

A G E N D A

Standards Committee

Date: **Friday 17 April 2009**

Time: **2.00 pm**

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:

Heather Donaldson, Democratic Services

Tel 01432 261829

E-mail hdonaldson@herefordshire.gov.uk

Herefordshire Council

AGENDA

for the Meeting of the Standards Committee

To: Robert Rogers (Independent Member) (Chairman)

Isabel Fox (Independent Member)
 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 16 January 2009.	5 - 8
4. STANDARDS BOARD FOR ENGLAND / HEREFORDSHIRE ASSOCIATION OF LOCAL COUNCILS JOINT PILOT PROJECT To receive an oral update from Mr Richard Gething in respect of a joint SBE/HALC Pilot Project. Wards: County Wide	
5. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS To consider applications for dispensations received from parish and town councils. Wards: County Wide <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>	
6. PRE-ELECTION PERIOD AND GUIDANCE FOR THE 2009 EUROPEAN ELECTIONS To note the statutory requirements relating to Council publicity during the pre-election period, and to consider the proposals within the enclosed report. Wards: County Wide	9 - 18

7. STANDARDS COMMITTEE ANNUAL REPORT 2008

To consider the format and deadlines for production of the 2008 Annual Report.

Wards: County Wide

8. ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

To consider attendance at the Eighth Annual Assembly of Standards Committees, to be held at the International Convention Centre in Birmingham on 12-13 October 2009.

9. STANDARDS BOARD FOR ENGLAND BULLETIN 42

To consider the latest bulleting from the Standards Board for England.

Wards: County Wide

10. DATE OF NEXT MEETING

To note that the next meeting of the Standards Committee will be held on **Friday 10 July 2009 at 2.00 p.m.** in the **Council Chamber at Brockington.**

Future meeting dates are as follows (all at 2.00 p.m. on Fridays):

- 02 October 2009;
- 08 January 2010;
- 16 April 2010.

EXCLUSION OF THE PUBLIC AND PRESS

In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they are 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

11. EXPERIENCE OF LOCAL FILTER CASES, AND DETERMINATIONS SO FAR

- To update the Committee about progress made with complaints about local authority, town and parish councillors during the period from 08 May 2008 to the present;
- To share recent experiences of the local filter and determinations process.

This report will be sent "to follow".

Wards: County Wide

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

12. MEMBERSHIP OF THE STANDARDS COMMITTEE

29 - 34

To consider the appointment of an independent member to the Standards Committee, and to consider the Committee's wider membership in the light of developments with the local filter process.

Wards: County Wide

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

Your Rights to Information and Attendance at Meetings

YOU HAVE A RIGHT TO:-

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt information'.
- Inspect agenda and public reports at least three clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- 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.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge.
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, its Committees and Sub-Committees and to inspect and copy documents.
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

Please Note:

Agenda and individual reports can be made available in large print. Please contact the officer named on the front cover of this agenda **in advance** of the meeting who will be pleased to deal with your request.

The meeting venue is accessible for visitors in wheelchairs.

A public telephone is available in the reception area.

Public Transport Links

- Public transport access can be gained to Brockington via bus route 75.
- The service runs every half hour from the 'Hopper' bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus-stop to Brockington is located in Old Eign Hill near to its junction with Hafod Road. The return journey can be made from the same bus stop.

If you have any questions about this agenda, how the Council works or would like more information or wish to exercise your rights to access the information described above, you may do so either by telephoning officer named on the front cover of this agenda or by visiting in person during office hours (8.45 a.m. - 5.00 p.m. Monday - Thursday and 8.45 a.m. - 4.45 p.m. Friday) at the Council Offices, Brockington, 35 Hafod Road, Hereford.

COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

FIRE AND EMERGENCY EVACUATION PROCEDURE

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point J which is located at the southern entrance to the car park. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Standards Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 16 January 2009 at 2.00 pm

Present: Robert Rogers (Independent Member) (Chairman)

Isabel Fox (Independent Member)
 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)

77. ISABEL FOX

The Chairman welcomed Ms Isabel Fox, newly appointed Independent Member, to the meeting. It was noted that her skills and expertise had already been put to good use, chairing two Review Sub-Committees and one Assessment Sub-Committee.

78. APOLOGIES FOR ABSENCE

There were no apologies for absence received.

79. DECLARATIONS OF INTEREST

There were no declarations of interest made.

80. MINUTES

RESOLVED: (unanimously) that the minutes of the meeting held on 17 October 2009 be approved as a correct record and signed by the Chairman.

81. STANDARDS BOARD FOR ENGLAND/HEREFORDSHIRE ASSOCIATION OF LOCAL COUNCILS JOINT PILOT PROJECT

Mr Richard Gething reported on progress made with the Standards Board for England's pilot project to produce a model for compacts between Associations of Local Councils (HALC), Monitoring Officers and Standards Committees. Herefordshire was one of only six authorities selected for the pilot, which involved assessing activities such as joint training, informal meetings between Standards Committees and Associations to ensure agreement on application of the Code of Conduct, and the production of joint guidance leaflets.

In connection with this, Councillor Beris Williams had attended a Kington Town Council meeting, and Mr David Stevens had visited Eardisland Parish Council, to talk informally about the local filter and assessment process, and explain the Committee's role. As part of the project, parish and town councillors were being asked questions designed to gauge their understanding of the new Code of Conduct, of the Standards Committee's and the Monitoring Officer's roles, and of the new local filter process. This would help the Committee to ascertain whether they would benefit

from additional training.

In addition, HALC and the Assistant Chief Executive (Legal and Democratic), in partnership with the Committee, were producing guidance leaflets for Town and Parish Councils on the planning process, and on the Code of Conduct and the role of the Standards Committee. The Assistant Chief Executive (Legal and Democratic) and the HALC Chief Executive would introduce the leaflets at an informal Chairs and Clerks training evening on 17 February 2009. Some members agreed to be present to assist with training and to answer questions.

RESOLVED (unanimously) that the report be noted.

82. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS

There were no applications for dispensations received.

83. GIFTS AND HOSPITALITY PROTOCOL

The Committee considered a proposed Gifts and Hospitality Code, which had been devised as part of the wider review of the Constitution, and made a number of amendments.

RESOLVED (Unanimously) that it be recommended to Council that the proposed Code on Gifts and Hospitality be adopted by Council, for inclusion in the Constitution, subject to amendments made by the Standards Committee.

84. STANDARDS BOARD FOR ENGLAND BULLETIN 41

Members considered the latest bulletin from the Standards Board for England.

RESOLVED: (unanimously) that the report be noted.

85. MONITORING OFFICERS' MEETING

The Assistant Chief Executive (Legal and Democratic) reported that he had attended a meeting for Monitoring Officers at the SBE headquarters in Manchester on 12 January 2009. The meetings took place quarterly, and were a forum for the SBE to learn about issues that were affecting standards committees, particularly in relation to operating the local filter. He said that the meetings were proving to be extremely useful.

He reported on problems experienced by some local authorities when applying mediation as an alternative action. One Monitoring Officer had reported that mediation had taken two-and-a-half years to resolve. Members commented that this was not an example that they are keen to follow. In addition, Monitoring Officers had discussed the possibility of asking complainants what outcome they would like to achieve from the complaints process, and what alternative actions would be appropriate, if an Assessment or Review Sub-Committee wished to consider this route. The Committee felt that there was merit in amending its complaints form to accommodate this, because it supported the aims of transparency and restorative justice, and on occasion may mean that a complaint could be dealt with more quickly and simply. At the same time, Members emphasised that it had to be made clear that a complainant was not by these means given undue influence in the process.

RESOLVED: (unanimously) that the report be noted, and the Complaints Form be amended to reflect the questions to the complainant, as outlined above.

86. PUBLISHING THE DECISIONS OF ASSESSMENT AND REVIEW SUB-COMMITTEES

The Assistant Chief Executive (Legal and Democratic) presented his report on the new rules under Regulation 8 of the Standards Committees (England) Regulations 2008, which stated that a written summary must be produced after an Assessment or Review Sub-Committee had considered a complaint. The summary must include the main points considered, the conclusions drawn, and the reasons for the conclusion. It must also be available for public inspection for six years. The Committee agreed to publish the summaries in the form of a decision notice on the Standards and Ethics pages of the Council's website, and to keep a public register which would be available for inspection.

In addition, it was agreed that, in some cases, only the complaint reference number would be published, and not the name of the person complained about. This would normally be done if no further action were to be taken against the councillor concerned, or if revealing the name might prohibit or hinder the fairness of an investigation.

RESOLVED: (unanimously) that a written summary of each complaint be published in the form of a decision notice, which would be made available for inspection on a register, and on the Council's website, subject to agreement about anonymity under circumstances as described above.

87. DATE OF NEXT MEETING

Friday 17 April 2009 at 2.00 p.m. in the Council Chamber at Brockington.

88. EXPERIENCE OF LOCAL FILTER CASES, AND DETERMINATIONS SO FAR

The Committee reviewed progress made with complaints about local authority, town and parish councillors since the introduction of the local filter on 08 May 2008. To date, the Assessment Sub-Committee had considered eighteen complaints, and the Review Sub-Committee has considered two. Members noted that the start of 2009 had been particularly busy, with the Sub-Committees having met six times over a two-week period in January, including three adjournments to obtain further information. They discussed the handling of specific cases with a view to establishing best practice.

It was clear that the local filter process had placed an additional call on resources, which would need to be monitored. Members felt, however, that the local handling of cases was a great improvement on the previous cumbersome process whereby all complaints automatically went to the Standards Board for England, because it enabled knowledge of the local circumstances to be brought to bear, and meant that complaints without substance went no further.

RESOLVED: (unanimously) that the report be noted.

The meeting ended at 4.05 pm

CHAIRMAN

**PRE-ELECTION PERIOD AND GUIDANCE IN RESPECT OF
2009 EUROPEAN ELECTIONS****Report By: Assistant Chief Executive - Legal & Democratic****Wards Affected**

County-wide

Purpose

1. To inform the Committee of the statutory requirements relating to Council publicity in the period between the notice of election being issued and the date of the election being the "Pre-Election Period". To request the Committee to consider and give their views on the proposals within the report.

Introduction

2. (1) Attached is the proposed guidance to be issued on pre-election publicity to members either in the attached form or by way of letter and to members of Joint Management Team and Heads of Service subject to the agreement of the Chief Executive. Please note that the Pre-Election Period commences on the date of the notice of election, usually 28 days before the date of the election, which is 4th June 2009.

(2) Local Authorities have specific legal powers to issue publicity and to fund other organisations to produce publicity. However Section 2 of the Local Government Act 1986 states that "a local authority shall not publish any material which in whole or in part, appears to be designed to affect public support for a political party" and is to be taken into account when deciding this including the timing, content, style and other circumstances of publication and the likely effect on those to whom it is directed.

(3) In addition the Secretary of State also issued a "Code of Recommended Practice" in 1988 which was amended in 2001. This provides statutory guidance on local authority publicity. The particular significance for this report is paragraph 4.1 which states: "the period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the elections. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that it identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or

where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election". The attached guidance is prepared to assist both members and officers to remind them of their respective responsibilities during the Pre-Election Period.

RECOMMENDATION

THAT the Committee provides any initial views they may have on the Report with regard to pre-election publicity and guidance for members.

BACKGROUND PAPERS

- Appendix 1 -= Guidance for Members and Officers on the Pre-Election Period.



**HEREFORDSHIRE
COUNCIL**

**GUIDANCE FOR MEMBERS
AND OFFICERS ON THE
PRE-ELECTION PERIOD**

**Alan McLaughlin
Assistant Chief Executive
(Legal & Democratic)**

April 2009

GUIDANCE FOR MEMBERS AND OFFICERS
IN THE RUN UP TO THE EUROPEAN ELECTIONS
ON THE 4TH JUNE 2009

1. INTRODUCTION

On 4th June 2009 elections will be held for the European Parliament. This guidance is a collation of the existing rules, regulations and administrative practices which apply to the proper use of the Council's powers and resources. Any problems or request for advice should be referred to the Assistant Chief Executive - Legal and Democratic. (Tel: 01432 260200)

As a public authority, the Council's powers, facilities and resources for example its officers, funds, building, equipment and supplies cannot be used for electoral campaigning or political purposes. The basic legal rule applies the whole time in different guises, irrespective of the electoral cycle. However, public bodies have developed special rules for the period immediately before any election.

The period immediately before the election is called the "Pre-Election Period" and special rules apply ("the purdah rules").

The Council's business can continue in the normal way up to the point that the Pre-Election Period starts. This includes the implementation and scrutiny of the Council's Policies and decisions.

This guidance seeks to assist members and officers during the Pre-Election Period and is intended to ensure the proper use of the Council's resources/facilities. This includes the implementation of Council's policies and the scrutiny of those policies.

The Standards Board for England can enforce these rules if they involve a member. If officers break these rules then they may be subject to normal disciplinary procedures. Depending on the circumstances, action could also be taken by the auditor, the Ombudsman, the Electoral Commission and the courts.

2. THE PURDAH RULES

The following special rules apply during the Pre-Election Period.

The Pre-Election Period is 25 working days before polling day i.e. the period from the day the election is formally called.

The Pre-Election Period for the European Elections starts on 28th April 2009. As this date approaches greater care and sensitivity is needed. The Council's generated or funded publicity must be, and must be seen to be, politically

neutral. Anything that could reasonably be regarded as giving a political candidate or their supporters/party an advantage in the election is not politically neutral. During the Pre-Election Period publicity (including campaigns) is only acceptable if it cannot be perceived as giving support to a candidate or their supporters, no matter what the other justifications for it are. The use of the Council's resources for the purposes of a candidate's election, as well as being unlawful in itself, may also amount to an unlawful donation which must be repaid.

3. THE PRE-ELECTION PERIOD

The Pre-Election Period lasts for 25 working days before the day of the poll, excluding public and bank holidays. This is the formal start of the election process under election law, when formal notices about the election are published. The date of the election has been fixed for Thursday 4th June 2009. The Pre-Election Period will therefore start on 28th April 2009. Although this is a fixed date, inevitably greater care and sensitivity will be required prior to the Pre-Election Period.

4. PUBLICITY AND EVENTS

The Secretary of State issued a "Code of Recommended Practice" in 1998 which was amended in 2001. This provides statutory guidance on local authority publicity during the Pre-Election Period. Of particular significance is paragraph 4.1 which states:

"The period between the notice of an election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the elections. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve members likely to be standing for election".

As a result any Council publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual politicians or their party groups.

Particular care should be taken over official support and use of public resources, including publicity, for announcements concerning decisions by the Council on matters relevant to the Council. In some cases it may be necessary to defer announcements until after the election, although this will need to be carefully balanced against any implication that deferral could itself influence the outcome of the election. Each case will need to be considered on its merits. There is a general presumption as a result of the Code of Recommended Practice against undertaking

new campaigns during the Pre-Election Period in any area that might be considered controversial in relation to the election.

Special care should be taken in relation to current or ongoing publicity campaigns prior to and during the Pre-Election Period. These should not be open to the criticism that they are being undertaken for political purposes. Campaigns that are liable to be misrepresented as being party political should be stopped until after the election.

During the Pre-Election Period officers may properly be called upon to provide support for any official or statutory function the members perform, factual briefings and policy advice that is necessary to resolve issues that cannot be deferred until after the election. Officers may not however be asked to provide briefings for use in election campaign debates/literature.

Requests for information from candidates from officers must be met in an even-handed manner.

Throughout the Pre-Election Period the Council's Code of Conduct remains in force in relation to all members of the Council. If they break the code they can be reported in writing to the Standards Committee. Anyone can make a written complaint to the Committee. The Committee may pursue an investigation, to suspend the person concerned from office for up to six months in extreme cases.

Officers also need to know what their obligations are, so as to inform the advice they give, and to avoid them being placed in a position where they are asked to do something that might breach the Code of Conduct or the Employees Code of Conduct.

5. THE CODE OF CONDUCT OBLIGATIONS

Councillors must comply with the following whenever they act in an official capacity they must:

- Promote equality by not discriminating unlawfully against any person
- Treat others with respect
- When using or authorising use by others of the Council's resources, ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to the discharge of the Council's functions or of the office to which they have been elected or appointed
- When using or authorising the use by others of the Council's resources act in accordance with the Council's requirements
- When reaching decisions have regard to any relevant advice provided by the Director of Resources and the Monitoring Officer acting in pursuance of their duties under the relevant legislation.

Councillors must not do any of the following in their official capacity:

- Anything which compromises, or which is likely to compromise, the impartiality of those who work for, or act on behalf of the Council.

- Disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, unless they are required by law to do so.
- Prevent another person from gaining access to information to which that person is entitled by law.

Both in their official capacity and in any other circumstance, Councillors must not:-

- Conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute; or
- Use their position as a member of the Council to improperly confer on, or secure for, themselves or any other person an advantage or disadvantage

6. RULES FOR OFFICERS

- All Officers of the Council must follow the rules set out in the Employees Code of Conduct when performing the official duties of their post in work related time. These rules seek to ensure political impartiality when officers do related Council work or use Council resources – usually in work time.
- Normally officers are free to do what they like in their own private time. Officers who do not hold “politically restricted posts” can do what they like in their own private time without interference from the Council (although they have to comply with their other employment obligations, e.g. not doing anything that brings the Council into disrepute).
- However, the law imposes restrictions on the activities of Employees in politically restricted posts. Such officers cannot in their private time do anything that the law regards as a restricted activity. These activities are defined by statutory regulations
- If an officer is asked to do something that they think may breach the Employees Code of Conduct or the rules in this Guidance then they should first tell the person concerned that they are uncomfortable doing what is requested. If that person persists, then the matter should be reported to a manager or Head of Service. Officers should not comply with the request if they know or suspect it to be wrong. The Council has an approved whistle-blowing policy to provide protection. The Assistant Chief Executive – Legal and Democratic and/or the Director of Resources are available to advise Officers further if necessary.
- All officers have a responsibility:
 - (a) To uphold the political impartiality of the Council, not to use public resources for political purposes and not to act in any way which would conflict with the Employee Code of Conduct;
 - (b) To give members and the public fair, considered and impartial advice;
 - (c) To conduct themselves with integrity impartiality and honesty, avoiding any kind of impropriety;

- (d) To give honest and impartial advice to Councillors without fear or favour, and make all information relevant to a decision available to them, whilst upholding the confidentiality of any advice given in private.

In addition all officers should avoid any action or behaviour which breaches, or could be construed as breaching, the principle of political neutrality

7. RULES FOR POLITICALLY RESTRICTED STAFF

- There is nothing to prevent politically restricted officers from being a member of a political party and acting privately in support of such a party. There are however some restrictions set out in the Local Government Officers (Political Restrictions) Regulations 1990 (SI 1990 No 851), as amended. The law implies a term into the contracts of employment of every politically restricted employee that they will not engage in any of the restricted activities. Breaching this is not a criminal offence, but could give rise to disciplinary action.
- The restricted activities apply to independent politicians and their supporters/supporting organisations in exactly the same way as they apply to political parties, and members/candidates. Politically restricted officers who engage in restricted activities for an independent politician will equally be in breach of their contract of employment.

8. USE OF COUNCIL RESOURCES AND FACILITIES

The resources and facilities of the Council may be used only in connection with or in support of Council business and the function of members in relation to Council business. Party political activity and electoral campaigning are not part of the Council's duties. Councillors are reminded that the Council's headed stationery, logos and designs must not be used or replicated in any stationery or information imparted by Councillors to the public during the election period.

If you have any queries regarding this guidance please do not hesitate to contact the Assistant Chief Executive - Legal and Democratic.



Welcome to Issue 42 of the Bulletin.

I am pleased to introduce this new-look electronic version of the Bulletin. You can now see at a glance which article you would like to read, choose to print individual articles or the whole issue, and search for any information contained in it on our website.

We have made these changes as part of our commitment to continually improving our communications with you, and as a result of feedback from some of you on the previous format. As always, we welcome your thoughts and ideas – you can contact us at bulletin@standardsboard.gov.uk.

At the start of 2009, we are building up a picture of your work through the online quarterly returns thanks to your continued help. In this Bulletin we summarise some of our findings from these returns and update you on our review of the returns system and our plans for the new annual return.

Many of you will be awaiting new regulations which will allow authorities to form joint standards committees. In this issue, we summarise these regulations, which will also provide the Standards Board with powers to suspend an authority's initial assessment functions and will add to rules governing member dispensations.

In addition, we use this issue to ask authorities to consider their indemnification policies, following concerns raised from members about their authority's current arrangements. We also comment on a recent case in the High Court involving bias in planning decisions and highlight the Adjudication Panel for England's merger with the Tribunal Service.

The Standards Committee (Further Provisions) Regulations 2009

Draft regulations are being prepared which will allow the Standards Board to suspend the initial assessment functions of an authority and will enable authorities to establish joint standards committees. They will also amend the powers of standards committees to grant dispensations to members who

would otherwise be unable to take part in authority business because of a prejudicial interest. We expect the regulations to come into force in May 2009.

Suspension of initial assessment functions

The circumstances in which the Standards Board will intervene are likely to include an authority's failure to have regard to our guidance or comply with our directions, or when the standard committee or monitoring officer fails to carry out their functions properly. The Standards Board might also be invited by the authority or the standards committee to intervene.

When the Standards Board intends to suspend the authority's initial assessment functions, we will notify the authority, give our reasons and ask for any observations. If a direction is made, the authority must publish details of it in a local newspaper and any other publication the Standards Board thinks is appropriate.

Once the reasons for the direction cease to exist, the Standards Board will revoke the direction.

Joint standards committees

Joint standards committees will be able to deal with all or any functions of a standards committee but there can be no concurrent functions. [The Local Government Act 2000](#) and supporting regulations have effect in that any reference to a standards committee is a reference to a joint standards committee for the purposes of the functions delegated to it.

The terms of reference of the joint committee must include the following:

- the functions they are to have
- the administrative arrangements
- where written allegations should be received for each authority involved in the arrangements
- the number of members and their terms of office
- any allowances they will get
- how to withdraw from the joint arrangement

The finances are to be shared as agreed by the authorities involved and in default of agreement will be decided by an arbitrator appointed by them.

The Standards Board will be producing guidance on joint standards committees which will include a draft constitution or terms of reference incorporating a template for the information required by the regulations.

Dispensations

The ability to get a dispensation remains for instances when more than 50% of the members who would be able to vote are prevented from doing so by the Code of Conduct. A new provision clarifies that members can seek a

dispensation where the political balance of the meeting would be upset sufficiently to prejudice the outcome of voting on the issue. This is similar to a provision that has been in existence in Wales for some time.

Quarterly returns: The story so far

The new standards framework has now been in place for ten months. As you may know, the Standards Board collects information, on a quarterly basis, on case activity and the profile of standards committees. Since we are now well into the fourth quarter, we thought it might be a good opportunity to take stock and reflect on the data we have.

Back in [Bulletin 40](#) we ran an article expressing our gratitude to the **98%** of authorities that completed returns for the first quarter. Since then, quarterly reporting has gone from strength to strength, and we are delighted to report that we received returns from all **473** principal authorities for the second quarter. This perfect return rate almost continued through to quarter three, but fell just short at **99%**.

In the future, we will be naming on our website all of the authorities that do not complete returns. This is partly to encourage authorities to carry out the task, as we are unable to oversee the case-handling process without relevant data. It is also for transparency, as anyone using our quarterly statistics needs to be able to identify which authorities are excluded from the analysis.

What can we tell from data from the first three quarters?

Standards committees

Quarterly returns tell us that:

- a typical standards committee in an authority without parishes has **nine** members, including **four** independent members
- a typical standards committee in an authority with parishes is slightly larger with **11** members, including **four** independent members and **three** parish representatives
- on average, district and metropolitan councils have the largest standards committees and police authorities have the smallest

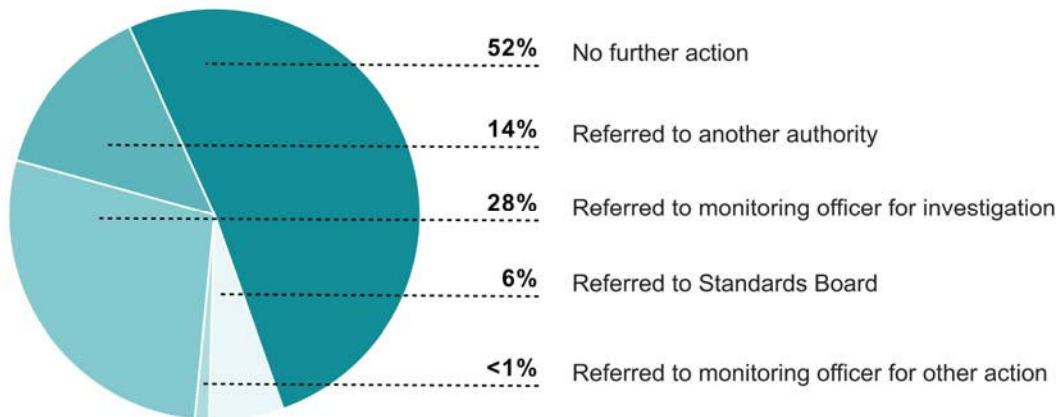
Case handling

A total of **2,030** cases have been recorded on quarterly returns so far. This covers the time period 8 May to 31 December 2008. Some **69%** of authorities have dealt with at least one case during the first three quarters. Of all the authorities with cases, the average recorded is **two** per quarter, a total of **six**. Generally there are fewer cases recorded now than under the old arrangements, but it is important to note that the first quarter started late due to the legislation not being introduced until 8 May 2008.

Of the complaints recorded, **56%** are from members of the public and **34%** are from council members. The remaining **10%** are from a combination of officers, parish or town clerks, MPs, monitoring officers, and those completing the form as 'other'.

Initial assessment

No further action is taken in **52%** of the cases recorded. The breakdown of initial assessment decisions is as follows:



A total of **344** requests for a review of 'no further action' decisions are recorded through quarterly returns. Of the **264** of these that are completed, **95%** of decisions remain at 'no further action'. The other **6%** are either referred for investigation or referred to us here at the Standards Board.

As the local framework is becoming more established, we are starting to see some of the outcomes of investigations reported in quarterly returns. We have [published statistics](#) about the timeliness of investigations, the outcomes, and the parts of the Code that they refer to on our website.

Review of online monitoring system – an update

In November 2008, we conducted the second part of the Standards Board's online monitoring system review. This forms part of a programme of work to assess how well the new system is working.

We conducted telephone interviews with a random sample of monitoring officers/those nominated to make the online submission. A total of **22** out of a potential **50** interviews were successfully completed. We would like to thank all those who participated.

As with the first phase of the review, we found that the majority of comments received were positive – with respondents encountering minimal or no difficulty in submitting their quarterly return. There were plenty of useful suggestions from respondents about improvements we could make, and work is already underway to make further enhancements to the form.

For the third phase of the review, we will be conducting our research by emailing out surveys to local authorities to complete themselves. The survey will be sent out to **50** randomly selected authorities (excluding those who participated in the telephone interviews), and we look forward to receiving your responses as we look to make further improvements to the form.

If you have any questions about this review or future reviews of the system, please contact Cara Afzal, Deputy Research and Monitoring Manager: 0161 817 5414 or email cara.afzal@standardsboard.gov.uk.

Annual returns to start in April

The Standards Board will be collecting information from standards committees in the form of an annual return, from April 2009. This information will be on standards committees' activities and on their arrangements for supporting ethical conduct.

Since our last [Bulletin](#), we have made much progress in developing the return with findings now collated from our pilot trial with local authorities.

Consultation and piloting

Development of the annual return has been informed by sound research throughout. The first stage was a review of information, including research on ethics and ethical governance, which informed an initial draft. Discussion groups were then held with monitoring officers and with chairs of standards committees to refine our findings from the review. This led to a second draft-version of the annual return, which we piloted with local authorities.

Feedback we have received suggests that local authorities are generally supportive of the annual return and its aims. Those that took part in the pilots have reported that they have found completing the return a useful learning process.

Setting the questions

We are in the process of refining the questions following the feedback. Broadly though, we will be asking about:

- protocols for member/officer relations
- the existence of any mechanisms for dealing with member/member and member/officer disputes
- the chair of the standards committee's relationship with the chief executive, the monitoring officer and the leader
- what the standards committee is doing to promote its work both within the authority and externally
- the general activities of the standards committee, for example providing training

We are also keen for local authorities to use the return to inform us of their achievements in supporting standards.

Next steps

The annual return will take the form of an online questionnaire, similar to the quarterly return. It will be located in the same area of our website as the quarterly return and monitoring officers will be able to access it using the same log in details they use for the quarterly return.

We are testing the online system during March with a view to launching it in late April, after we have collected quarterly returns for the period January to March 2009.

An email announcement containing detailed instructions about how to access and complete the annual return will be sent out to monitoring officers in the near future.

We are now developing an online system for completing the annual return which will be similar to the quarterly return system. We will be testing the online form following final refinement of the questions.

For further information about the return, please contact Hannah Pearson at 0161 817 5417 or hannah.pearson@standardsboard.gov.uk.

Getting indemnification arrangements right

We have recently heard concerns from standards committee members who feel that their authority's current indemnification arrangements are not sufficient. We have also heard that independent members of standards committees have not been included in indemnification arrangements. You may be aware that under the [Local Authorities \(Indemnities for Members and Officers\) Order 2004](#), local authorities can choose whether to indemnify their members.

In our [Role and make-up of standards committees guidance](#), we recommend that independent members of standards committees should be included in an authority's indemnification arrangements.

There are a number of potential risks that authorities may be exposing their members and themselves to, by not providing adequate indemnification. We would therefore urge authorities to consider whether the level of indemnification they currently provide to their members, including independent members of standards committees, is sufficient.

Good practice from the standards and ethics award

Six local authorities have been shortlisted for the *Standards and Ethics* category at the 2009 Local Government Chronicle (LGC) Awards, supported by the Standards Board. The winner will be announced at the awards event held at the Grosvenor House Hotel, London on 25 March.

A new section will be launched on the Standards Board website in March, highlighting the good practice ideas that worked for the shortlisted authorities. We hope that some of these innovative examples will be useful in helping your authority to achieve or maintain high standards.

Bias and the Code of Conduct

R (on the application of Gardner) v Harrogate Borough Council [2008] ALL ER (d) 310 (Nov)

A recent case in the High Court has brought attention to the common law test of bias and planning decisions. [The Local Government Ombudsman](#) (LGO) and the Standards Board for England both received complaints about a planning matter. An ethical standards officer from the Standards Board and the LGO both proceeded to investigate the case.

Each of the investigations were designed to draw out relevant evidence for the separate jurisdictions of maladministration (LGO) and of a breach of the Code of Conduct (the Standards Board). The case draws attention to matters which can cause concerns affecting both jurisdictions. However, it also highlights where they part company in practice and in the application of the relevant law. We recommend all monitoring officers and members refer to the concise court decision ([2008] ALL ER (D) 310) for an understanding of this area.

The ethical standards officer did not disagree with the findings of bias affecting maladministration which was the basis of the LGO decision, as he did not consider bias as part of his investigation. Rather the ethical standards officer's investigation was mainly concerned with personal and prejudicial interests and the evidence of close friendship. Conversely, the LGO's investigation was not designed to draw evidence of a breach of the Code.

In the [case](#), Councillor A was granted planning permission on the casting vote of Councillor S. The permission was granted against strong officer advice and major planning policy reasons which did not support granting permission. There was a connection between both councillors and it was the nature of this connection which drew the distinction between the two jurisdictions, the investigations and the relevant law to be applied in both.

For the purposes of the ethical standards officer's investigation, the evidence did not suggest a "close friendship" and therefore no breach of the Code was found. However, the Court said that "It does not follow that that there will be no apparent bias if the relationship is less close" (see paragraph 16 of the judgment). So there was apparent bias acknowledging that both councillors were friendly acquaintances.

For more information on the respective roles of the Standards Board and the LGO, their jurisdiction and investigations of common interest, please see the [memorandum of understanding with the LGO](#).

Bringing standards into focus

From 16 March, standards committee members, monitoring officers, council leaders and chief executives will receive their invitations to the **2009 Annual Assembly of Standards Committees - Bringing standards into focus**. You'll also be able to book online through our website. The event takes place on 12 and 13 October at the ICC, Birmingham.

In response to delegate feedback, this year's Assembly programme is more practical than ever. We're working with a forum of monitoring officers, independent chairs and standards committee members to develop a range of workshops, plenary sessions and advice clinics that give you the opportunity to focus on how you are delivering local standards and share good practice, ideas and innovations.

If you would like to fast-track your booking and receive your invoice before the end of the financial year, please contact Benedict Business Resources on 01483 205432 or email benedictbr@btinternet.com.

'Contribution of standards committees' research project begins

The Standards Board has commissioned new research into the responsibilities and contributions of standards committees.

Standards committees are at the heart of the new local standards framework. They educate and support members in following the highest standards of conduct and ensure that those standards are fully owned locally.

Previous Standards Board research has shown that there is a demand from standards committees for additional guidance on how to undertake some of these responsibilities and what they could be doing.

As a result, we are pleased to have commissioned the Universities of Hull and Teesside, who have entered a joint bid for this research. They will collect effective practice examples from standards committees on activities they undertake to ensure high ethical standards.

The researchers will conduct case studies in nine local authorities. These will collect examples of effective practice in the statutory function of standards committees, in their non-statutory roles, and in the wider organisational practices that support standards. We will then collate the effective practice examples into a resource for local authorities and disseminate this nationally.

Work began on this project in January 2009 and we hope to have findings to share in July 2009.

For further information, please contact Hannah Pearson at hannah.pearson@standardsboard.gov.uk or 0161 817 5417.

Standards Board responds to CSPL inquiry

The Standards Board will be responding to the Committee on Standards in Public Life's (CSPL) issues and questions paper titled: *Local Leadership and Public Trust: Openness and Accountability in Local and London Government*.

Our response will focus on a number of key themes raised in the paper. These include:

- accountability in partnerships
- the role of standards committees in ensuring openness and accountability
- trust in accountability frameworks
- the role of regulators

The deadline for submission was 25 February 2009 and our response will be posted on our website shortly.

APE merger to take place

The Tribunals Service and Communities and Local Government have given the go-ahead for the Adjudication Panel's integration into the new unified tribunals' structure.

The move will see the office relocate from Harrogate into serviced premises in Leeds that currently provide administrative support to other tribunals, including Social Security and Child Support.

Staff from the Adjudication Panel will transfer from being employees of the Standards Board to becoming part of the civil service. The President, the Adjudication Panel and its members are scheduled to join the General Regulatory Chamber of the first tier tribunal in January 2010.

Please note that the restructuring will not have an impact upon the service levels provided by the Adjudication Panel – only the contact information should change. Updated contact details will be provided on the Adjudication Panel's website in due course.

Standards Board supports NALC's 'Stepping Stones' conferences

The Standards Board is supporting the National Association of Local Councils' (NALC) one-day conferences. The conferences aim to share good practice and provide regional networking opportunities for councillors and officers in all tiers of local government.

We will be exhibiting at the conferences below, where policy advisers will be on hand to answer questions and provide guidance. You can find us on stand number two.

The dates for these events are:

Tuesday 10 March

The Council Chamber, Congress Centre, London

Wednesday 22 April*

The Oak Tree Conference Centre, Coventry

*Please note: NALC have changed the date of the event in Coventry from 11 February to 22 April.

Shirley Flint, independent councillor at North Kesteven District Council, chair of Skellingthorpe Parish Council and independent Board Member of the Standards Board will be present. Anne Rehill, Advice and Guidance Manager at the Standards Board will also attend.

Both Anne and Shirley will present a workshop called 'Understanding local assessment and the Code of Conduct' at the Coventry event. Shirley Flint will deliver a speech at the London conference entitled 'Local standards - making a difference' that will take place at 16.05.

Document is Restricted

Document is Restricted

