provision 2.7.3 Job description/specification 2.7.4 Scrutiny process

Delivering Good Governance In Local Government

The local code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
2.8 Develop protocols to ensure effective communication between members and officers in their respective roles	2.8.1 Member/officer protocol
2.9 Set out the terms and conditions for remuneration of members and officers and an effective structure for managing the process, including an effective remuneration panel (if applicable)	2.9.1 Pay and conditions policies and practices 2.9.2 Scrutiny process
2.10 Ensure that effective mechanisms exist to monitor service delivery	2.10.1 Scrutiny process
2.11 Ensure that the organisation's vision, strategic plans, priorities and targets are developed through robust mechanisms, and in consultation with the local community and other key stakeholders, and that they are clearly articulated and disseminated	2.11.1 Community Strategy 2.11.2 Corporate plans 2.11.3 Budgets 2.11.4 Performance plan/regime 2.11.5 Scrutiny process
2.12 a) When working in partnership ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and to the authority b) Ensure that there is clarity about the legal status of the partnership c) Ensure that representatives of the partner organisations both understand and make clear to all other partners the extent of their authority to bind their organisation to partner decisions	2.12.1 For each partnership there must be a partnership agreement that: a) Sets out each partner's role within the partnership. b) Clearly states the principles and objectives of the partnership. c) Defines the role of partnership board members. d) Sets out the line management responsibilities for staff who support the partnership. e) Includes a statement of funding sources for joint projects and clear accountability for proper financial administration. f) Includes a protocol for dispute resolution within the partnership. NB: from special report <i>Local Partnerships and Citizen Redress</i> , Local Government Ombudsman (2007)

Delivering Good Governance In Local Government

PRINCIPLE 3- Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

The local code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
3.1 Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect	3.1.1 Scrutiny process 3.1.2 Organisational values
3.2 Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols	3.2.1 Members'/officers' code of conduct 3.2.2 Performance appraisal 3.2.3 Complaints procedures 3.2.4 Anti-fraud and anti-corruption policy 3.2.5 Member/officer protocols 3.2.6 Whistleblowing policies
3.3 Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice	3.3.1 Codes of conduct 3.3.2 Financial Procedure Rules 3.3.3 Contract Procedure Rules
3.4 Develop and maintain shared values including leadership values for both the organisation and staff reflecting public expectations and communicate these with members, staff, the community and partners	3.4.1 Codes of conduct 3.4.2 Scrutiny process
3.5 Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice	3.5.1 Codes of conduct 3.5.2 Scrutiny process
3.6 Develop and maintain an effective standards committee	3.6.1 Terms of reference 3.6.2 Regular reporting to the council
3.7 Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority	3.7.1 Decision-making practices 3.7.2 Values Statement
3.8 In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively	3.8.1 Protocols for partnership working

Delivering Good Governance In Local Government

PRINCIPLE 4 – Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

The local code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
4.1 Develop and maintain an effective scrutiny function that encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which it is responsible	4.1.1 Scrutiny is supported by robust evidence and data analysis
4.2 Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based	4.2.1 Decision-making protocols 4.2.2 Record of decisions and supporting materials
4.3 Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice	4.3.1 Members' code of conduct 4.3.2 Officers' code of conduct
4.4 Develop and maintain an effective audit committee (or equivalent) which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a committee	4.4.1 Terms of reference Membership 4.4.2 Training for committee chairs/members
4.5 Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints	4.5.1 Complaints procedure
4.6 Ensure that those making decisions whether for the authority or a partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications	4.6.1 Members' induction scheme 4.6.2 Training for committee chairs 4.6.3 Report writing protocols
4.7 Ensure that professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately	4.7.1 Record of decision making and supporting materials
4.8 Ensure that risk management is embedded into the culture of the authority, with members and managers at all levels recognising that risk management is part of their jobs	4.8.1 Risk management protocol 4.8.2 Financial Procedure Rules

Delivering Good Governance In Local Government

The local code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
4.9 Ensure that arrangements are in place for whistle-blowing to which staff and all those contracting with the authority have access	4.9.1 Whistle-blowing policy
4.10 Actively recognise the limits of lawful activity placed on them by, for example, the ultra vires doctrine but also strive to utilise powers to the full benefit of their communities	4.10.1 Constitution 4.10.2 Monitoring officer provisions 4.10.3 Statutory provision
4.11 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law	4.11.1 Monitoring officer provisions
4.12 Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice – into their procedures and decision-making processes	4.12.1 Monitoring officer provisions 4.12.2 Job description/specification 4.12.3 Statutory provision

Delivering Good Governance In Local Government

PRINCIPLE 5- Developing the capacity and capability of members and officers to be effective

The local code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
5.1 Provide induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis	5.1.1 Training and development plan. 5.1.2 Evidence of feedback and action 5.1.3 Induction programme 5.1.4 Update courses/information
5.2 Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority, with proper management and supervision by top management	5.2.1 Job description/personal specifications 5.2.2 Membership/access to top management team 5.2.3 Staff review and development interviews
5.3 Assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively	5.3.1 Training development plan for officers 5.3.2 Members Development Working Group
5.4 Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed	5.4.1 Training and development plan reflecting the skills a modern councillor needs including: a) The ability to scrutinise and challenge. b) The ability to recognise when outside advice is required. c) Advice on how to act as an ambassador for the community. d) Leadership and influencing skills.
5.5 Ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs	5.5.1 Performance management system 5.5.2 Scrutiny process 5.5.3 Members Development Working Group.
5.6 Ensure that effective arrangements designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority, and improve publicity regarding the right of the public to attend committee meetings	5.6.1 Strategic partnership framework 5.6.2 Terms of reference for stakeholder groups. 5.6.3 Area fora roles and responsibilities 5.6.4 Residents' panel structure 5.6.5 Public information protocols
5.7 Ensure that career structures are in place for members and officers to encourage participation and development	5.7.1 Succession planning

Delivering Good Governance In Local Government

PRINCIPLE 6- Engaging with local people and other stakeholders to ensure robust public accountability

The local code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
6.1 Make clear to themselves, all staff and the community to whom they are accountable and for what	6.1.1 Community strategy
6.2 Consider those institutional stakeholders to whom the authority is accountable and assess the effectiveness of the relationships and any changes required	6.2.1 Strategy Partnerships
6.3 Produce an annual report on the activity of the scrutiny function	6.3.1 Annual scrutiny report
6.4 Ensure that clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements to ensure that they operate effectively	6.4.1 Community strategy 6.4.2 Processes for dealing with competing demands within the community 6.4.3 Annual survey
6.5 Hold meetings in public unless there are good reasons for confidentiality	6.5.1 Compliance with legislation
6.6 Ensure that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing demands	6.6.1 Communications Strategy 6.6.2 Involvement and partnership Strategy 6.6.3 Parish Council protocol
6.7 Establish a clear policy of the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result	6.7.1 Partnership framework 6.7.2 Communication strategy 6.7.3 Scrutiny process
6.8 On an annual basis, publish a performance plan giving information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period	6.8.1 Annual report 6.8.2 Annual financial statements 6.6.3 Corporate plan 6.6.4 Annual operating plan

Delivering Good Governance In Local Government

The local code should reflect the requirement for local authorities to:	Source documents/good practice/other means that may be used to demonstrate compliance:
6.9 Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so	6.9.1 Constitution
6.10 Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making	6.10.1 Constitution

**Delivering Good Governance in Local Government
2007/08 Sources of Evidence and Monitoring**

AREA	Document/Report	Responsible Officer	Committee
Performance Management and Data Quality	Corporate Plan and Annual Operating Plan	Tony Geeson	Cabinet and Strategic Monitoring
	Directorate Service Plans	Gi Cheesman Michael Hainge Geoff Hughes Jane Jones Sharon Menghini Sonia Rees	Relevant Scrutiny Committees (as per Alan McLaughlin)
	Service Area Plans	Directorate Management Team Members	Relevant Scrutiny Committees (as per Alan McLaughlin)
	Integrated Performance and Finance Reports	Tony Geeson/David Powell	Strategic Monitoring Committee and Cabinet
	Performance Framework Review by Audit Services	Tony Ford	Audit and Corporate Governance Committee
	Review of High Risk Performance Indicators by Audit Services	Tony Ford	Audit and Corporate Governance Committee
	JAR Improvement Plan	Sharon Menghini	Cabinet
	Annual review of Children and Young People Plan and Annual Performance Assessment submission	Sharon Menghini	Children's Services Scrutiny Committee and Cabinet
	Annual self assessment survey for Adult Social Care	Geoff Hughes	Cabinet
	Commission for Social Care Inspection Report on Services for People with Learning Disabilities and the Council's Action plan	Steve Martin	Adult Social Care and Strategic Housing Scrutiny Committee and Cabinet
	Security Review - Modernisation of day Opportunities For Older People	Eleanor Brazil	Adult Social Care and Strategic Housing Scrutiny Committee

**Delivering Good Governance in Local Government
2007/08 Sources of Evidence and Monitoring**

AREA	Document/Report	Responsible Officer	Committee
Performance Management and Data Quality Cont.	Cultural Services Comprehensive Performance Assessment Report	Natalia Silver	Community Services Scrutiny Committee and Cabinet
	Children and Young People's Directorate Plan	Sharon Menghini	Children's Services Scrutiny Committee
	Performance Monitoring Reports	All Directors	Scrutiny Committees
	Progress on Improvement in Children and Young People's Services	Sharon Menghini	Cabinet
	Children and Young People's Plan Annual Review 2007 and Annual Performance assessment	Sharon Menghini	Cabinet
Risk Management	Monthly reviews of the Corporate Risk Register	Chris Bull	N/a
	Monthly Reviews of Directorate Risk Registers	Gi Cheesman Michael Hainge Geoff Hughes Jane Jones Sharon Menghini Sonia Rees	N/a
	Monthly review of service level risk registers by Service Management Teams	Directorate Management Team Members	N/a
	Annual Review of the Council's Risk Management Process by Audit Services	Tony Ford	Cabinet and Audit and Corporate Governance Committee
	Integrated Performance and Finance Reports	Tony Geeson/David Powell	Strategic Monitoring Committee and Cabinet
	Monthly reviews of service level risk registers by Senior Management Team Members	All Heads of Service	N/a

**Delivering Good Governance in Local Government
2007/08 Sources of Evidence and Monitoring**

AREA	Document/Report	Responsible Officer	Committee
Legal and Regulation Assurance	Biannual Monitoring Officer Report	Alan McLaughlin	Audit and Corporate Governance Committee
Members Assurance	Annual Scrutiny Report	Tim Brown	Cabinet
	Annual Declaration of Interests	All Members	Audit and Corporate Governance Committee.
	Annual Review of Member expenses	Tony Ford	Audit and Corporate Governance Committee.
	Strategic Monitoring Reports	Tim Brown	Cabinet
Assurances by Directors and Heads of Service	Annual Declaration of Interests	Chief Executive, Directors and Heads of Service	Exception reports to the Audit and Corporate Governance Committee
	Quarterly Assurance Statements	All Directors and Heads of Service	Exception reports to the Audit and Corporate Governance Committee
	Quarterly Returns reporting any frauds	All Directors and Heads of Service	Exception reports to the Audit and Corporate Governance Committee
Assurances by Other Key Managers	Quarterly Assurance Statements	Key Managers	Exception reports to the Audit and Corporate Governance Committee
Other Sources of Assurance	Partnership Checklist completed for Key Partnerships	Relevant Heads of Service	Exception reports to the Audit and Corporate Governance Committee
	Corporate ICT Strategy	Relevant Head of Service	Cabinet
	Procurement Strategy	Dean Hogan	Strategic Monitoring Committee
	Herefordshire Jarvis	Michael Hainge	Cabinet
	Amey Wye Valley Report	Michael Hainge	Cabinet
	Scrutiny Review of ICT Services - Executive Action Plan Progress Report	Relevant Head of Service	Strategic Monitoring Committee and Cabinet
	Special Report from the Director of Resources	Sonia Rees	Cabinet and Audit and Corporate Governance Committee

**Delivering Good Governance in Local Government
2007/08 Sources of Evidence and Monitoring**

AREA	Document/Report	Responsible Officer	Committee
Other Sources of Assurance Cont.	Herefordshire Connects Progress	Jane Jones	Strategic Monitoring Committee and Cabinet
	External Inspections	As appropriate	Cabinet
Financial Control Assurances	Financial Control of Capital Schemes in Property Services	Sonia Rees	Strategic Monitoring Committee
	Funding arrangements for Riverside Primary School and Sutton St. Nicholas Primary School	Sonia Rees	Cabinet
	Treasury Management Activities	David Powell	Cabinet
	Annual Efficiency Statement	David Powell	Strategic Monitoring Committee and Cabinet
	Capital Programme	Sonia Rees	Cabinet
	Statement of Accounts	Sonia Rees	Audit and Corporate Governance Committee
	Council's Budget	Sonia Rees	Cabinet
	Medium Term Financial Plan	Sonia Rees	Cabinet
	The Financial Position arising from July 2007 Floods	David Powell	Cabinet
	Integrated Performance and Finance Report	Tony Geeson/David Powell	Strategic Monitoring Committee and Cabinet
	Comprehensive Spending Review and pre budget 2007	Sonia Rees	Cabinet
	Budget Monitoring Reports	David Powell	Scrutiny Committees
	Capital Investment in Schools in Herefordshire: A Way Forward	George Salmon	Cabinet
Community	Community Forum Reports	Hazel Lavelle	Cabinet
	Annual Report on the Strategic Service Delivery Partnership	Michael Hainge	Environment Scrutiny Committee and Cabinet
	Herefordshire Community Strategy Plan	Jennifer Watkins	Strategic Monitoring Committee

**Delivering Good Governance in Local Government
2007/08 Sources of Evidence and Monitoring**

AREA	Document/Report	Responsible Officer	Committee
Community Cont.	Ombudsman Letter and Complaints and Compliments Monitoring 2006/07	Jane Jones	Strategic Monitoring Committee and Cabinet
	Review of Behaviour and Discipline Management in Herefordshire Schools	Sharon Menghini	Children's Services Scrutiny Committee
	Principles on Future Provision of School Places	George Salmon	Children's Services Scrutiny Committee
	The Council's Policy for Management of the Smallholdings Estate	Sonia Rees	Strategic Monitoring Committee
	Herefordshire Satisfaction Survey	Tony Geeson	Community Services Scrutiny Committee and Cabinet
	Household Waste Recycling in Herefordshire	Richard Wood	Environment Scrutiny Committee
	Travellers Policy	Andy Tector	Environment Scrutiny Committee
	Public Service Trust For Herefordshire	Russell Hamilton	Health Scrutiny Committee and Cabinet
	Reconfiguration of Mental Health Services	Sara Siloko	Health Scrutiny Committee
	Memorandum of Understanding between the Council and the Health Protection Agency	Philip Wilson	Health Scrutiny Committee
	Annual Report of the Director of Health 2007	Dr. Frances Howie	Health Scrutiny Committee
	Changes in the Management of Mental Health Services	Sara Siloko	Health Scrutiny Committee
	Brilley CE Primary School	George Salmon	Cabinet
	Homelessness Update	Derek Allen	Cabinet
	Fairer Charging	Andrew Tanner	Cabinet
Review of School Provision	George Salmon	Cabinet	

**Delivering Good Governance in Local Government
2007/08 Sources of Evidence and Monitoring**

AREA	Document/Report	Responsible Officer	Committee
Community Cont.	Youth Justice Plan	Neil Pringle and Sharon Menghini	Cabinet
	Local development Framework Core Strategy Issues Consultation	Kevin Singleton	Cabinet
	Concessionary Travel Scheme for older People and those with a Disability	Jim Davies	Cabinet
	Policy Statement for the Use of the rivers Wye and Lugg	Bill Bloxsome	Cabinet
	Review of Herefordshire City Partnership	Natalia Silver	Community Services Scrutiny Committee
	The 18 – 35 Review	Natalia Silver	Community Services Scrutiny Committee
	Comprehensive Equality policy and Equality Schemes	Carol Trachonitis	Cabinet
	Hereford Children Centre	Stephanie Canham	Cabinet
	Local Area Agreement priority setting	Chris Bucknell	Cabinet
	Modernisation of Registration Service	Fiona Nicholls	Cabinet
	Herefordshire Housing post transfer improvement programme	Richard Gabb	Cabinet
Affordable Housing development programme 2007/08	Richard Gabb	Cabinet	
Internal and External Audit	Audit Plan	Tony Ford	Audit and Corporate Governance Committee
	Interim Assurance Reports	Tony Ford	Audit and Corporate Governance Committee
	Annual Assurance Report	Tony Ford	Audit and Corporate Governance Committee
	Draft Annual Governance Statement	Sonia Rees	Audit and Corporate Governance Committee

**Delivering Good Governance in Local Government
2007/08 Sources of Evidence and Monitoring**

AREA	Document/Report	Responsible Officer	Committee
Internal and External Audit Cont.	Annual Governance Letter	Audit Commission	Cabinet and Audit and Corporate Governance Committee
	Annual Audit and Inspection Report	Audit Commission	Cabinet and Audit and Corporate Governance Committee
	Use of Resources Assessment	Audit Commission	Cabinet and Audit and Corporate Governance Committee
	Direction of Travel Assessment	Audit Commission	Cabinet

LOCAL ASSESSMENT: INITIAL HANDLING OF COMPLAINTS

Report By: Assistant Chief Executive - Legal and Democratic

Wards Affected

County Wide

Purpose

1. To consider the attached appendices in respect of a complaint form, guidance notes and assessment criteria in accordance with local assessment guidance.

Financial Implications

2. Convening of the appropriate assessment and review sub-committee will be in addition to the work of the Standards Committee.

Background

3. As members of the Committee are aware, the Standards Board has issued guidance with regard to the local assessment of complaints which came into force on 8th May 2008. The Committee is asked to consider the proposed complaint form which will be completed by complainants in writing or by e-mail or fax to be submitted care of The Monitoring Officer, together with the guidance notes and assessment criteria under which matters considered for local assessment will be dealt with.
4. The Committee is required by guidance regulations to develop its own assessment criteria having regard to the local situation within Herefordshire.

Consideration

5. The Committee consider the appendices attached to this report.

Recommendations

THAT

- (i) **the Committee approves the Complaint Form at Appendix 1 subject to any amendments it wishes to make; and**
- (ii) **the Committee approves the guidance notes at Appendix 2; and**
- (iii) **the Committee approves the assessment and review criteria at Appendix 3.**

Background Papers

Local assessment of complaints guidance issued by the Standards Board (Appendix 5)

Appendices

- Appendix 1 – Complaint Form
- Appendix 2 – Diversity Monitoring Form
- Appendix 3 – Guidance Notes
- Appendix 4 – Assessment and Review Criteria
- Appendix 5 – SBE Local Assessment of Complaints guidance
- Appendix 6 – Proposed notification of changes

COMPLAINT FORM – MEMBERS CONDUCT

Your details

1. Please provide us with your name and contact details:

Title:	
First Name:	
Last Name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary in order to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- Member of the Public
- An elected or co-opted member of an authority
- An independent member of the standards committee

- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other ()

3. Equality monitoring questions

Attached is the Herefordshire Council Diversity Monitoring Form which you can complete. If you do not complete this form your complaint will still continue to be considered by the Assessment Sub-Committee.

Making your complaint

Please see guidance notes which will set out the process and criteria applied to your complaint.

4. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First Name	Last Name	Council or authority name

5. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual member has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Assessment Sub-Committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should say whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Complete this next section only if you are requesting that your identity is kept confidential

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that:

- (a) that you will be at risk of physical harm.
- (b) you are an officer who works closely with the member and there is a reasonable fear of intimidation or incrimination
- (c) that you suffer from serious health condition which might already be affected. In such cases the Assessment and Sub-Committee may request medical evidence

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Assessment Sub-Committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Additional Help

- 7. Complaints must be submitted in writing. This includes fax and electronic submissions. However in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible or contact the Corporate Diversity Team on 01432 260244 or e-mail diversity@herefordshier.gov.uk.

Signature: Date:

OFFICE USE ONLY:

Date of receipt: _____

Subject member informed: _____

Date of Assessment: _____

Sub-Committee: _____

Herefordshire Council Diversity Monitoring Form

The following information is needed to help us ensure that our services are accessible to all. Your answers will be treated in the strictest confidence and will not be used to identify you. You do not have to complete this form but it will help us to improve our services if you do. For further information, please call the Assistant Chief Executive's Office on 01432 260200 or e-mail amclaughlin@herefordshire.gov.uk or refer to the 'Diversity Monitoring' pages on our website.

Data Protection Act 1998

The data collected in this form will only be used for the purpose of statistical monitoring. This information will only be retained for as long as is considered necessary for monitoring purposes and then it will be destroyed. At all times it will be kept in accordance with the Act.

1) Your gender:

<input type="checkbox"/> Male	<input type="checkbox"/> Female	<input type="checkbox"/> Other, please specify:
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2) Your age :

<input type="checkbox"/> 0-15 years	<input type="checkbox"/> 25-44 years	<input type="checkbox"/> 65-74 years
<input type="checkbox"/> 16-24 years	<input type="checkbox"/> 45-64 years	<input type="checkbox"/> 75+ years

3) Disability

Do you have a disability, long-term illness or health problem (12 months or more) which limits daily activities or the work you can do?

<input type="checkbox"/> Yes – please specify below (tick all that apply):	<input type="checkbox"/> No
<input type="checkbox"/> Deaf/hard of hearing/acute hearing	
<input type="checkbox"/> Blind/partially sighted/sensitive to light	
<input type="checkbox"/> Learning disability or difficulty	
<input type="checkbox"/> Mental Health	
<input type="checkbox"/> Progressive/chronic illness (e.g. MS, cancer)	
<input type="checkbox"/> Mobility difficulties	
<input type="checkbox"/> Other (please specify):	

4) Your sexual orientation (please tick one only):

<input type="checkbox"/> Heterosexual	<input type="checkbox"/> Gay
<input type="checkbox"/> Bisexual	<input type="checkbox"/> Lesbian
<input type="checkbox"/> Prefer not to say	

5) Your religion/belief (please tick one box only):

<input type="checkbox"/> Christian	<input type="checkbox"/> Muslim	<input type="checkbox"/> Jewish
<input type="checkbox"/> Hindu	<input type="checkbox"/> Sikh	<input type="checkbox"/> Buddhist
<input type="checkbox"/> None	<input type="checkbox"/> Other (please specify):	

6) Your national identity (please tick one box only):

<input type="checkbox"/> English	<input type="checkbox"/> Scottish	<input type="checkbox"/> British
<input type="checkbox"/> Welsh	<input type="checkbox"/> Irish	<input type="checkbox"/> Other (please specify):

7) Your ethnicity (please tick one box only):

<input type="checkbox"/> WHITE	<input type="checkbox"/> British	<input type="checkbox"/> Irish Traveller	<input type="checkbox"/> Romany/Gypsy
	<input type="checkbox"/> Other White background (please specify):		

<input type="checkbox"/> BLACK	<input type="checkbox"/> British	<input type="checkbox"/> African	<input type="checkbox"/> Caribbean
	<input type="checkbox"/> Other Black background (please specify):		

<input type="checkbox"/> ASIAN	<input type="checkbox"/> British	<input type="checkbox"/> Indian	<input type="checkbox"/> Pakistani
	<input type="checkbox"/> Bangladeshi		
	<input type="checkbox"/> Other Asian background (please specify):		

<input type="checkbox"/> CHINESE	<input type="checkbox"/> British	<input type="checkbox"/> Chinese
	<input type="checkbox"/> Other Chinese background (please specify):	

<input type="checkbox"/> MIXED	<input type="checkbox"/> British	<input type="checkbox"/> White & Black African
	<input type="checkbox"/> White & Asian	<input type="checkbox"/> White & Black Caribbean
	<input type="checkbox"/> White & Chinese	
	<input type="checkbox"/> Other Mixed background (please specify):	

<input type="checkbox"/> OTHER	<input type="checkbox"/> Any other background (please specify):
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8) Your postcode:

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Guidance Notes on your Consideration in Completing the Complaint Form

Are you using the correct form?

The points listed below will help you decide whether this is the correct form to use when making your complaint. You should speak to the Assistant Chief Executive – Legal and Democratic on 01432 260200 if you are not clear if the standards committee can consider your complaint. The assessment sub-committee of the standards committee will make the decision about what action, if any, to take on your complaint.

- Your complaint must be about conduct that occurred while the member(s) complained about were in office. Conduct of an individual before they were elected, co-opted or appointed to the authority, or after they have resigned or otherwise ceased to be a member, cannot be considered by the assessment sub-committee.
- The Code of Conduct came into effect on 5 May 2002, although some authorities adopted the Code of Conduct earlier. If your complaint concerns matters that occurred before 5 May 2002 you should contact the Assistant Chief Executive – Legal and Democratic before making your complaint to check whether it is within the jurisdiction of the assessment sub-committee to consider.
- Your complaint must be about one or more named members of the following authorities:
 - (i) Herefordshire Council
 - (ii) Parishes within Herefordshire
- Your complaint must be that the member(s) has, or may have, breached the Code of Conduct. A copy of the Code of Conduct and frequently asked questions about the Code of Conduct are available at www.standardsboard.gov.uk. You may also contact Assistant Chief Executive – Legal and Democratic if you require any further information.
- Complaints about dissatisfaction with a decision or action of the authority or one of its committees, a service provided by the authority or the authority's procedures do not fall within the jurisdiction of the standards committee. Complaints about the actions of people employed by the authority also do not fall within the jurisdiction of the standards committee. These matters are dealt with by the Council's complaints procedure accessible at www.herefordshire.gov.uk or the Local Government Ombudsman at www.lgo.org-uk.
- Your complaint must be in writing. If a disability prevents you from making your complaint in writing you may contact Assistant Chief Executive – Legal and Democratic for assistance.

It is important to note that not every complaint that falls within the jurisdiction of the standards committee will be referred for investigation or other action. The assessment sub-committee of the standards committee must decide whether this is appropriate. It will make this decision using referral criteria (see attached). If the

assessment sub-committee decides not to refer your complaint for investigation or other action it will give you the reasons for this decision. It will also explain any right that you may have to ask for the decision to be reviewed.

What happens once you submit your complaint?

The authority takes all objections of member misconduct seriously and needs to secure the highest standards of conduct at all times.

When you submit your complaint we will write to you to let you know we have received it. We will also tell the member that you are complaining about that we have received your complaint, who made the complaint and the relevant paragraphs of the Code of Conduct that it is alleged may have been breached which can be accessed at www.herefordshire.gov.uk.

The assessment sub-committee will then meet to consider your complaint and decide whether it should be referred for investigation or other action. This will happen within an average of 20 working days of the date we receive your complaint. Meetings of the assessment sub-committee are 'closed', which means that you will not be able to attend. It is therefore very important that you set your complaint out clearly and provide at the outset all the information you wish the assessment sub-committee to consider.

The criteria that will be used to assess your complaint and decide whether it should be investigated can be accessed at www.herefordshire.gov.uk.

When the assessment sub-committee has reached its decision we will notify you in writing whether your complaint has been referred for investigation or other action. At the same time we write to you, we will also write to the member(s) you have complained about and the parish clerk or town clerk (if applicable). We will send these letters within five working days of the assessment sub-committee reaching its decision. The decision of the assessment sub-committee is made available for public inspection once the member the complaint is about has been given a summary of the complaint. In very limited situations the member may not be given this summary immediately and if so any public inspection will not happen until the member does get the summary.

What is meant by 'other action'?

The assessment sub-committee may decide to refer your complaint for 'other action' instead of referring it for investigation. Other action is a deliberately broad term that may include options such as require the person you have complained about to apologise or undergo training or mediation. The assessment sub-committee will carefully consider the circumstances surrounding your complaint when deciding whether other action is appropriate. If the assessment sub-committee decides to refer your complaint for other action we will explain what this involves.

How should I set out my complaint?

It is very important that you set your complaint out fully and clearly, and provide all the information at the outset. You should also provide any documents or other material that you wish the assessment sub-committee to consider, where possible. Unless the authority advises you otherwise, you will not be able to attend the meeting of the assessment sub-committee.

We recommend that you use our complaint form or provide a covering note summarising what you are complaining about, especially if your complaint includes a lot of supporting documentation. In the summary you should tell us exactly what each person you are complaining about said or did that has caused you to complain. If you are sending supporting documentation please cross-reference it against the summary of your complaint.

You should be as detailed as possible and substantiate your complaint where you can. Although you are not required to prove your complaint at this stage of proceedings, you do have to demonstrate that you have reasonable grounds for believing that the member(s) complained about has breached the Code of Conduct.

Assessment and Review Criteria of Herefordshire Council Standards Committee

1. Introduction

This paper sets out the criteria which the Assessment Sub-Committee will apply in conducting the initial assessment of failure by members to observe the Code of Conduct.

The authority takes all allegations of member misconduct extremely seriously and seeks to secure the highest standards of conduct at all times. The initial assessment process determines whether the complaint appears to show that there has been a breach of the Code of Conduct, and then whether the complaint should be subject to a formal investigation (either by the Standards Board for England or locally under the direction of the authority's Monitoring Officer), whether the authority's Monitoring Officer should be directed to take other appropriate actions in respect of the complaint, or whether no action should be taken in respect of the complaint.

2. Local resolution of complaints

The Standards Committee is acutely aware that the formal investigation of complaints is costly and time consuming. Whilst formal investigation may be necessary in some cases, many complaints can often be dealt with more rapidly and effectively if an early, informal resolution of the matter can be achieved.

The Standards Committee has instructed the Monitoring Officer, where a complaint has been received, to explore the potential for local resolution to the satisfaction of the complainant, to avoid the need for a formal investigation. But any attempts at local resolution do not take away the right of a complainant to have their complaint of member misconduct considered by the Sub-Committee.

3. Which complaints can be considered?

The Assessment Sub-Committee must consider every complaint that a member of the authority (or of any Parish or Town Council within its area) has failed to comply with the Code of Conduct which that authority has adopted. Accordingly, it has no jurisdiction in respect of any complaint which relates to:

- (a) persons who are not members of the authority (or a Parish or Town Council in its area).
- (b) conduct which occurred at a time when the person against whom the complaint was made was not a member of the authority (or of a Parish or Town Council in its area).
- (c) conduct which occurred before the relevant authority adopted a Code of Conduct. All local authorities were required to adopt a Code of Conduct in 2001. In practice, the Sub-Committee will expect complaints to be made promptly after the events to which they relate (see below).
- (d) conduct which occurred in the member's private life, as the Code of Conduct only applies to a member's conduct as a member of a local authority.

- (e) conduct which occurred when the member was acting as a member of another authority. Where a member is also a member of another authority (other than a Parish or Town Council within its area) which has its own Code of Conduct, then the complaint should be addressed directly to that authority.
- (f) complaints which do not relate to the apparent misconduct of a relevant member but are, for example, about the policies and priorities of the authority, or are a request for the provision of a service by the authority, or are a complaint about the conduct of an officer of the authority.

Such complaints will not be referred to the Assessment Sub-Committee but will instead be dealt with by the Monitoring Officer who will advise the complainant as to the most appropriate avenue for proper consideration of their complaint or request.

4. Does the complaint appear to show a breach of the Code of Conduct?

The first assessment which will be undertaken by the Sub-Committee will be to determine whether the complaint appears to show that a breach of the Code of Conduct may have occurred.

For this purpose, the Sub-Committee will take into account the complaint letter and any other information which is readily available to them. Accordingly, it is the responsibility of a complainant to set out clearly:

- (a) who the complaint is against
- (b) what they understand that the relevant member did
- (c) why they consider that the member's conduct amounted to a breach of the Code of Conduct

And to provide copies of any documents which they want the Sub-Committee to consider.

Following receipt of your complaint, the Monitoring Officer will collect any other information which is readily available and which may assist the Sub-Committee in its consideration of the complaint. This will not include conducting interviews with witnesses, but may include providing the Sub-Committee with copies of the agenda, report and minutes of a meeting of the authority at which the alleged misconduct occurred, or providing copies of the member's entry in the register of members' interests.

The Sub-Committee will then consider whether, on the basis of the complaint and that additional information, there appears to have been a breach of the Code of Conduct.

If the Sub-Committee concludes that the evidence does not disclose an apparent breach of the Code of Conduct, it has no further jurisdiction in respect of the matter. The complainant will be informed in writing that no investigative further action will be taken in respect of the complaint.

5. Possible actions where an apparent breach of the Code of Conduct has occurred

Where the Sub-Committee has concluded that there appears to have been a breach of the Code of Conduct, it has four options available to it. These are as follows:

(a) direct the Monitoring Officer to secure that the complaint is investigated locally

A local investigation will normally be appropriate where the alleged conduct is sufficiently serious to merit the imposition of a sanction against the member, but not so serious that it would merit a greater sanction that the authority's Standards Committee could impose following a formal hearing. In practice, this means that a local investigation would not be appropriate where the appropriate sanction is likely to be a suspension as a member of the relevant authority for a period of more than 6 months, or disqualification as a member of any local authority. See paragraph 5(b) below for more detailed grounds for referring a complaint to the Standards Board for England.

However, recognising that a formal investigation is an expensive and time-consuming process, and can only address the immediate subject matter of the complaint, the Sub-Committee can direct the Monitoring Officer to take other appropriate action short of a formal investigation – see paragraph 5(c) below.

In addition, particularly where the conduct complained of is not sufficiently serious to merit any action or occurred a considerable time ago, the Sub-Committee may determine that no action should be taken in respect of it. For more detail, see paragraph 5(d) below.

(b) refer the matter to the Standards Board for England with a request that the Board undertakes a national investigation into the complaint

The following factors will be considered by the Sub-Committee to be factors which support referring the complaint to the Standards Board for England for a national investigation:

- (i) that the complaint is so serious that, if proven, the conduct complained of merits a sanction in excess of that which could be imposed by the Standards Committee. In practice this means that the appropriate sanction would be either a suspension from the relevant authority for a period of more than 6 months, or a disqualification from any local authority.
- (ii) that the investigation required is so extensive that it would impose an unreasonable burden on the authority and/or that any hearing conducted on the basis of that investigation would be unreasonably complex for the Standards Committee.
- (iii) that the status of the member against whom the complaint has been made or the person by whom the complaint has been made is such that either the authority could not conduct a full and impartial investigation and hearing, or that there is likely to be a

public perception that the authority could not conduct a full and impartial investigation and hearing.

- (iv) that so many members of the Standards Committee have a conflict of interest in respect of the matter that the authority is going to be in difficulty in organising an impartial Hearings panel for the matter.
- (v) that the complaint raises significant or unresolved legal issues where a national ruling would be helpful.
- (vi) that the authority itself has an interest in the outcome of the investigation and/or hearing, for example where the report may lead to a judicial review of a decision of the authority.
- (vii) that there are other exceptional circumstances which would prevent the authority from securing a timely, full and impartial investigation and/or hearing of the matter, or which are likely to give rise to the perception that the authority cannot secure a timely, full and impartial investigation and/or hearing of the matter.

(c) direct the Monitoring Officer to take other appropriate action short of a formal investigation;

The Assessment Sub-Committee cannot impose a sanction on the member against whom the complaint has been made without a formal investigation and hearing. But it can direct the Monitoring Officer to take a range of other actions, including providing training for members, securing conciliation or mediation between competing interests, or reviewing procedures to minimise conflict.

In some instances, the conduct complained of may be a symptom of wider conflicts within the authority. A formal investigation and hearing would only deal with the particular complaint and may not resolve such underlying conflicts.

Such alternative action is therefore most suitable where:

- (i) the conduct complained of is a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct.
- (ii) the conduct complained of is apparently common to a number of members of that authority, demonstrating a lack of awareness or recognition of the particular provisions of the Code of Conduct
- (iii) the conduct complained is of not so serious that it requires a substantive formal sanction such as suspension or disqualification
- (iv) the complaint reveals a lack of guidance, protocols and procedures within the authority, for example on the use of resources or the process of decision-making
- (v) the member complained of and the person making the complaint are amenable to engaging in such alternative action, as there is no power to require them to participate

(d) decide to take no action in respect of the complaint

The following factors are likely to lead the Sub-Committee to decide to take no action in respect of the matter:

- (i) the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.
- (ii) the complaint is anonymous. The Sub-Committee can protect the confidentiality of the identity of the complainant where that is justified by a real fear of intimidation or victimisation. However where this is not an obvious risk, the fact that the complainant has not disclosed her/his identity can indicate that the complaint is less serious, is malicious or is potentially motivated
- (iii) a significant period of time has elapsed since the events which are the subject of the complaint. This is both because, where a matter is serious, it would be reasonable to expect the complainant to make a complaint promptly, and because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence
- (iv) the complaint is such that it is unlikely that an investigation will be able to come from a firm conclusion on the matter. This could be where the matter is such that there is unlikely to be any firm evidence on the matter

6. Confidentiality

As a matter of fairness and natural justice, a member should usually be told who has complained about them and what the complaint is about. There may be occasions where the complainant requests that their identity is withheld. Such a request should only be granted in circumstances which the Assessment Sub-Committee consider to be exceptional, for example:-

- (a) the complainant has reasonable grounds for believing that he/she will be at risk of physical harm if his/her identity is disclosed
- (b) the complainant is an officer who works closely with the member and they have a reasonable fear of intimidation or victimisation if their identity is disclosed.
- (c) the complainant suffers from a serious health condition which might be adversely affected if his/her identity is disclosed. The Assessment Sub-Committee may wish to request medical evidence

7. Withdrawing complaints

Where the complainant purports to withdraw the complaint before the Assessment Sub-Committee has had the opportunity to take a decision on it, the Sub-Committee will consider whether to accept such withdrawal.

- (a) Where the complainant submits further evidence demonstrating that the complaint was ill-founded, it may be appropriate for the Sub-Committee

formally to resolve that the complaint as amended shows no evidence of a breach of the Code of Conduct, so that the matter is formally concluded.

- (b) Where the alleged misconduct is simply a matter of alleged failure on the part of the respondent to treat the complainant with respect, and raises no wider issues of public interest, the Sub-Committee will normally accept such withdrawal.
- (c) However where the complaint raises issues of wider public interest, it may be appropriate for the Sub-Committee to ensure that such wider issues are formally investigated and resolved.

8. Review

Where the Assessment Sub-Committee has resolved to take no action in respect of a matter (that is, not to refer the matter to the Standards Board for England for investigation, and not to refer the matter to the Monitoring Officer either for investigation or for other appropriate action), the complainant may request the Review Sub-Committee to review the decision of the Assessment Sub-Committee

Such a review shall be conducted in two stages:

- (a) First, the Review Sub-Committee will determine whether the original decision of the Assessment Sub-Committee was unreasonable on the basis of the information available to the Assessment Sub-Committee at the time of its decision and in accordance with these approved criteria for assessment. This review shall be conducted on the basis of the original complaint, the Monitoring Officer's report to the Assessment Sub-Committee, the decision noting of the Assessment Sub-Committee and any information contained within the complainant's request for a review. Note that this is a review of the initial decision, rather than a reconsideration of the de novo.
- (b) Second, the Review Sub-Committee shall consider whether there is any new evidence which demonstrates that the initial assessment decision is no longer the correct decision. This consideration shall take into account any new information provided by the complainant and/or the Monitoring Officer.

If the Review Sub-Committee determines that the initial decision was unreasonable, or that new information now available to the Sub-Committee demonstrates that the original decision is no longer the correct decision, it shall take a new decision in relation to the matter in accordance with these approved criteria.

LOCAL ASSESSMENT OF COMPLAINTS

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introduction

This guidance is designed to help members and officers in relevant authorities who are involved in the assessment of complaints that a member may have breached the Code of Conduct.

It details each stage of the assessment of complaints and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required.

The guide is aimed primarily at members of standards committees and monitoring officers, but will also provide a useful reference tool for all members and officers involved in the assessment of complaints.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Each authority must develop effective procedures to fulfil its legislative requirements. Members and officers involved in the assessment of complaints must take this guidance into account when doing so.

You can contact the Standards Board for England on **0845 078 8181** or email **enquiries@standardsboard.gov.uk**

introduction

Regulations

The Standards Board for England has issued this guidance to reflect the Standards Committee (England) Regulations 2008 (the regulations) in respect of the local assessment of complaints. These regulations derive from the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

The regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Under the regulations, standards committees must take this guidance into account.

The regulations do not cover joint working between authorities. The government plans to issue more regulations to provide a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints of misconduct by their members.

Background

More than 100,000 people give their time as members of authorities. The majority do so with the very best motives, and they conduct themselves in a way that is beyond reproach. However, public perception tends to focus on a minority who in some way abuse their positions or behave badly.

Anyone who considers that a member may have breached the Code of Conduct may make a complaint to that member's local

standards committee. Each complaint must then be assessed to see if it falls within the authority's legal jurisdiction. A decision must then be made on whether some action should be taken, either as an investigation or some other form of action.

When a matter is referred for investigation or other action, it does not mean that the committee assessing the complaint has made up its mind about the allegation. It simply means that the committee believes the alleged conduct, if proven, may amount to a failure to comply with the Code and that some action should be taken in response to the complaint.

The process for dealing with matters at a local level should be the same for all members. It must be fair and be seen to be fair.

Responsibilities

The assessment of complaints that a member may have breached the Code of Conduct is a new function for standards committees. It was previously undertaken centrally by the Standards Board for England.

Where a member is the subject of an allegation, we shall refer to that member as a **subject member**.

We shall use the term **independent member** to describe a person – not a member or officer of that or any other relevant authority – who is appointed to an authority's standards committee. Independent members work with the

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authority to develop and maintain standards of conduct for members and are appointed under Section 53 of the Local Government Act 2000 and Regulation 5 of the regulations. At least 25% of the members of a standards committee must be independent members.

In order to carry out its functions efficiently and effectively, the standards committee must establish sub-committees. Creating sub-committees will allow the separate functions involved in the handling of cases to be carried out without conflicts of interest. These functions are:

- the **initial assessment** of a complaint received by the standards committee
- any **request** a standards committee receives from a complainant **to review its decision to take no action in relation to a complaint**
- any **subsequent hearing** of a standards committee to determine whether a member has breached the Code and, where appropriate, to impose a sanction on a member

The standards committee must establish a sub-committee which is responsible for assessing complaints that a member may have breached the Code. We shall refer to this as the **assessment sub-committee**.

The assessment sub-committee will need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

A complainant may make a request for a review of a standards committee's decision where it decides to take no further action on a complaint. The standards committee must establish a sub-committee which is responsible for carrying out these reviews. We shall refer to this as the **review sub-committee**.

This committee will also need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

There should be a minimum of three independent members on the standards committee to ensure that there is an independent member available without a conflict of interest for both the assessment and review sub-committees.

The standards committee can then effectively carry out these statutory functions, allowing for the situation of one independent member of the standards committee being absent or unavailable.

If the authority is responsible for any parish or town councils there should also be a minimum of three parish or town council representatives on the standards committee. This will ensure that there is a parish or town council representative available without a conflict of interest for both the assessment and review sub-committees when a complaint is considered about a member of a parish or town council.

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The assessment and review sub-committees are not required to have fixed membership or a fixed chair.

Standards committee members who have been involved in decision making on the initial assessment of a complaint must not take part in the review of that decision. This is to minimise the risk of conflicts of interest and ensure fairness for all parties.

Standards committee members involved in a complaint's initial assessment, or in a review of a standards committee's previous decision to take no further action, can take part in any subsequent standards committee hearing.

The purpose of the initial assessment decision or review is simply to decide whether any action should be taken on the complaint – either as an investigation or some other action. The assessment and review sub-committees make no findings of fact. Therefore, a member involved at the initial stage or the review stage may participate in a subsequent hearing, because a conflict of interest does not automatically arise.

pre-assessment

Publicising the complaints system

Each authority is required to publish a notice detailing where Code of Conduct complaints should be sent to. This is to ensure that members of the public are aware of the change of responsibility for handling Code complaints and what the process entails. If an authority is responsible for parish and town councils, the notice should make this clear.

The complaints system may be publicised through:

- an authority's website
- advertising in one or more local newspapers
- an authority's own newspaper or circular
- notices in public areas such as local libraries or authority reception areas

It is important that the public notice reaches as many people as possible so that members of the public know how to complain if necessary.

The standards committee must also continue to publicise regularly the address that misconduct complaints should be sent to. In addition, the standards committee needs to alert the public to any changes in such arrangements.

Authorities need to think carefully about how publicity for their complaints system is worded. This is to ensure that members of the public are clear about how to complain, who to complain to, and if there may be an alternative to a formal complaint to the standards committee.

Authorities should also consider whether their constitution requires an amendment to reflect the introduction of the local assessment of complaints. The constitution should make it clear that the citizen's right is to complain to the local standards committee and not to the Standards Board for England.

The standards committee must publish, in whatever manner it considers appropriate, details of the procedures it will follow in relation to any written allegation received about a member.

The submission of complaints and accessibility

There are two main ways in which authorities can set up procedures for the submission of complaints that a member may have breached the Code of Conduct:

- Authorities may choose to integrate the making of Code complaints into the existing complaints framework. This will mean that when a complaint is received, it can be analysed to decide which of the complaints processes is most appropriate. The authority can then advise the complainant accordingly.
- Authorities may choose to develop a separate process for Code complaints so the process for such complaints is distinct from all other complaints.

When deciding which option is most appropriate, authorities should consider that some complainants will not know where to direct their complaint.

pre-assessment

Some complaints may also need to be considered through more than one of an authority's complaint processes.

Officers dealing with incoming complaints will need to be alert to a complaint that a member may have breached the Code. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the assessment sub-committee for consideration.

Where an authority is responsible for parish and town councils, it should make this clear. It should also consider whether a separate complaint form or section of a complaint form should be used.

Where an existing complaint system is used, complaint forms may need to be amended to take into account complaints under the Code. Alternatively, authorities that choose to develop a separate system for the submission of Code complaints may produce a separate complaint form for this.

Without using a separate complaint form, authorities may find it sufficient to give clear guidelines as to the information that complainants need to provide.

This should include:

- the complainant's name, address and other contact details
- complainant status, for example, member of the public, fellow member or officer

- who the complaint is about and the authority or authorities that the member belongs to
- details of the alleged misconduct including, where possible, dates, witness details and other supporting information
- equality monitoring data if applicable, for example nationality of the complainant
- a warning that the complainant's identity will normally be disclosed to the subject member. **Note:** in exceptional circumstances, if it meets relevant criteria and at the discretion of the standards committee, this information may be withheld.

Complaints must be submitted in writing. This includes fax and electronic submissions. However, the requirement for complaints to be submitted in writing must be read in conjunction with the Disability Discrimination Act 2000 and the requirement to make reasonable adjustments.

An example of this would be in assisting a complainant who has a disability that prevents them from making their complaint in writing. In such cases, authorities may need to transcribe a verbal complaint and then produce a written copy for approval by the complainant or the complainant's representative.

Authorities should also consider what support should be made available to

pre-assessment

complainants where English is not the complainant's first language.

When a complaint is addressed to the authority's monitoring officer, the monitoring officer should determine whether the complaint should be directed to the assessment sub-committee or whether another course of action is appropriate. If the complaint is clearly not about member conduct, then the monitoring officer does not have to pass it to the assessment sub-committee.

A complaint may not necessarily be made in writing, for example it may be a concern raised with the monitoring officer verbally. In such cases, the monitoring officer should ask the complainant whether they want to formally put the matter in writing to the standards committee. If the complainant does not, then the monitoring officer should consider the options for informal resolution to satisfy the complainant.

Acknowledging receipt of a complaint

The monitoring officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member that a complaint has been made about them. When considering whether to do so, they should bear in mind the standards committee's procedures with regard to withholding summaries. Please see the section on **Notification requirements** on **page 18** for further information.

The notification can say that a complaint has been made, and state the name of the

complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it) and the relevant paragraphs of the Code of Conduct that may have been breached. It should also state that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint, and the date of this meeting, if known.

If a monitoring officer chooses to tell a subject member, the monitoring officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. In particular, the monitoring officer will need to consider any of the restrictions set out in Section 63 of the Local Government Act 2000 and as modified by Regulation 12 of the regulations. These are the provisions which deal with restrictions on disclosure of information. Additionally, the impact of the Data Protection Act 1998 should be considered.

Only the standards committee has the power, under Section 57C(2) of the Local Government Act 2000, as amended, to give a written summary of the allegation to a subject member.

The administrative processes that the authority adopts should be agreed with the standards committee as part of the processes and procedures that they must publish.

pre-assessment

Pre-assessment reports and enquiries

Authorities may decide that they want the monitoring officer, or other officer, to prepare a short summary of a complaint for the assessment sub-committee to consider. This could, for example, set out the following details:

- whether the complaint is within jurisdiction
- the paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the complainant has identified
- a summary of key aspects of the complaint if it is lengthy or complex
- any further information that the officer has obtained to assist the assessment sub-committee with its decision – this may include:
 - a) obtaining a copy of a declaration of acceptance of office form and an undertaking to observe the Code
 - b) minutes of meetings
 - c) a copy of a member's entry in the register of interests
 - d) information from Companies House or the Land Registry
 - e) other easily obtainable documents

Officers may also contact complainants for clarification of their complaint if they are unable to understand the document submitted.

Pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject member.

Officers should not seek opinions on an allegation rather than factual information as this may prejudice any subsequent investigation. They should also ensure their report does not influence improperly the assessment sub-committee's decision or make the decision for it.

assessment

Initial tests

Before assessment of a complaint begins, the assessment sub-committee should be satisfied that the complaint meets the following tests:

- it is a complaint against one or more named members of the authority or an authority covered by the standards committee
- the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- the complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

Developing assessment criteria

The standards committee or its assessment sub-committee will need to develop criteria against which it assesses new complaints and decides what action, if any, to take. These criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for both the complainant and the subject member.

Assessing all new complaints by established criteria will also protect the committee members from accusations of bias. Assessment criteria can be reviewed and amended as necessary but this should not be done during consideration of a matter.

In drawing up assessment criteria, standards committees should bear in mind the importance of ensuring that complainants are confident that complaints about member conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers' and elected members' time. This is an important consideration where the matter is relatively minor.

Authorities need to take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

To assist in developing the criteria for accepting a complaint or for deciding to take no further action on it, a standards committee or assessment sub-committee may want to ask itself the following questions and consider the following response statements. These will provide a good foundation for developing assessment criteria in the context of local knowledge and experience:

assessment

Q: Has the complainant submitted enough information to satisfy the assessment sub-committee that the complaint should be referred for investigation or other action?

If the answer is **no**: “The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the assessment sub-committee is taking no further action on this complaint.”

Q: Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so, does the assessment sub-committee wish to refer the complaint to the monitoring officer of that other authority?

If the answer is **yes**: “Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the standards committee of that authority to consider.”

Q: Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If the answer is **yes**: “The matter of complaint has already been subject to a

previous investigation or other action and there is nothing more to be gained by further action being taken.”

Q: Is the complaint about something that happened so long ago that there would be little benefit in taking action now?

If the answer is **yes**: “The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided under the circumstances that further action was not warranted.”

Q: Is the complaint too trivial to warrant further action?

If the answer is **yes**: “The matter is not considered to be sufficiently serious to warrant further action.”

Q: Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

If the answer is **yes**: “The matter appears to be simply malicious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted”.

The assessment criteria that the standards committee adopts should be made publicly available.

decision

Initial assessment decisions

The assessment sub-committee should complete its initial assessment of an allegation within an average of 20 working days, to reach a decision on what should happen with the complaint.

The assessment sub-committee is required to reach one of the three following decisions on a complaint about a member's actions in relation to the Code of Conduct:

- referral of the complaint to the monitoring officer of the authority concerned, which under section 57A(3) of the Local Government Act 2000, as amended, may be another authority
- referral of the complaint to the Standards Board for England
- no action should be taken in respect of the complaint

New rules have been made about what the assessment sub-committee must do when a decision has been made. Please see the section on **Access to meetings and decision making** on **page 22** for further information.

The time that the assessment sub-committee takes to carry out its initial assessment of a complaint is key in terms of being fair to the complainant and the subject member. It is also in the public interest to make a timely decision within an average of 20 working days. The assessment sub-committee should

therefore aim to achieve this target wherever possible.

Referral for local investigation

When the assessment sub-committee considers a new complaint, it can decide that it should be referred to the monitoring officer for investigation.

The monitoring officer must write to the relevant parties informing them of the decision and, if appropriate, advising who will be responsible for conducting the investigation. Please see the section on **Notification requirements** on **page 18** for further information.

Referral to the Standards Board for England

In most cases, authorities will be able to deal with the investigation of complaints concerning members of their authorities and, where relevant, the parish and town councils they are responsible for. However, there will sometimes be issues in a case, or public interest considerations, which make it difficult for the authority to deal with the case fairly and speedily. In such cases, the assessment sub-committee may wish to refer a complaint to the Standards Board to be investigated by an ethical standards officer.

If the assessment sub-committee believes that a complaint should be investigated by the Standards Board, it must take immediate steps to refer the matter. It would be helpful if the assessment

decision

sub-committee let us know the paragraph or paragraphs of the Code of Conduct that it believes the allegation refers to and the reasons why it cannot be dealt with locally.

We may accept cases for investigation by an ethical standards officer, take no action, or refer cases back to the standards committee which referred them. When deciding which of these actions to take, we will be principally concerned with supporting the ethical framework nationally and locally.

We will take the following matters into account in deciding which cases we should accept in the public interest:

- Does the standards committee believe that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for them to deal with the complaint? For example, is the member a group leader, elected mayor or a member of the authority's cabinet or standards committee?
- Does the standards committee believe that the status of the complainant or complainants would make it difficult for the standards committee to deal with the complaint? For example, is the complainant a group leader, elected mayor or a member of the authority's cabinet or standards committee, the chief executive, the monitoring officer or other senior officer?
- Does the standards committee believe that there is a potential conflict of interest of so many members of the standards committee that it could not properly monitor the investigation?
- Does the standards committee believe that there is a potential conflict of interest of the monitoring officer or other officers and that suitable alternative arrangements cannot be put in place to address the conflict?
- Is the case so serious or complex, or involving so many members, that it cannot be handled locally?
- Will the complaint require substantial amounts of evidence beyond that available from the authority's documents, its members or officers?
- Is there substantial governance dysfunction in the authority or its standards committee?
- Does the complaint relate to long-term or systemic member/officer bullying which could be more effectively investigated by someone outside the authority?
- Does the complaint raise significant or unresolved legal issues on which a national ruling would be helpful?
- Might the public perceive the authority to have an interest in the outcome of a case? For example if the authority could be liable to be judicially reviewed if the complaint is upheld.
- Are there exceptional circumstances which would prevent the authority or its

decision

standards committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation?

We will normally inform the monitoring officer within ten working days whether we will accept a case or whether we will refer it back to the standards committee, with reasons for doing so. There is no appeal mechanism against our decision.

Referral back to a standards committee from the Standards Board for England

If we decline to investigate a complaint referred to us, we will normally send it back to the authority's standards committee with the reasons why. The standards committee must then decide what action should be taken next.

The assessment sub-committee must again take an assessment decision and should complete this within an average of 20 working days.

This may be a decision not to take any further action, to refer the matter for local investigation, or to refer the matter for some other form of action. As the assessment sub-committee initially decided that the matter was serious enough to be referred to the Standards Board for investigation, it is likely that it will still think that it should be investigated.

However, if the circumstances of the complaint have changed since the

assessment sub-committee's original decision, it may be reasonable to take a different decision. This decision will again need to be communicated to relevant parties in the same way as the original decision was. Please see the section on **Notification requirements** on **page 18** for further information.

If we decline to investigate a case referred to us, we may, in the circumstances, offer guidance or give a direction to the standards committee, which may assist with the standards committee's decision.

In exceptional circumstances, we may decide to take no further action on a complaint referred to us by a standards committee. This is likely to be where circumstances have changed so much that there would be little benefit arising from investigation or other action, or because we do not consider that the complaint discloses a breach of the Code of Conduct.

Referral for other action

When the assessment sub-committee considers a new complaint, it can decide that other action to an investigation should be taken and it can refer the matter to the monitoring officer to carry this out. It may not always be in the interests of good governance to undertake or complete an investigation into an allegation of misconduct. The assessment sub-committee must consult its monitoring officer before reaching a decision to take other action.

decision

The suitability of other action is dependent on the nature of the complaint. Certain complaints that a member has breached the Code of Conduct will lend themselves to being resolved in this way. They can also indicate a wider problem at the authority concerned. Deciding to deal pro-actively with a matter in a positive way that does not involve an investigation can be a good way to resolve matters that are less serious. Other action can be the simplest and most cost effective way of getting the matter resolved, helping the authority to work more effectively, and of avoiding similar complaints in the future.

The assessment sub-committee can choose this option in response to an individual complaint or a series of complaints. The action decided upon does not have to be limited to the subject member or members. In some cases, it may be less costly to choose to deal with a matter in this way rather than through an investigation, and it may produce a more effective result.

It is not possible to set out all the circumstances where other action may be appropriate, but an example is where the authority to which the subject member belongs appears to have a poor understanding of the Code and authority procedures. Evidence for this may include:

- a number of members failing to comply with the same paragraph of the Code
- officers giving incorrect advice
- failure to adopt the Code
- inadequate or incomplete protocols for use of authority resources

Other action may also be appropriate where a breakdown in relationships within the authority is apparent, evidence of which may include:

- a) a pattern of allegations of disrespect, bullying or harassment
- b) factionalised groupings within the authority
- c) a series of 'tit-for-tat' allegations
- d) ongoing employment issues, which may include resolved or ongoing employment tribunals, or grievance procedures

The assessment sub-committee is encouraged to consider other action on a practical basis, taking into account the needs of their own authority and of the parish and town councils which they serve. Everyone involved in the process will need to understand that the purpose of other action is not to find out whether the member breached the Code – the decision is made as an alternative to investigation. If the monitoring officer embarks on a course of other action, they should emphasise to the parties concerned that no conclusion has been reached on whether the subject member failed to comply with the Code.

Complaints that have been referred to the monitoring officer for other action should not then be referred back to the standards committee if the other action is perceived to have failed. This is unfair to the subject member, and a case may be jeopardised if it has been discussed as part of a mediation process. There is also a difficulty with defining 'failure' in terms of

decision

the other action undertaken. The decision to take other action closes the opportunity to investigate and the assessment sub-committee should communicate this clearly to all parties.

Standards committees may find it helpful to introduce a requirement for the parties involved to confirm in writing that they will co-operate with the process of other action proposed. An example of this would be writing to the relevant parties outlining:

- what is being proposed
- why it is being proposed
- why they should co-operate
- what the standards committee hopes to achieve

However authorities choose to take this forward, the important thing is that all parties are clear about what is, and what is not, going to happen in response to the complaint.

The following are some examples of alternatives to investigation:

- arranging for the subject member to attend a training course
- arranging for that member and the complainant to engage in a process of conciliation
- instituting changes to the procedures of the authority if they have given rise to the complaint

Standards committees may find that resolving a matter in this way is relatively

quick and straightforward compared to a full investigation.

Decision to take no action

The assessment sub-committee can decide that no action is required in respect of a complaint. For example, this could be because the assessment sub-committee does not consider the complaint to be sufficiently serious to warrant any action. Alternatively, it could be due to the length of time that has elapsed since the alleged conduct took place and the complaint was made. The decision reached by the assessment sub-committee and the reasons for it should adhere to the assessment criteria that the standards committee or assessment sub-committee have agreed.

It is important to underline that where no potential breach of the Code of Conduct is disclosed by the complaint, no matter what its source or whoever the subject member, no action can be taken by the standards committee in respect of it. The matter of referral for investigation or other action therefore does not arise.

The complainant should be advised of their right to ask for a review of a decision to take no action. They should be told that they can exercise this right by writing to the standards committee with their reasons for requesting a review. The complainant should be advised of the date by which their review request should be received by the standards committee.

decision

That date is 30 working days after the initial assessment decision is received.

Notification requirements – local assessment decisions

If the assessment sub-committee decides to take no action over a complaint, then as soon as possible after making the decision it must give notice in writing of the decision and set out clearly the reasons for that decision. Where no potential breach of the Code is disclosed, the assessment sub-committee must explain in the decision notice what the allegation was and why they believe this to be the case. This notice must be given to the relevant parties.

The relevant parties will be the complainant and the subject member. We also recommend that the standards committee gives a copy of the decision notice to the parish or town clerk if the subject member is a parish or town councillor. We also suggest that the standards committee sends out its decision notice within five working days of the decision being made.

If the assessment sub-committee decides that the complaint should be referred to the monitoring officer or to the Standards Board for England, it must send a summary of the complaint to the relevant parties. It should state what the allegation was and what type of referral it made, for example whether it referred the complaint to the monitoring officer or to the Standards Board for investigation. The decision notice must not explain why a particular referral decision has been made.

After it has made its decision, the assessment sub-committee does not have to give the subject member a summary of the complaint, if it decides that doing so would be against the public interest or would prejudice any future investigation.

This could happen where it is considered likely that the subject member may intimidate the complainant or the witnesses involved. It could also happen where early disclosure of the complaint may lead to evidence being compromised or destroyed. The assessment sub-committee needs to take such possibilities into account when developing with its monitoring officer any process that notifies a member about a complaint made against them.

The assessment sub-committee should take advice from the monitoring officer in deciding whether it is against the public interest to inform the subject member of the details of the complaint made against them. It should also take advice from the monitoring officer in deciding whether informing the subject member of the details of the complaint would prejudice a person's ability to investigate it.

The monitoring officer will need to carry out an assessment of the potential risks to the investigation. This is to determine whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member. An example of this is allowing the subject member to preserve any evidence. The monitoring

decision

officer should then advise the assessment sub-committee accordingly.

The assessment sub-committee can use its discretion to give limited information to the subject member if it decides this would not be against the public interest or prejudice any investigation. Any decision to withhold the summary must be kept under review as circumstances change.

review

Reviews of 'no further action' decisions

If the assessment sub-committee decides not to take any action on a complaint, then the complainant has a right of review over that decision.

The review sub-committee must carry out its review within a maximum of three months of receiving the request. We recommend that the review sub-committee adopts a policy of undertaking the review within the same timescale as the initial assessment decision is taken, aiming to complete the review within an average of 20 working days.

The review must be, and must be seen to be, independent of the original decision. Members of the assessment sub-committee who made the original decision must not take part in the review of that decision. A separate review sub-committee, made up of members of the standards committee, must consider the review.

The review sub-committee should apply the same criteria used for initial assessment. The review sub-committee has the same decisions available to it as the assessment sub-committee.

There may be cases where further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint. In such cases, the review sub-committee should consider carefully if it is more appropriate to pass this to the assessment sub-committee to be handled as a new

complaint. In this instance, the review sub-committee will still need to make a formal decision that the review request will not be granted.

For example, a review may be more appropriate if a complainant wishes to challenge that:

- not enough emphasis has been given to a particular aspect of the complaint
- there has been a failure to follow any published criteria
- there has been an error in procedures

However, if more information or new information of any significance is available, and this information is not merely a repeat complaint, then a new complaint rather than a request for review may be more suitable.

Notification requirements – reviews of local assessment decisions

If the standards committee receives a review request from the complainant, it must notify the subject member that it has received the request. We recommend that all relevant parties are notified when a review request is received.

When the review sub-committee reviews the assessment sub-committee's decision it has the same decisions available to it that the assessment sub-committee had. It could be decided that no action should be taken on the complaint. In this case, the review sub-committee must, as soon as

review

possible after making the decision, give the complainant and the subject member notice in writing of both the decision and the reasons for the decision.

If it is decided that the complaint should be referred to the monitoring officer or to the Standards Board for England, the standards committee should write to the relevant parties telling them this and letting them have a summary of the complaint. The decision notice should not explain why that particular referral decision has been made as it might prejudice the investigation or other action.

We recommend that the review sub-committee sends out its decision notice within five working days of the decision being made.

other issues to consider

Access to meetings and decision making

Initial assessment decisions, and any subsequent review of decisions to take no further action on a complaint, must be conducted in closed meetings. These are not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.

Such meetings may have to consider unfounded and potentially damaging complaints about members, which it would not be appropriate to make public. As such, a standards committee undertaking its role in the assessment or review of a complaint is not subject to the following rules:

- rules regarding notices of meetings
- rules on the circulation of agendas and documents
- rules over public access to meetings
- rules on the validity of proceedings

Instead, Regulation 8 of the regulations sets out what must be done after the assessment or review sub-committee has considered a complaint. The new rules require a written summary to be produced which must include:

- the main points considered
- the conclusions on the complaint
- the reasons for the conclusion

The summary must be written having regard to this guidance and may give the name of the subject member unless doing so is not in the public interest or would prejudice any subsequent investigation.

The written summary must be made available for the public to inspect at the authority's offices for six years and given to any parish or town council concerned. The summary does not have to be available for inspection or sent to the parish or town council until the subject member has been sent the summary.

In limited situations, a standards committee can decide not to give the written summary to the subject member when a referral decision has been made and, if this is the case, authorities should put in place arrangements which deal with when public inspection and parish or town council notifications will occur. This will usually be when the written summary is eventually given to the subject member during the investigation process. Please see the section on **Notification requirements** on **page 18** for further information.

Review of a decision to take no further action on a complaint is not subject to access to information rules in respect of local government committees.

In addition, authorities must have regard to their requirements under Freedom of Information and Data Protection legislation.

Withdrawing complaints

There may be occasions when the complainant asks to withdraw their complaint prior to the assessment sub-committee having made a decision on it.

other issues to consider

In these circumstances, the assessment sub-committee will need to decide whether to grant the request. It would be helpful if the assessment sub-committee had a framework by which to consider such requests. The following considerations may apply:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the subject member, or an associate of theirs, to withdraw the complaint?

Multiple and vexatious complaints

An authority may receive a number of complaints from different complainants about the same matter. Authorities should have procedures in place to ensure that they are dealt with in a manner that is a practical use of time and resources.

A number of complaints about the same matter may be considered by the assessment sub-committee at the same meeting. If so, an officer should be asked to present one report and recommendation that draws together all the relevant

information and highlights any substantively different or contradictory information. However, the assessment sub-committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

Unfortunately, a small number of people abuse the complaints process. Authorities may want to consider developing a policy to deal with this. For example, they could bring it within the scope of any existing authority policies on vexatious or persistent complainants, or take action to limit an individual's contact with the authority.

However, standards committees must consider every new complaint that they receive in relation to the Code of Conduct. If the standards committee has already dealt with the same complaint by the same person and the monitoring officer does not believe that there is any new evidence, then a complaint does not need to be considered.

A person may make frequent allegations about members, most of which may not have any substance. Despite this, new allegations must still be considered as they may contain a complaint that requires some action to be taken.

Even where restrictions are placed on an individual's contact with the authority, they cannot be prevented from submitting a complaint.

Vexatious or persistent complaints or complainants can usually be identified through the following patterns of

other issues to consider

behaviour, which may become apparent in the complaints process:

- repeated complaints making the same, or broadly similar, complaints against the same member or members about the same alleged incident
- use of aggressive or repetitive language of an obsessive nature
- repeated complaints that disclose no potential breach of the Code
- where it seems clear that there is an ulterior motive for a complaint or complaints
- where a complainant refuses to let the matter rest once the complaints process (including the review stage) has been exhausted

There are ways that authorities can reduce the resources expended. For example, they can allow a vexatious complainant to deal with only one named officer or refuse email communication. Authorities can also include a statement in their referrals criteria that malicious or tit-for-tat complaints are unlikely to be investigated unless they also raise serious matters. This will allow authorities to decide not to investigate or take other action on such complaints if appropriate.

Case history

Authorities should consider developing a complaints management system. Records of all complaints and their outcomes

should be retained in line with the authority's records management policy. This policy may need to be amended to reflect the authority's new responsibilities in the local assessment of complaints.

Documents that relate to complaints that the assessment sub-committee decided not to investigate should be kept for a minimum of 12 months after the outcome of any review that has been concluded. This is in case of legal challenges, and also in order to meet the Standards Board for England's monitoring requirements.

Authorities should set a time limit for records retention after the outcome of any hearing or result of further action in respect of a complaint is known. This should be set in accordance with the authority's own file retention policy and in accordance with the principles of data protection.

Authorities should keep details of cases in a format that is easy to search by complainant name, by member name, and by authority where an authority is responsible for parish and town councils. Authorities may also want to search by paragraph of the authority's Code of Conduct.

Old cases may be relevant to future complaints if they show a pattern of behaviour. Authorities will also be able to identify complaints about the same matter that have already been considered by the standards committee.

other issues to consider

Authorities will need to consider records management alongside the law on keeping records of committees.

Confidentiality

As a matter of fairness and natural justice, a member should usually be told who has complained about them. However, there may be instances where the complainant asks for their identity to be withheld. Such requests should only be granted in exceptional circumstances and at the discretion of the assessment sub-committee. The assessment sub-committee should consider the request for confidentiality alongside the substance of the complaint itself.

Authorities should develop criteria by which the assessment sub-committee will consider requests for confidentiality. These may include the following:

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
- The complainant is an officer who works closely with the subject member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed (this should be covered by the authority's whistle-blowing policy).
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. In such

circumstances, standards committees may wish to request medical evidence of the complainant's condition.

In certain cases, such as allegations of bullying, revealing the identity of the complainant may be necessary for investigation of the complaint. In such cases the complainant may also be given the option of requesting a withdrawal of their complaint.

When considering requests for confidentiality, the assessment sub-committee should also consider whether it is possible to investigate the complaint without making the complainant's identity known.

If the assessment sub-committee decides to refuse a request by a complainant for confidentiality, it may wish to offer the complainant the option to withdraw, rather than proceed with their identity being disclosed. In certain circumstances, the public interest in proceeding with an investigation may outweigh the complainant's wish to have their identity withheld from the subject member. The assessment sub-committee will need to decide where the balance lies in the particular circumstances of each complaint.

Anonymous complaints

Authorities should publish a statement setting out how complaints received anonymously will be dealt with. The assessment sub-committee may decide that an anonymous complaint should only be referred for investigation or some other action if it includes documentary or

other issues to consider

photographic evidence indicating an exceptionally serious or significant matter. If so, this needs to be included in the standards committee's assessment criteria.

Members with conflicts of interest

Note: this section does not deal with any interests which may arise under the Code of Conduct, which members must also keep in mind and deal with as appropriate.

A member of the standards committee who was involved in any of the following decisions **can** be a member of the committee that hears and determines the complaint at the conclusion of an investigation:

- the initial assessment decision
- a referral back for another assessment decision
- a review of an assessment decision

The assessment decision relates only to whether the complaint discloses something that needs to be investigated or referred for other action. It does not determine whether the conduct took place or whether it was a breach of the Code. The standards committee hearing the case will decide on the evidence before it as to whether the Code has been breached and, if so, if any sanction should apply.

The assessment process must be conducted with impartiality and fairness. There may be cases where it would not be

appropriate for a member to be involved in the process, even if not disqualified from doing so by law. Any member who is a complainant or one of the following should not participate in the assessment process:

- anyone closely associated with someone who is a complainant
- a potential witness or victim relating to a complaint

In certain situations, a standards committee member might initially be involved with the initial assessment of a case that is then referred to the Standards Board for England or to the authority's monitoring officer. The case might then be referred back to the standards committee to consider again. In such circumstances, the member may continue their participation in the assessment process.

However, a standards committee member who is involved at these assessment stages of the process, either initially or following a referral back from the Standards Board or monitoring officer, should not participate in the review of that decision.

Authorities should ensure that their standards committee has sufficient independent members, and parish or town representatives where applicable, for the framework to operate effectively. This should allow for circumstances where members are unable to participate for reasons of conflict of interest.

other issues to consider

Officers with conflicts of interest

An officer who has previously advised a subject member or who has advised the complainant about the issues giving rise to a complaint should consider whether they can properly take part in the assessment process. For example, a conflict of interest could mean that the officer will not be able to:

- draft letters
- prepare reports
- contact complainants
- attend the final hearing of that complaint

The officer should also consider whether they should stand aside due to their prior involvement, which has been such that others involved may view them as biased. Officers should take legal advice if they have any doubts.

If the officer has taken part in supporting the assessment or hearing process then they should not be involved in the investigation of that matter. This is so that the officer can minimise the risk of conflicts of interest that may arise and ensure fairness for all parties.

The monitoring officer should act as the main adviser to the standards committee unless the monitoring officer has an interest in a matter that would prevent them from performing the role independently.

If the monitoring officer is unable to take part in the assessment process, their role

should be delegated to another appropriate officer of the authority, such as the deputy monitoring officer. Similarly, the role of any other officer who is unable to take part in the assessment process should be taken by another officer.

Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities. This is to ensure that an experienced officer is available to deputise for the monitoring officer if they are unable to take part in the assessment process.

Personal conflicts

Members and officers should take care to avoid any personal conflicts of interest arising when participating in the consideration of a complaint that a member may have breached the Code of Conduct. The provisions of the authority's Code relating to personal and prejudicial interests apply to standards committee members in meetings and hearings.

Anyone who has a prejudicial interest or who is involved with a complaint in any way should not take part in the assessment or review sub-committee. Decisions made in an assessment or review sub-committee should not be influenced by anything outside the papers and advice put before the members in that committee. The members should not discuss complaints with others who are not members of the committee which deals with the assessment or review. Discussions between members should only take place at official meetings.

other issues to consider

Authorities should have clear guidelines in place on when a member or officer should not take part in the assessment of a complaint because of personal interests. These may include consideration of the following:

- The complaint is likely to affect the well-being or financial position of that member or officer or the well-being or financial position of a friend, family member or person with whom they have a close association.
- The member or officer is directly or indirectly involved in the case in any way.
- A family member, friend or close associate of the member or officer is involved in the case.
- The member or officer has an interest in any matter relating to the case. For example, it concerns a member's failure to declare an interest in a planning application in which the member or officer has an interest. This is despite the fact that the outcome of any investigation or other action could not affect the decision reached on the application.

Complaints about members of more than one authority

The introduction of the local assessment of complaints may raise an issue relating to what should happen if a complaint is made against an individual who is a member of more than one authority – often known as a dual-hatted member.

In such cases, the member may have failed to comply with more than one authority's Code of Conduct. For example, an individual who is a member of a district council and a police authority may be the subject of complaints that they have breached the Code of both authorities.

As such, it would be possible for both the assessment sub-committee of the district council and the assessment sub-committee of the police authority to receive complaints against the member.

Where a complaint is received about a dual-hatted member, the monitoring officer of the authority should check if a similar allegation has been made to the other authority, or authorities, on which the member serves.

Decisions on which standards committee should deal with a particular complaint must then be taken by the standards committees themselves, following discussion with each other. They may take advice as necessary from the Standards Board for England.

This will allow for a cooperative approach, including sharing knowledge and information about local circumstances, and cooperation in carrying out investigations to ensure resources are used effectively.

Authorities should also consider whether they need to establish a data sharing protocol with other relevant authorities. The government and the Information Commissioner's Office have produced guidance on such protocols. Visit www.ico.gov.uk for further details on the work of the Information Commissioner.

ALTERNATIVE ACTIONS SEMINAR

Report By: Assistant Chief Executive - Legal and Democratic

Wards Affected

County Wide

Purpose

1. To consider this report and any comments the Committee may wish to make in respect of alternative actions.

Financial Implications

2. None.

Background

3. The Standards Board for England arranged a Seminar on alternative action at the Standards Board Headquarters in Manchester on 16th June 2008. The Assistant Chief Executive – Legal and Democratic attended this seminar together with a number of Monitoring Officers from various parts of England. The Seminar was primarily looking at directions or alternative actions other than investigations and hearings, and experiences by other authorities.

Considerations

4. The reason for undertaking other action is that it may not always be in the interests of good governance to undertake or complete an investigation into an allegation of misconduct. In some circumstances it may be more appropriate to deal with matters by taking other action. Under the new local assessment framework this decision may be made on receipt of the allegation, or may only become clear after some investigation has been conducted and decided by the assessment sub-committee. The Monitoring Officer in such cases should refer the case back to the assessment sub-committee to confirm what progress, if any, has been made on the alternative action recommended.
5. It is important for the Committee to be aware that once a programme of alternative action has been embarked upon the investigation cannot be reopened even if the alternative action fails. The decision to take alternative action closes the opportunity to investigate.

6. Under the local assessment framework Standards Committees (assessment sub-committees in practice) have very broad powers to direct the Monitoring Officer to deal with cases in the following alternatives:
- mediation or conciliation – either between parties or involving the community to a greater or lesser extent
 - training – review of lessons learnt from the case
 - peer mentoring – review all protocols, standing orders or registers of interests

Should the Committee recommend alternative action, parties should be informed that no conclusion has been reached on whether the subject member failed to comply with the Code of Conduct.

7. The kind of case that would be subject to alternative action is where the authority to which the subject member belongs appears to have a poor understanding of the Code of Conduct and authority procedures.
8. Some authorities' shared experiences of mediation directed by the Standards Board felt that it gave some clout and a way in with difficult Parish Councils. Another authority had mediation with a Parish Council which worked for the complainant and some of the Parish Councillors; but out of the six members against whom the allegations were made two members did not accept mediation and therefore, as alternative action had been directed, there could be no further investigation.
9. It was still felt appropriate that in certain exceptional cases the Standards Board should set out directions as alternative action and could give authority to the Monitoring Officer in such cases.
10. The most common issues appear to be in respect of Parish Councils, and in particular where the relationship between the Clerk and the Chairman of the Council is difficult or acrimonious, or and where there are a number of newly elected Parish Councillors.
11. The Monitoring Officer could at the assessment stage suggest alternative action to the Assessment Sub-Committee. An issue arose as to how that would be reported back, should the subject member not comply and the response to any complainant. The Standards Board view was that Standards Committees need to be robust and consider investigations having regard to the likelihood of cost, the seriousness of the allegation; and that alternative action was an appropriate solution in some cases.
12. The Standards Board hopes to involve the same group of authorities to meet up just prior to Christmas 2008 to review how things have gone and how alternative action has avoided unnecessary costs and investigations.

Recommendations

THAT

- (i) the Report be noted; and**
- (ii) that in appropriate cases, the Monitoring Officer and the Assessment Sub-Committee will consider alternative action as one of the options.**

Background Papers

None

Appendices

Minutes of the Alternative Actions Seminar held on 16 June 2008

SEMINAR: ALTERNATIVE ACTION

MINUTES

Date: 16 June 2008
Time: 1.30pm – 4 pm
Location: The Boardroom, Standards Board for England, Manchester

Present:

Mrs Wendy Ashenden-Bax	Arun District Council
Ms Liz Ashness	Broadland District Council
Mr Quentin Baker	City of York Council
Mr Chris Brown	Broxtowe Borough Council
Mr Mathew Buckley	East Riding of Yorkshire Council
Mr Tom Clark	Mid Sussex District Council
Mr Glen Egan	Surrey Heath Borough Council
Mr Charles Kerry	Chester City Council
Mr Kevin Lawson	Wigan Metropolitan Borough Council
Ms Bernadette Livesey	Calderdale Metropolitan Borough Council
Mr Alan McLaughlin	Herefordshire Council
Ms Elaine Minnighan	Erewash Borough Council
Mr Alan Muir	West Dorset District Council
Mr Ian Rickard	Mid Suffolk District Council
Mrs Neeraj Sharma	Sandwell Metropolitan Borough Council

Standards Board for England:

James Cessford	Policy Adviser
Mark Jones	Principal Legal Adviser
Anissa Kheraktar	Policy Adviser
Jennifer Rogers	Ethical Standards Officer
Emma Webb	Policy Adviser
Jonathan Wigmore	Ethical Standards Officer
John Williams	Senior Policy Adviser

Apologies:

Mr Tim Collard	North Shropshire District Council
Mr Jeremy Cook	Adur District Council
Mr Alan Eastwood	Bolton Metropolitan Borough Council
Ms Suzan Hemingway	City of Bradford Metropolitan District Council
Ms Fiona McMillan	South Cambridgeshire District Council
Ms Bhavna Patel	Cotswold District Council
Ms Susan Tovey	Test Valley Borough Council
Mr Alan Weavers	Colchester Borough Council

Item No.	Subject
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1) Welcome and introductions

Jennifer Rogers opened the seminar with an overview of standards committees' powers to decide on a form of action other than investigation in order to resolve difficulties in a council, which are apparent from allegations being made about members' conduct.

Jennifer noted that the relatively modest number of 25 authorities had been involved in directions. This underlined the Standards Board's view that this was *alternative* action, i.e. not the norm, and that it should be used judiciously and not in circumstances where an investigation was clearly merited. This approach conforms to advice received from counsel.

2) Sharing experiences - successes and problems

There was a round table discussion, in which all monitoring officers took part, of:

- experience of implementing ethical standards officers' directions
- use of mediation, conciliation, conflict resolution, mentoring and training
- successes, failures and lessons for the future

The main points were:

- Mediation at parish level could be assisted by the county association if there was one, and a co-operative clerk
- A good and open relationship with the local press was helpful
- Mediation was a fragile process, and it was better not to try too hard if it clearly was not working
- Sometimes it was better to be satisfied with a partial or qualified success rather than to seek or press for a total solution
- Therefore it should be clear to all when alternative action has run its course and been signed off.
- Employment issues were best left to the employment law machinery rather than mediation
- Sometimes a direction only scratches the surface, and it is a matter of judgement how far to go into deep seated historical problems
- The standards committee or a certain member of it are often useful as vehicles to get the ethical message across

-
- Alternative arrangements might not just mean mediation and training, and can be used for other things, for example a review of the council's IT protocol
 - Alternative arrangements might allow scope for using group discipline, the chief executive or the party whips to resolve problems, as under the old National Code of Conduct before the Standards Board existed
 - Officers need to be alert that some members, particularly at parish level, might manipulate the process to cause further mischief; or see and treat the opportunity for alternative action as the means of avoiding a necessary investigation
 - Sometimes member complaints and mediation can become entwined with other complaints to the Audit Commission, Local Government Ombudsman and the Information Commissioner
 - In some instances, there had to be closure on a matter and complainants informed or made to accept that the end of the line had been reached.

3) Involvement of Standards Committees in directions

John Williams introduced the Support and Assessment team and its members, James Cessford and Emma Webb. He explained how the Standards Board intends to support standards committees in operating the new regime.

John also told the group about the parish solutions project, which had analysed and broken down the basic characteristics of a dysfunctional parish. This was the springboard for tailor-made solutions which could form the basis of alternative action. The group welcomed his suggestion that the Standards Board collate directions in order to build up a bank of real-life scenarios which could be shared with authorities in similar difficulties.

There was an exchange of ideas on:

- criteria for determining when alternative action is merited
- how to determine what kind of alternative action
- who can you ask to help
- follow up and how to deal with failure
- sharing information and having a support network

The main points were:

- If there is to be mediation, there must be buy-in from the parties. They may be persuaded to take part, but ultimately mediation cannot be forced on them. Monitoring Officers asked whether in these cases, the standards committee could adjourn to determine whether mediation or training would be acceptable and feasible before making a decision about

how to deal with the case under s.57A(2) LGA 2000. This was noted with the proviso that the assessment sub-committee has 20 days to turn round a complaint, and there is a fine line between whether preliminary inquiries turn into a *de facto* investigation in advance of a referral decision, which would cause confusion and must not happen.

- The complainant's expectations, particular with the public, also had to be managed in situations where they unrealistically expected sanction and disqualification by the APE, and mediation was seen as a weak option or a cop-out.
- Having a national Code of Conduct was seen as a powerful, non-negotiable and consistent tool in relation to the local regime
- There were instances where a matter could be referred to the Standards Board for direction, and this might be useful if it would help for the Board to draw the flak in difficult local situations
- The Standards Board had clout, and its involvement and visibility could assist monitoring officers and those people locally who were seeking solutions
- The idea of a Standards Board DVD demonstrating the bad effects of a dysfunctional parish council and how it could be turned into a good one was supported. It was important that it recognised the intimacy of parish life, and that personal relationships and enmities had to be laid aside for the good of the community and the authority's standing as a statutory body.
- Further to this, awareness of the parish council as a legal entity with statutory responsibilities was poor in certain places, and this could be a stumbling block to buy-in for mediation

4) Annual Assembly

Jennifer Rogers said that there would be a practical session at the Standards Board's Annual Assembly at Birmingham in October looking at the benefits of alternative action. The group explored what would be of interest and help to monitoring officers and standards committee members who have not yet been involved in directions

The following suggestions were made:

- Alternative action can often be a lot more positive than an investigation
- Alternative action can be more cost-effective
- It was important to get standards committee members genuinely to support the action throughout its course

-
- Early intervention was important and could help to nip tit-for-tat situation in the bud, although this could be harder to achieve at parish level where situations could fester unnoticed by the standards committee
 - There had to be clarity as to what mediation involves
 - When trying to resolve conflict, there were often benefits of not getting into the specifics of an investigation, which could inflame the situation
 - With parishes, it was important not to get drawn into the role or conduct of the clerk, as there was no jurisdiction for this
 - Although much could be learnt from parish experience, there was a danger of assembly sessions getting too bogged down in specific examples
 - Parishes ought to be made to pay for investigations: too often complaints were made without any thought to the expense, and the effect on the wider district community of spending resources on this, including valuable officer time, to the detriment of improving services. There was discussion as to how to influence Government on this.
 - It was important to remember that the Standards Board was there to assist, advise and if necessary visit

5) Closing Remarks

Jennifer Rogers and John Williams thanked everyone for attending and contributing to a lively discussion. The group agreed that there was merit in building a network of monitoring officers and the Standards Board to provide mutual and moral support to assist the process locally. The group would convene again in the New Year* to exchange experiences of working under the new system, and the seminar would be reported in the Standards Board's bulletin.

*12 January 2009, Standards Board for England, Manchester
1.00 p.m. for 1.30, Lunch available

ROLE AND COMPOSITION OF STANDARDS COMMITTEE, ASSESSMENT SUB-COMMITTEE AND REVIEW SUB- COMMITTEE

Report By: Assistant Chief Executive - Legal and Democratic

Wards Affected

County Wide

Purpose

1. To consider the Terms of Reference and Constitution of the Standards Committee and sub-committees having regard to the Standards Committee (England) Regulations 2008 and the guidance issued by the Standards Board for England, "the Role and Make Up of Standards Committees".

Financial Implications

2. There are financial implications in terms of council and officer resources in supporting such committees and hearings. In addition there are training issues for new members of the Standards Committee or any of its sub-committees.

Background

3. Members of the Committee are aware that new rules were applied to complaints received from the 8th May 2008 onwards with regard to an allegation of misconduct by a Member. All such complaints must now be made to the Standards Committee of the authority, and the sub-committee of the Standards Committee will have to decide whether the complaint should be investigated. This report sets out what the changes will be to the system of handling complaints against members and the issues which the authority needs to address in order to meet these new requirements for Committee Members consideration.

Consideration

4. Each allegation, as members are aware, must be assessed within 20 working days of receipt. The Standards Committee must therefore consider setting up sub-committees required for this purpose.
5. The Act requires the Standards Committee to establish a sub-committee (which I will refer to as the assessment sub-committee). This sub-committee will be required to undertake the initial assessment and decide whether the complaint shows an apparent failure to comply with the Code of Conduct for Members and, if so, whether that complaint merits investigation. If that sub-committee decides not to investigate the complaint, the complainant has 30 days within which to request the authority to review that decision. The Act requires the Standards Committee to set up a second

Further information on the subject of this report is available from
Alan McLaughlin, Assistant Chief Executive - Legal & Democratic on (01432) 260200

sub-committee (which I refer to as the review sub-committee) to conduct that review. No member can sit on the review sub-committee in respect of a complaint where they were on the assessment sub-committee for the initial assessment of the same complaint.

6. If the matter requires investigation and the investigating officer concludes that there has been a failure to comply with the Code of Conduct for Members, a hearing would then be held. The Standards Board recommends that such hearings should be held before another sub-committee (a hearings panel) of between three and five members.
7. Whilst the Act requires that no member sits on both the assessment sub-committee and the review sub-committee on the same matter, because a member cannot fairly review his or her own decision, there is no similar statutory requirement for the members of the hearings panel to be comprised of members who are either on the assessment sub-committee nor the review sub-committee. However a member against whom a complaint has been made might reasonably take exception to a member being part of the hearings panel when that member had some three months previously seen the complaint without the benefit of any response from the member and decided that the matter should proceed to investigation. Separate membership for all three sub-committees clearly increases the minimum size of the Standards Committee and the minimum number of independent co-opted members (and Parish Council representatives) necessary to make up the separate sub-committees.
8. Each such sub-committee must comprise of at least three members, at least 25 per cent of whom must be independent co-opted members (and at least one of whom must be a Parish Council representative if the sub-committee is dealing with a complaint in respect of the conduct of a member as a member of a Parish Council). Such sub-committees should be kept small to facilitate the decision making and ideally would comprise of two independent co-opted members and either three ordinary members, not all from the same party group (or two ordinary members not both from the same party group and the Parish Council representative), thus allowing for absences and non availability. This imposes a requirement for a Standards Committee of fifteen members, including six independent co-opted members. As set out below, there is scope for joint Standards Committees for some of these functions, so a final decision on composition of each sub-committee should be taken in the light of paragraph 9 on joint committees below.
9. **Joint working between authorities.** The Act provides that authorities may appoint joint committees to discharge all or any of the standards functions. As set out above the requirement to populate three different sub-committees will place a considerable burden on the Councils. Such joint working is likely to be acceptable in terms of carrying out reviews rather than the actual hearing. Whilst the Assistant Chief Executive – Legal and Democratic has made contact with both Shropshire and Worcestershire they have now both indicated that they are unlikely to consider joint working arrangements.
10. **Notification to the member.** The Act requires the Standards Committee to notify the member of the receipt of a complaint and to provide a written summary of the allegation. In practice, the first meeting at which the committee itself could notify the member is likely to be the meeting at which it conducts the initial assessment. The consultation paper suggested that there was a danger that the member might seek to lobby members of the Standards Committee, and suggested that no notification be

made until the assessment sub-committee has come to a decision as to whether to investigate. However the authority ought to acknowledge receipt of the allegation to the person making the allegation and advise them when it is going to be assessed, and there is nothing to prevent the person making the allegation from publicising that fact. Accordingly, it will not engender confidence in the system if the Monitoring Officer was withholding notification to the member concerned and that member learned of the complaint from the person making the complaint or from the press. Accordingly it would be sensible for the Monitoring Officer to notify the member of receipt of the complaint at the same time as acknowledging receipt of the complaint to the person making the complaint and no later than sending the agenda out to members of the assessment sub-committee, i.e. at least five clear working days before the meeting of the sub-committee. Any member who sought to lobby other members in his or her own cause would be committing a further breach of the Code of Conduct. The Department for Communities and Local Government consultation paper raised the possibility of cases of where there was a danger of the member interfering with evidence or intimidating witnesses, and suggested that in such cases the member not be notified of the complaint until the investigation had secured such evidence. This is a very remote possibility, but I would suggest that the Monitoring Officer be given the discretion, after consulting with the Chairman of the Standards Committee, to defer notification in such exceptional circumstances. In such cases the Monitoring Officer would notify the member concerned as soon as the reasons for deferral of notification no longer pertained, for example when sufficient investigation have already been completed.

11. **Local Resolution of Complaints.** Investigations and hearings are expensive. There is no formal process for local resolution of complaints in the 2007 Act, although the regulations may enable the assessment sub-committee to propose conciliation or some other course of action as an alternative to a formal investigation. However where the member concerned has knowledge that his or her conduct was at fault and apologised, and particularly where the complainant has accepted that and in light of that apology, if he or she is content for the complaint not to proceed to formal investigation, the assessment sub-committee may determine that the matter should not proceed to investigation. Accordingly there will be cases which informal mediation by the Monitoring Officer before reporting to the assessment sub-committee may avoid the need for a local investigation and or hearing. Equally some members may take exception to the Monitoring Officer seeking such local resolution.

12. **Filtering Out Irrelevant Complaints.** The Standards Board's experience has been that a large number of complaints received do not relate to the Code of Conduct for Members and the Assistant Chief Executive would anticipate that the publicity for the new system will engender more such complaints. Such requests can be categorised as follows:

- a) Request for additional service from the authority
- b) Statements of policy and disagreement
- c) Matters relating to other authorities
- d) Matters relating to a member's private life

The 2007 Act provides that the function of initial assessment of complaints must be conducted by the Standards Committee or by a sub-committee, but does not allow for the delegation of this function to the Monitoring Officer. Where the Monitoring Officer identifies that the complaint clearly falls within the above categories he or she

Further information on the subject of this report is available from

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may be able to ensure that the complaint is dealt with accordingly, responding to the complainant to set out how the matter is being dealt with, and only reporting to the assessment sub-committee if the complainant insists that it be dealt with as a standards complaint. In all other cases it will be necessary to report to the assessment sub-committee and for the assessment sub-committee to determine which of the following statutory options should apply:

- refer the allegation to the Monitoring Officer
- refer the allegation to the Standards Board for England
- decide that no action should be taken in respect of the allegation;

or where the allegation relates to a person who is no longer a member of this authority but is a member of another relevant local authority, refer the allegation to the Monitoring Officer of that other authority.

13. **Anonymous Complaints.** There is nothing in the legislation which requires the complaint to be signed by the complainant. The Standards Board for England has entertained some anonymous complaints, and this has given rise to considerable unease. In such cases, it is, of course, not possible to meet the requirements to notify the complainant of the decision in respect of the complaint.
14. **Multiple Complaints.** It is not uncommon that when an event gives rise to similar complaints from a number of different complainants. The legislative position is that each separate complaint must be considered and that even where a meeting of the assessment sub-committee has previously decided that no action be taken on an identical complaint, a subsequent complaint must still be reported to and considered by the assessment sub-committee.
15. **Pre Investigation.** The assessment sub-committee has to decide whether the allegation appears to disclose a failure to comply with the Code of Conduct for members and then whether it merits investigation. Where the sub-committee has only the letter of complaint, it is not always easy to assess whether there is any substance to the allegation. However, there may be information which is readily available which might substantiate, or contradict, the allegation and so make it easier for the sub-committee to decide whether the complaint has any substance. The Monitoring Officer cannot investigate whether to investigate. The Monitoring Officer can usually check publically available information between the receipt of the complaint and the meeting of the assessment sub-committee.
16. **Timescale for initial assessment of allegation.** The Department for Communities of Local Government Consultation Paper suggests that an initial assessment should be undertaken within 20 working days of the receipt of the allegation by the authority. This requirement is now set out in SBE guidance. The review sub-committee is then required to determine the review within three months of the date when the request for the review is received. In order to ensure that members of the sub-committees will be available within the required timescale if and when allegations for requests for reviews are received, it would be sensible to put dates into the Council diary and reserve rooms for meetings, although an actual meeting would only be held if there was business to be discharged.
17. **Public or private meetings.** The new regulations provide that information presented to the assessment sub-committee, to a review sub-committee or to a hearing panel

for the purpose of these new procedures shall be “exempt information” and the purposes of Schedule 12 A of the Local Government Act 1972, thus giving each of the sub-committees the power to exclude the press and public from their meetings. This is a discretion, so it will still be necessary for each meeting to start by resolving whether to exclude press and public. If the sub-committee did not exclude press and public, the member concerned would be unable to attend as he or she would have a prejudicial interest in the matter under consideration, whereas the complainant would have the right to attend (unless the complainant was also a member). No other party would have a right for attendance at the meeting.

18. **Public information about complaints received.**

18.1 **Advance publication of the agenda and reports.** Under existing legislation, the authority is required to publish an agenda stating the date time and location of the meeting and in general terms the business to be transacted but it can withhold copies of the report and background papers where they would disclose the exempt information and the meeting is likely to be held in private. Once the meeting had decided that a particular complaint had been investigated, or be not investigated, a minute of that meeting would be prepared, and the minute can again be withheld from publication if it would disclose any exempt information. By this stage, the member would normally have been notified of the complaint, and the complainant will also be notified of the decision in respect of his or her complaint. Accordingly, I suggest that the minute should be published unless the Monitoring Officer has any reason to believe that such publication is likely to prejudice the investigation of a complaint.

18.2. **Member request for information under the Data Protection Act.** Any person is entitled to request access to any personal information which the authority holds in respect of him or her. Accordingly a member may request to be informed whether the authority has received a complaint about him or her and may ask to see and correct that information. Section 31 of the Data Protection Act 2000 provides that the authority would not have to disclose such information where it is held for any relevant function which is designed for protecting members from the public against dishonesty, malpractice or other seriously improper conduct by, or the unfitness or incompetency of persons authorised to carry on any professional or other activities. Accordingly the authority would be able to refuse to disclose whether a complaint has been received until the member is notified on sending out the assessment sub-committee agenda or when no notification is made because the disclosure of that information would be likely to prejudice the proper conduct of the investigation.

19. **Freedom of Information Act.** As FOI requests must be dealt with within 20 days, the authority may need to respond to press and public requests before the assessment sub-committee has met. The authority is required to determine each request individually. The authority may refuse to provide the information where the information is held for “law enforcement” purposes, which includes the regulation of improper conduct, and where the disclosure would prejudice the effective conduct of public affairs. However, in each case, disclosure can only be resisted where the public interest in withholding the information outweighs the public interest in its disclosure. Accordingly, the authority may have grounds for resisting early disclosure of information relating to complaints received, but this is likely to be contested by persons making such requests.

20. **Notification following initial assessment.** Where the assessment sub-committee decide that no action is to be taken on a complaint it must take reasonable steps to give notice in writing to the complainant of the decision and the reasons for that decision. It must also give similar notification to the member concerned of a decision not to take any action. There is no such requirement for a decision to investigate or to refer the complaint to the Standards Board for England, but as a matter of policy clearly such notification should be given unless there are exceptional circumstances where such disclosure might impede proper investigation. On taking decisions on when the complaint should be investigated, the assessment and review sub-committees will be required to state their reasons for each decision. In practice it will not be the relevant sub-committee which will notify the complainant and the member but the Monitoring Officer.
21. **Review of initial assessment.** When the assessment sub-committee decides that no action should be taken on a complaint, the complainant may within 30 days of being notified of that decision request the review sub-committee to review that decision. The review sub-committee decision is then notified to the complainant and then has no further recourse other than judicial review.
22. **Decision whether to conduct a local hearing.** Where the Monitoring Officer's investigation concludes that there has not been a failure to observe the Code of Conduct, the regulations provide for the Monitoring Officer's report to come before the Standards Committee (or a sub-committee of the Standards Committee) which then decides whether it accepts that conclusion, or whether it wishes to conduct a formal hearing. This procedure remains as before.

When a Monitoring Officer's investigation concludes that there has been a failure to observe the Code of Conduct, the old regulations provide for the matter to proceed directly to a local hearing. If the hearing panel decide that they could not fairly hear the matter or that the matter is so serious that it would merit more than the maximum three months suspension, the hearing panel could request the Standards Board to take the matter back and direct it to a national case tribunal for hearing. The new regulations add in another step. So, the Monitoring Officer's report now has to be reported to the Standards Committee, or a sub-committee, which can only decide to send it for a local hearing or to send it to a case tribunal. Given that the maximum local sanctions are now increased to six months suspension, and the Monitoring Officer has the opportunity to refer the matter to the Standards Board at any stage prior to completion of the investigation, the number of matters which will require to be referred to the case tribunal by the sub-committee is going to be very limited. However, the new regulations require that a meeting of this sub-committee is held to consider the report and take the decision before the actual hearing can be arranged. Once the decision has been taken for a local hearing, the Monitoring Officer will then undertake the pre-hearing process, and the hearing panel will then conduct the hearing.

23. **Publicity for the new arrangements.** The Standards Board have issued guidance that the new arrangements should be publicised and the fact that allegations should now be sent to the authority rather than the Standards Board for England. That notice should be advertised in one or more local newspapers, the authority's own newspaper and on the authority's web site.

Recommendations

THAT, subject to comments from the Standards Committee, it be recommended to Council that:

- (i) the Terms of Reference for the Assessment Sub-Committee and the Review Sub-Committee be approved subject to the Committee's comments;
- (ii) the Monitoring Officer be instructed to notify members of receipt of a complaint, and:
 - provide a written summary of the allegation to the member(s)
 - at the same time, acknowledge receipt of the allegation from the person making the allegation.
 - This must be done no later than sending the agenda for the meeting of the assessment sub-committee to member of that sub-committee, unless after consultation with the Chairman of the Standards Committee, the Monitoring Officer considers it appropriate to defer notification in order to enable proper investigation to take place.
 - In the case of deferral, notification should be made as the reasons for the deferral no longer apply; and
- (iii) the authority should adopt a local protocol set out at Appendix 4, authorising the Monitoring Officer to seek local resolution in appropriate cases, and setting out the Committee's expectations of a Monitoring Officer through the referral process;
- (iv) anonymous complaints should not be entertained, but the Monitoring Officer be authorised to keep the identity of the complainant confidential where he/she is of the opinion that this is in the public interest;
- (v) the Monitoring Officer be instructed where practical to obtain and inform the Assessment Sub-Committee of any publically available information which would facilitate their task of determining whether a complaint merits investigation;
- (vi) the Monitoring Officer be instructed to make arrangements for a meeting of the Assessment Sub-Committee every four weeks, and with the review sub-committee every two months, but that he or she be instructed only to call actual meetings if there is business to be discharged;
- (vii) meetings of the Assessment and Review Sub-Committees should be held *in camera* unless the relevant Sub-Committee determines otherwise;

- (viii) the Committee approves a protocol set out at Appendix 4 detailing the responsibilities and discretions of a Monitoring Officer in the provision of withholding information relating to complaints;
- (ix) the functions of determining whether to accept the Monitoring Officer's finding of no breach, to go to a local hearing or to refer the matter to a case tribunal should be delegated to the Hearing Panel; and
- (x) the Monitoring Officer be instructed to arrange appropriate publicity in accordance with regulations and guidance after consultation with the Chairman of the Standards Committee in light of the changes to approve the terms of reference of the Standards Committee.

Background Papers

None

Appendices

- Appendix 1 – Proposed Terms of Reference for the Standards Committee
- Appendix 2 – Terms of reference of the assessment sub-committee
- Appendix 3 – Terms of reference of the review sub-committee
- Appendix 4 – Monitoring Officer Protocol

PART 8

THE STANDARDS COMMITTEE

8.1 STANDARDS COMMITTEE

8.1.1 The Council will establish a Standards Committee in accordance with Section 53 of the Local Government Act 2000

8.1.2 Composition

8.1.2.1 General. The Standards Committee will be composed of at least three Councillors (who may not include the leader) and at least three persons who are not a Councillor or an officer of the Council or any other body having a standards committee (the independent members). By Convention the councillors are the Chairman and the Vice Chairman of the Council. The independent members will be entitled to vote at meetings. A member of the Executive may not chair the Committee, current members should be shown at Appendix 19.

8.1.2.2 Parish Council Matters. The Standards Committee will also exercise functions of the Council relating to those parish councils in respect of which the Council is the responsible authority. It will include at least three members of any of the parish councils and at least one of these persons must be present when matters relate to parish councils or their members are discussed.

8.1.3 Role and function

8.1.3.1. The role or function of the Standards Committee will be:

- Promoting and maintaining high standards of conduct by the Councillors and co-opted members of the Council.
- Assisting Councillors and where appropriate co-opted members to observe the Council's Code of Conduct.
- Advising the Council on the re-adoption or revision of the Councillors Code of Conduct
- Advising the Council on the adoption or revision of the protocol for members and officers relations.
- Monitoring the operation of the Council's Code of Conduct .

- Advising, training or arranging to train the Councillors and co-opted members of the Council on matters relating to the Councillor's Code of Conduct .
- Exercising the above function in relation to parish council for which it is the responsible authority and the members of those councils.
- Granting dispensations to Councillors co-opted members and church and governor representatives from requirements relating to interests set out in the Councillor's Code of Conduct.
- Dealing with any reports from the case tribunal or interim case tribunal and any report from the Monitoring Officer or any matter which was referred by the Standards Board to the Monitoring Officer.
- To assess and review complaints about Councillors
- To conduct determination hearings .
- To grant exemptions for politically restricted posts.
- To receiving reports on complaints procedures and/or reports from Local Government Ombudsman or external auditors.
- To receiving the report of the Independent Remuneration Panel.
- To comment on recommendations on members allowances.
- To advise the Council on the appointment of independent members.
- To consider whether or not the constitution reduces the opportunity for misconduct and promotes effective governance conduct of business etc.

8.1.4. Conduct of Business etc

8.1.4.1 The quorum for the Standards Committee will be three which must comprise of an independent person who shall be the chairman of the committee and comprise of a parish council member when considering parish matters.

8.1.4.2 The chairman shall not have a casting vote

8.1.4.3 The Standards Committee will establish an assessment sub-committee and a review sub-committee to discharge functions of the committee in accordance with the terms of reference set out below and to constitute a hearing panel to make a determination and shall record whether that recommendation has been reached unanimously. In the absence of unanimity there will be provision in reporting that decision to Council for members of the Standards Committee to express their individual viewpoints.

8.1.4.4 The Standards Committee may establish a sub-committee to discharge any of its functions and will operate in accordance with Parts 2 and 5 of the Constitution.

8.1.4.5 The Assistant Chief Executive Legal and Democratic will appoint a substitute member should any member for any reason be unable to serve on the Committee or any of its sub-committees.

Terms of Reference of the Assessment Sub-Committee

As approved by the Standards Committee

1. Terms of Reference
 - a. The Assessment Sub-Committee is established to receive allegations that a member of the authority has failed, or may have failed, to comply with the authority's Code of Conduct
 - b. Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
 - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation or direct that he/she arrange training, conciliation or such appropriate alternative steps as permitted by Regulations
 - ii. refer the allegation to the Standards Board for England
 - iii. decide that no action should be taken in respect of the allegation, or
 - iv. where the allegation is in respect of a person who is no longer a member of the authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority,and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision
 - c. Upon completion of an investigation by the Monitoring Officer, the Sub-Committee shall be responsible for determining whether –
 - i. it accepts the Monitoring Officer's findings of no failure to observe the Code of Conduct;
 - ii. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
 - iii. the matter should be referred to the Adjudication Panel for that decision
 - d. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1.b or 2.c above, the Sub-Committee shall state its reasons for that decision
 - e. The Sub-Committee shall consider any application received from any officer of the authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in

respect of the post held by that officer and may direct the authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the authority under Section 2.2 of that Act.

- f. The Sub-Committee shall, upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the authority under Section 2.2 of the 1989 Act, and may direct the authority to include a post in that list.

2. Composition of the Assessment Sub-Committee

The Assessment Sub-Committee shall comprise 3 members of whom 1 shall be an independent co-opted member of the Standards Committee, who shall chair the Sub-Committee and the other 2 shall be elected members of the authority. When the Assessment Sub-Committee considers a matter relating to the conduct of a person in his/her capacity as a Parish or Town Councillor the Sub-Committee shall comprise 4 members, the additional member being a Parish or Town Council representative.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members.

4. Frequency of Meetings

The Sub-Committee shall agree a programme of meeting sufficient to enable it to undertake the initial assessment of any allegation received within 20 working days of receipt of that allegation by the authority, but shall only meet where one or more allegations has been received which require to be assessed at that meeting.

Terms of Reference of the Review Sub-Committee

As approved by the Standards Committee

1. Terms of Reference

- a. The Review Sub-Committee is established to review upon the request of a person who has made an allegation that a member of the authority has failed, or may have failed to comply with the authority's Code of Conduct, a decision of the Assessment Sub-Committee that no action be taken in respect of that allegation.
- b. Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Assessment Sub-Committee and shall then do one of the following:
 - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation or specifying that he/she take an alternative action as permitted by the Regulations
 - ii. refer the allegation to the Standards Board for England
 - iii. decide that no action should be taken in respect of the allegation, or
 - iv. where the allegation is in respect of a person who is no longer a member of the authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority,and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision
- c. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1.b above, the Sub-Committee shall state its reasons for that decision

2. Composition of the Review Sub-Committee

The Review Sub-Committee shall comprise 3 members of whom 1 shall be an independent co-opted member of the Standards Committee, who shall chair the Sub-Committee and the other 2 shall be elected members of the authority. When the Assessment Sub-Committee considers a matter relating to the conduct of a person in his/her capacity as a Parish or Town Councillor the Sub-Committee shall comprise 4 members, the additional member being a Parish or Town Council representative.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members.

4. Frequency of Meetings

The Sub-Committee shall agree a programme of meetings sufficient to enable it to undertake the review of any decision of the Assessment Sub-Committee within 3 months of the receipt of the request for such a review from the person who made the allegation, but shall only meet where one or more requests has been received which require to be assessed at that meeting.

Monitoring Officer Protocol

Instructions to the Monitoring Officer on the discharge of functions in relation to the initial assessment and review of allegation that a member of the authority has failed to comply with the Code of Conduct.

1. Receipt of Allegations

- 1.1 The Monitoring Officer shall set up arrangements within the authority to secure that any allegation made in writing that a member of the authority has or may have failed to comply with the authority's Code of Conduct is referred to him/her immediately upon receipt by the authority.
- 1.2 The Monitoring Officer shall maintain a register of such allegations to ensure that the authority can comply with its obligations under the relevant legislation.
- 1.3 Complaints shall only be entertained where they are signed by the complainant, but the Monitoring Officer is authorised to maintain the confidentiality of the identity of the complainant where and for so long as in his/her opinion that would be in the public interest.

2. Notification of Receipt of Allegations

- 2.1 All relevant allegations must be assessed by the Assessment Sub-Committee. So the Monitoring Officer has no authority to deal with an allegation which appears to be an allegation of failure by a relevant member to observe the Code of Conduct other than by reporting it to the Assessment Sub-Committee. The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of misconduct. Where it appears not to be, he/she shall ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the authority, a statement of policy disagreement, a legal claim against the authority or a complaint against an officer of the authority.
- 2.2 Following receipt of the allegation, and where the allegation does appear to be a complaint of misconduct against a relevant member, the Monitoring Officer will promptly, and in any case in advance of the relevant meeting:
 - 2.2.1 acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Assessment Sub-Committee at its next convenient meeting;
 - 2.2.2 notify the member against whom the allegation is made of receipt of the complaint, together with a written summary of the allegation, and state that the allegation will be assessed at the next convenient meeting of the Assessment Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or

would prejudice any person's ability to investigate the allegation, he/she shall consult the Chairman of the Referrals Sub-Committee, or in his/her absence the Chairman of the Standards Committee, and may then decide that no such advance notification shall be given;

2.2.3 collect such information as is readily available and would assist the Assessment Sub-Committee in its function of assessing the allegation;

2.2.4 seek local resolution of the matter where practicable, in accordance with Paragraph 3 below;

2.2.5 place a report, including a copy of the allegation, such readily available information and his/her recommendation as to whether the allegation discloses an apparent failure to observe the Code of Conduct, on the agenda for the next convenient meeting of the Assessment Sub-Committee

3. Local Resolution

3.1 Local resolution is not an alternative to reporting the allegation to the Assessment Sub-Committee, but can avoid the necessity of a formal local investigation

3.2 Where the Monitoring Officer is of the opinion that there is the potential for local resolution, he/she shall approach the member against whom the allegation has been made and ask whether he/she is prepared to acknowledge that his/her conduct was inappropriate, and whether he/she would be prepared to offer an apology or undertake other appropriate remedial action. With the consent of the member concerned, the Monitoring Officer may then approach the complainant and ask whether the complainant is satisfied by such apology or other remedial action. The Monitoring Officer should then report to the Referrals Sub-Committee as required, and at the same time report the response of the member concerned and of the complainant. The idea is that, where the member has acknowledged that his/her conduct was inappropriate, and particularly where the complainant is satisfied with the proffered apology or remedial action, the Assessment Sub-Committee might take that into account when considering whether the matter merits investigation

4. Review of Decisions not to Investigate

4.1 Where the Assessment Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall promptly advise the complainant of the decision, and the complainant may then within 30 days of receipt of such notification request that the Review Sub-Committee review that decision

4.2 Whilst the review shall normally be a review of the reasonableness of the original decision rather than a reconsideration, the Monitoring Officer shall report to the Review Sub-Committee the information which was provided to the Assessment Sub-Committee in respect of the matter, the summary of the Assessment Sub-Committee and any

additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

5. Local Investigation

- 5.1 It is recognised that the monitoring Officer will not personally conduct a formal local investigation
- 5.2 It will be for the Monitoring Officer, where appropriate after consultation with the Chairman of the Assessment Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another senior officer of the authority, a senior officer of another authority or an appropriately experienced consultant.

JOINT WORKING WITH OTHER STANDARDS COMMITTEES

Report By: Assistant Chief Executive - Legal and Democratic

Wards Affected

County Wide

Purpose

1. To update the committee on progress.

Financial Implications

2. None.

Background

3. The Committee will be aware that it is possible for the Committee to have joint working arrangements with other Standards Committees. The Assistant Chief Executive – Legal and Democratic has been discussing this possibility with Worcester County Council, Shropshire County Council, Hereford and Worcester Fire Authority and the West Mercia Police Authority.

Consideration

4. Members of the Committee at previous meetings have discussed the possibility of a joint committee to hear appeals against the assessment sub-committee's decision not to refer a complaint for investigation.
5. The Committee had noted that it would be difficult to provide this element given the Committee's small membership, but also thought that the review process would be seen as more independent and objective if a joint committee could be established.
6. The Assistant Chief Executive – Legal and Democratic has been informed by both Worcestershire and Shropshire County Councils that whilst they wish to proceed with joint training they would not at this stage wish to form a joint committee. West Mercia Police Authority has expressed interest in such an arrangement.
7. The Committee's views are sought, in particular on whether the Assistant Chief Executive – Legal and Democratic should progress with the West Mercia Police Authority consideration of joint arrangements and whether Hereford and Worcester Fire Authority or any other authority in the West Midlands should be contacted to assess interest in such arrangements

8. The alternative is for Committee not to pursue such joint arrangements at this stage and to seek a review in six months' time in respect of its own local arrangements.

Recommendations

THAT

- (i) the Assistant Chief Executive – Legal and Democratic, explores joint working arrangements with the West Mercia Police and Hereford and Worcester Fire Authorities;**
- (ii) the Assistant Chief Executive – Legal and Democratic, explores joint working arrangements with a local authority in the West Midlands region e.g. Wychavon or Malvern District Councils; and**
- (ii) the Committee will review its local arrangements for assessment and review in six months, to enable the Assistant Chief Executive – Legal and Democratic to report on/explore (i) and (ii) above.**

JOINT TRAINING ON THE REVISED CODE, LOCAL ASSESSMENTS, REVIEW, AND HEARINGS FOR STANDARDS COMMITTEE MEMBERS

Report By: Assistant Chief Executive - Legal and Democratic

Wards Affected

County Wide

Purpose

1. To update Committee on progress made on joint training with Worcester and Shropshire County Council.
2. To consider options proposed by Worcester County Council and Shropshire County Council.
3. To consider options available to the Committee.

Financial Implications

4. Officers and Members time in preparing and attending.

Background

5. The Committee will recall that the Assistant Chief Executive – Legal and Democratic has had discussions with both Worcester County Council and Shropshire County Council in establishing a day and programme for joint training for members of the relevant constituent Standards Committees.
6. Worcester County Council have agreed the view that they feel their 'nexus' with Shropshire County Council is too remote. They would consider joint training with Hereford and Worcester Fire Authority and Worcester City (District).
7. Shropshire County Council would like to pursue joint training as well as West Mercia Police Authority.
8. The Committee will recall that there has been previous joint training with Worcester County Council.

Consideration

9. Worcester County Council, Worcester City and the Hereford and Worcester Fire Authority all have their respective Standards Committees. It would seem appropriate therefore to pursue a joint training programme for members of the respective Standards Committees with the above Authorities and to facilitate shared

Further information on the subject of this report is available from
Alan McLaughlin, Assistant Chief Executive - Legal & Democratic on (01432) 260200

experiences of the past and likely issues to arise from local assessment arrangements.

10. Whilst it may not at this stage be appropriate to include Shropshire County Council in such training, the Committee will continue to offer support to Shropshire County Council in anyway it can.

Recommendations

THAT

- (i) **subject to comments from the Committee, joint training be provided with Worcester County Council and the other Authorities referred to above;**
- (ii) **the Assistant Chief Executive – Legal and Democratic, to inform the Committee of the proposed dates and venue for such training; and**
- (iii) **the Committee offers any support it can to Shropshire County Council, and the Assistant Chief Executive will inform the Committee of such support;**

MEMBER / OFFICER RELATIONS PROTOCOL

Report By: Assistant Chief Executive - Legal and Democratic

Wards Affected

None

Purpose

1. To consider the Member/Officer Protocol, which was originally suggested by the Standards Committee and approved by Council in March 2005, now forms part of the Council's Constitution and falls to be reviewed.

Financial Implications

2. None.

Background

3. The Committee received at its previous meeting a report from the then Head of Legal and Democratic Services on a draft revised version of the Member/Officer Relations Protocol (Appendix 1).

Consideration

4. In its Guidance 'The Role and Make-up of Standards Committees' the Standards Board for England suggests that Committees should have a wider role in governance, including member/officer relations.

Recommendations

THAT

- (i) **the Committee considers the revised Member/Officer Protocol; and**
- (ii) **subject to any comments or amendments that it may make, the Committee recommends adoption of the revised code to the next Council meeting.**

Background Papers

None

Appendices

- Appendix 1 – Revised Member/Officer Relations Protocol
- Appendix 2 – Current Member/Officer Relations Protocol

Further information on the subject of this report is available from
Alan McLaughlin, Assistant Chief Executive - Legal & Democratic on (01432) 260200

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**

HEREFORDSHIRE COUNCIL CONSTITUTION

CODES OF CONDUCT AND PROTOCOLS

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

1 General

- 1.1 Mutual respect is the key to establishing good Member-officer relations. Close personal familiarity should be avoided.
- 1.2 Officers are employed to manage the Council and to help councillors achieve their policy goals. Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members should not assume that this is deliberate obstruction. Officers have a duty to give unbiased professional advice – even if it is not what Members want to hear.
- 1.3 You should remember that officers cannot respond to personal criticism in the same way that politicians can, and so you may need to temper your remarks accordingly.

Undue Pressure

- 1.4 You should recognise that employees (especially junior employees) may feel overawed and at a disadvantage in their dealings with you. This feeling can be intensified when you hold official and political office.
- 1.5 You must not apply undue pressure on an employee to do anything that he or she is not empowered to do nor to undertake work outside normal duties or outside normal hours.

2 Officer Advice to Political and Party Groups

- 2.1 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.
- 2.2 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 2.6 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.
- 2.7 Any particular cases of difficulty or uncertainty in this area of officer advice to political or party groups should be raised with the Chief Executive who will discuss it with the relevant group leader(s).

3 Key Contacts

- 3.2 You will find a list of Key Officer Contacts in the Council Diary. Member's Services also keep an up to date list extended to cover areas where councillors need urgent assistance. These officers are designated to provide you with information you need for all your casework and service queries. They can be contacted by letter, telephone or via the Council's e-mail system. They are responsible for replying within five working days. Some queries may take longer but you will be updated on progress.
- 3.3 The Council's Chief Executive, Directors, Assistant Chief Executive Legal and Democratic and Head of Human Resources are also available to assist you as required.
- 3.4 Please make the key contact officer your first point of contact as contacting other officers can cause confusion and duplication. However, if they are not available then

the relevant Director or Head of Service will arrange for someone else to contact you quickly.

4 Local Members

- 4.2 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 Assistant Chief Executive Legal and Democratic 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.
- 4.3 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.
- 4.4 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.
- 4.5 You will be notified of all decisions taken by the Cabinet or by Cabinet Members affecting your ward.

5 Relationships between Cabinet Members and Officers

- 5.2 There should be a close working relationship between Cabinet Members and Directors and other senior officers of the Council. However, care must be taken to ensure that this arrangement does not affect an officer's ability to deal impartially with Scrutiny Committee Members, other members and party groups.
- 5.3 The Constitution, Part 6 provides that a Cabinet Member has delegated powers to take any decision in respect of the functions of the Cabinet.
- 5.4 When this process is used, a report of the action taken must be made to the Assistant Chief Executive Legal and Democratic who will arrange for it to be reported to all Members and made available for public inspection.
- 5.5 Finally, it must be remembered that officers within a Directorate / Department are accountable to their Director and that whilst officers should always seek to assist a Cabinet Member or Chairman (or indeed any member), they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Director.

6 Relationships between Scrutiny Committee Members and Officers

- 6.1 There should be a close working relationship between Scrutiny Chairmen and Vice-Chairmen and Directors and other senior officers. Directors and their nominees are responsible for providing professional support, advice and assistance to Scrutiny Committees and to guide and support Scrutiny Committee Chairmen as well as Executive Members.

7 Press Releases

- 7.1 You are encouraged to represent your local constituents in discussions with the media and external organisations. You must, however, take care that you portray yourself as representing the Council only if you have an explicit mandate to do so. The Council's Public Relations Officer can assist as necessary.

8 Correspondence

- 8.2 Your correspondence with officers should not normally be copied (by the officer) to any other Member. There can be no objection however to officers giving correspondence the same circulation as the original. You need to exercise caution in your distribution of queries made to officers to avoid duplication and confusion. You are encouraged to use the key officer contacts to avoid this. Where exceptionally it is necessary for an officer to copy your correspondence to another member, this should be made clear to you.
- 8.3 Official letters on behalf of the Council should normally be sent out in the name of the relevant officer who carries the legal and administrative responsibility. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Member, but this should be the exception. Letters which for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

9. Access to Documents, Information and Council Property

- 9.1 You may contact the key officer contacts for information, explanation and advice to help you in your role as a Member of the Council. Your legal rights to inspect Council documents are set out in Part 2 of the Constitution.
- 9.2 You may not inspect Council land, premises or other property unless specifically authorised to do so by the relevant Director in consultation with the relevant Cabinet Member.

**Herefordshire Council
May 2005**