

AGENDA

Standards Committee

Date: **Friday 8 January 2010**

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:

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If you would like help to understand this document, or would like it in another format or language, please call Heather Donaldson, Democratic Services Officer on 01432 261829 or e-mail hdonaldson@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Standards Committee

Membership

Chairman	Robert Rogers	Independent Member
	Jake Bharier	Independent Member
	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

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

AGENDA

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by members in respect of items on the agenda.</p>	
3.	<p>MINUTES</p> <p>To approve and sign the minutes of the meetings held on 27 March 2009, 02 October 2009 and 30 October 2009.</p> <p><i>(Note: The minutes of the meeting held on 02 October 2009 will be sent "to follow")</i></p>	5 - 34
4.	<p>APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS</p> <p>To consider applications for dispensations received from parish and town councils.</p> <p>Wards: County Wide</p> <p><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></p>	
5.	<p>THE CONSTITUTION</p> <p>To consider the Council's new constitution.</p> <p><i>(Note: the latest draft of the Constitution is currently being finalised and printed, and will be sent under separate cover. Please bring your copy with you to the meeting.)</i></p> <p>Wards: County Wide</p>	35 - 50
6.	<p>STANDARDS COMMITTEE WEBSITE</p> <p>To consider updating the Standards Committee web pages hosted by Herefordshire Council. An oral report will be given.</p> <p>Wards: County Wide</p>	
7.	<p>STANDARDS BOARD FOR ENGLAND BULLETIN 46</p> <p>To consider the latest bulletin from Standards for England.</p> <p>Wards: County Wide</p>	51 - 62
8.	<p>THE ANNUAL ASSEMBLY OF STANDARDS COMMITTEES, 2009</p> <p>To hear an oral report from delegates on the Eighth Annual Assembly of Standards Committees held in Birmingham on 12 and 13 October 2009.</p>	

Wards: County Wide

9. ASSESSMENT MADE CLEAR

To view the Standards for England training DVD in respect of the local assessment of complaints.

Wards: County Wide

10. DATE AND TIME OF NEXT MEETING

To note that the next meeting of the Standards Committee will be held on **Friday 16 April 2010** at **2.00 p.m.** in the **Council Chamber** at **Brockington**.

To agree the following dates of future meetings (all on Fridays at 2.00 p.m.):

- 16 April 2010
- 25 June 2010 (provisional)
- 23 July 2010
- 15 October 2010
- 14 January 2011
- 01 April 2011

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

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

63 - 84

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

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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.

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MEETING:	STANDARDS COMMITTEE
DATE:	08 JANUARY 2010
TITLE OF REPORT:	NEW CONSTITUTION – COVERING REPORT
PORTFOLIO AREA:	LEADER OF THE COUNCIL

CLASSIFICATION: This is an open report.

Wards Affected

County-wide

Purpose

To consider the attached report from the Assistant Chief Executive – Legal and Democratic, which went to Council on 13 November 2009, and note the resolutions made.

Recommendation(s)

THAT the Standards Committee notes and comments on the new Constitution.

Key Points

1. The Constitution report was considered by Council on 13 November 2009, and the current final draft Constitution will be finalised and printed on 28 December 2009.
2. Council approved the new Constitution in principle and made the following resolutions:

THAT Council:

- a) **agrees that its new Constitution will take effect on 1 January 2010;**
- b) **confirms the composition and Members of the Planning Committee and asks Group Leaders to review their nominations to reflect geographic diversity and notify the Chief Executive of any changes to the membership of the Committee;**
- c) **designates its Community Services Scrutiny Committee as its Crime and Disorder Committee;**
- d) **instructs the Chief Executive to prepare and adopt a scheme of delegation in accordance with the new Constitution by no later than 1 January 2010;**

- e) **approves the core content and principles in its new Constitution and instructs the Monitoring Officer to:**
 - i. **complete Parts 6 and 7 of the Constitution before 1 January 2010;**
 - ii. **complete Part 8 of the Constitution as soon as possible after 1 January 2010;**
 - iii. **incorporate any amendments agreed by Council into the new Constitution, which includes retaining the financial limit for key decisions at £500k;**
 - iv. **correct any typographic or other errors; and**
 - v. **deliver training as appropriate on the new Constitution;**
 - f) **agrees that the Monitoring Officer be authorised to finalise the Constitution in consultation with the Chairman of the Council;**
 - g) **recommends that the Monitoring Officer undertake the following:**
 - i. **to complete the web-enabling of the Constitution;**
 - ii. **to review the deferred matters referred to in this report;**
 - iii. **to consult with the Standards Committee about whether the new Constitution promotes high standards of conduct within the Council;**
 - iv. **to consult and seek views from partners and the public on the new Constitution;**
 - v. **present a further report(s) as necessary reflecting that further work; and**
 - vi. **carry out this work with the Constitutional Review Working Group;**
 - h) **agrees that the Constitutional Review Working Group be retained to assist with such further work as it determines.**
3. The tidying up, formatting, correcting grammatical errors have been done and the latest version that takes effect on 1st January will be posted under separate cover. It is due to be printed on 28 December 2009.
4. A Chief Executive's scheme of delegation will be in place by 1 January 2009 and that will make it clear who is authorised to fulfil the functions delegated to him under the new Functions Scheme in Part 3 of the Constitution. That scheme of delegation will include:
- (1) A description of the areas of specific responsibility of each of those who will be fulfilling functions on behalf of the Chief Executive;
 - (2) A description of the areas general management responsibility of all of those person(s);
 - (3) A description of any specific legislative functions that will be fulfilled by any of those person(s);
 - (4) A description of any proper officer functions that will be fulfilled by any of those person(s).

5. In January, each Directorate will produce an internal scheme of delegation that makes it clear who in turn is authorised to fulfil any of those functions within each directorate. Only the Deputy Chief Executive, the Assistant Chief Executive, Directors, Heads of Service and Service Managers will be so authorised. This cascade form of scheme will ensure that the Council, councillors, staff, partners and the public are clearer about who is authorised to fulfil council functions. The details of the Chief Executive's scheme of delegation will be communicated accordingly.
6. Information is being gathered from across directorates on planned or anticipated activities that will be taking place in the next 6-12 months that will require formal decision either by the Council, its committees, the Cabinet, the individual Cabinet members, or senior officer under the scheme of delegation. This information will be captured in a master forward plan and will be reflected in each Directorate's forward plan. It is anticipated that a nominee of each directorate will act as the agenda manager for that directorate and will provide a channel through which this information can be passed in future and who will be responsible for helping the Democratic Services team to keep the plan regularly updated. This planning process will help ensure that all decisions follow the appropriate decision making route including any informal steps. It will encourage earlier preparation of reports and will enable report writers to obtain input from other colleagues e.g. legal, financial and HR, at an earlier stage in the process.
7. These two developments will have a clear governance benefit in that it will be easier to see that the right people are taking the right decisions, in the right way, at the right time and for the right reasons.
8. The follow up work on those areas specified in paragraph 54-55 of the report to Council on 13 November will be planned in January and delivered in first half of 2010.
9. The document will be kept under review and will be subject to further amendment in 2010, and Standards Committee views are important to that next phase of work.

Appendices

- Report to Council on 13 November 2009.

MEETING:	COUNCIL
DATE:	13 NOVEMBER 2009
TITLE OF REPORT:	NEW COUNCIL CONSTITUTION
REPORT BY:	ASSISTANT CHIEF EXECUTIVE LEGAL AND DEMOCRATIC

CLASSIFICATION: Open

Wards Affected

County-wide

Purpose

To seek approval of the Council's new Constitution

Key Decision

This is not a Key Decision.

Recommendation(s)

THAT Council

- a) **Adopts its new Constitution to take effect on 1 January 2010**
- b) **Confirms the composition and members of the Planning Committee**
- c) **Designates its Community Services Scrutiny Committee as its Crime and Disorder Committee**
- d) **Instructs the Chief Executive to prepare and adopt scheme of delegation in accordance with the new Constitution by no later than 1 January 2010**
- e) **Instructs the Monitoring Officer to:**
 - i. **complete Parts 6 and 7 of the Constitution before 1 January 2010**
 - ii. **complete Part 8 of the Constitution as soon as possible after 1 January 2010**
 - iii. **incorporate any amendments agreed by Council into the new Constitution**
 - iv. **correct any typographical or other errors**
 - v. **deliver training as appropriate on the new Constitution.**
- f) **Agrees that the Monitoring Officer be authorised to finalise the Constitution in consultation with the Chairman of the Council.**
- g) **Recommends that the Monitoring Officer undertake the following:**

Further information on the subject of this report is available from
Charlie Adan, Assistant Chief Executive – Legal and Democratic on (01432) 260200

- i. to complete the web-enabling of the Constitution,
 - ii. to review the deferred matters referred to in this report
 - iii. to consult with the Standards Committee about whether the new Constitution promotes high standards of conduct within the Council
 - iv. to consult and seek our partners and the public on the new Constitution; and
 - v. present further report as necessary reflecting that further work; and
 - vi. carry out this work with the Constitutional Review Working Group
- h) Agrees that the Constitutional Review Working Group be retained to assist with such further work as it determines

Key Points Summary

- 1 On 24 July 2009 the Council agreed to review its Constitution and that the Monitoring Officer report at this meeting on the review with her proposals for a new Constitution.
- 2 The review process and the matters discussed by the Constitutional Review Working Group are set out in this report. The report also explains other steps taken to engage Councillors in the review process.
- 3 The report contains an explanation of the format and content of the new Constitution.
- 4 Further work is needed to implement the new Constitution and the Council is asked to agree that it take effect on 1 January 2010.
- 5 There were some matters not dealt with as part of this review and the Monitoring Officer recommends further review work is undertaken in those areas.

Alternative Options

- 6 The alternative options in each of the areas of the Constitution were discussed at the Constitutional Review Working Group.
- 7 The Council now has the following options:
 - a. To accept the Constitution as drafted
 - b. To accept the Constitution as drafted with amendments
 - c. To reject the new Constitution and retain its existing Constitution.

Reasons for Recommendations

- 8 The new Constitution reflects the principles and details agreed informally by the Constitutional Review Working Group and views of some members more generally gathered at the member seminar.
- 9 The new Constitution is presented in a simpler and more accessible format and explains more easily how the Council operates. The Council's current Constitution is in a more complicated format and is more difficult to follow and understand. It also contains some inconsistencies and areas of duplication.
- 10 The new Constitution reflects the relevant law and ensures compliance with all legal requirements. It is also in the recognised and recommended statutory modular format.

Introduction and Background

- 11 At its meeting on 24 July 2010 the Council agreed that:
 - a. The Monitoring Officer in consultation with the Constitutional Review Working Group develops a new Constitution for Herefordshire Council in accordance with an agreed brief, process and timetable outlined in a report to that meeting
 - b. The Monitoring Officer and the Constitutional Review Working Group consider the constitutional areas and have regard to the impact of the work set out in the report to that meeting and any imminent or pending legislative or other changes;
 - c. The Monitoring Officer present a report and new Constitution for consideration and agreement by the Council at its next meeting
- 12 The report explains the purpose and brief for the review and the constitutional areas and other work referred to above.
- 13 The Monitoring officer has worked with the Constitutional Review Working Group and the report reflects those highlighting the new format and principle changes that the Group agreed the Monitoring Officer should include within the new Constitution.
- 14 It also highlights a range of other matters raised by Councillors during the review process.
- 15 It is proposed that the Constitution be implemented on 1 January 2010 and the Council is also asked to consider the steps needed to achieve that.

Key Considerations

- 16 The purpose of the new Constitution agreed by Council on 24 July 2009 was
 - a. To ensure that Councillors, Council staff and partners know how the Council functions
 - b. To ensure that the people of Herefordshire know how the Council functions
 - c. To ensure that the Council adheres to the principles of good governance
 - d. To ensure that the Council delivers on its promises in its Code of corporate governance
 - e. To ensure that the Council has in place the necessary rules and protocols to
 - f. ensure that it can conduct its affairs effectively and efficiently and with probity
 - g. To ensure that it is compliant in all respects with the legislative framework and statutory guidance
 - h. To ensure that it is accessible and easily understood
- 17 The brief for the Monitoring Officer was:
 - a. To keep it simple and produce a constitution that is tidy concise and easy to follow
 - b. To ensure that the development of the constitution takes into account governance best practice and reflects advice and guidance available
 - c. To ensure that the Constitution reflects and balances all the different roles of Councillors

- d. To ensure that the Constitution provides a framework for partnership working, community participation and that it helps the Council focus on achieving outcomes
 - e. That it reduces bureaucracy and streamlines the constitutional systems and processes
 - f. That it provides flexibility for the Council to develop its governance arrangements
 - g. to meet future changes and is a blueprint for new ways of working Herefordshire that are developing
- 18 On 24 July, the Council also agreed that the constitutional arrangements in the following areas should be considered as part of the review:
- a. The arrangements for Cabinet meetings
 - b. Scrutiny arrangements
 - c. Planning Committee arrangements –reflecting the decisions of Council on 24 July 2009
 - d. The Full Council meeting
 - e. The role and functions of Chairman and Vice Chairman of Committee
 - f. Forward planning, agenda management and key decisions
 - g. Delegations to officers
 - h. The Policy framework and policy hierarchy
 - i. Joint working and partnership arrangements – flexibility for the future
 - j. Councillor call for action and petitions
- 19 A cross party Constitutional Review Working Group has met every week during September and October 2009. That Group considered the purpose and the brief and during its meetings considered a range of matters as follows
- 20 The following principles were agreed and have been reflected in the new Constitution.

Format of the Constitution

- 21 The new Constitution is in plainer English and is in a simple format. The new Constitution is in 8 parts.
- 22 The Council is asked to approve the first 5 parts which have been provided in full as follows:
- a. Part 1 – contains a list of the contents of the Constitution, an introduction to the Council and to its Constitution. This part is intended to provide an overview and should be easily understood by the public who want to know in summary how the Council operates. This is new and is not covered in the current Constitution.
 - b. Part 2 – contains a contents list which shows each of the areas covered by 13 Articles. The Articles gives a concise explanation of each element of the constitutional arrangements. Most of this information is available in the current constitution but is not easily found. There is more information than in the current constitution about Councillors, the rights and responsibilities of citizens, working with partners including reference to the partnership with the PCT and a new section on access to information.
 - c. Part 3 – contains the Functions Scheme and details who is responsible for what functions. This contains the information that has traditionally been referred to as the

Scheme of Delegation. This content of the Functions Scheme is explained in more detail in the section on decision making below.

- d. Part 4 – sets out the procedure rules for the conduct of Council business and is set out in sections relating to the bodies carrying out council functions and about specific activities. The Council Rules in Section 1 deal with the Council meeting but also apply to the rest of the Council's activities except where the other rules in Part 4 override them.
 - e. Part 5 – contains the Codes that must be observed by Councillors and Council staff in the conduct of Council business and detail the way in which certain specific matters are dealt with. The codes dealing with the role of the Chairmen of Committees have been updated and the codes on Councillor Call for Action, Petitions and Audit and Governance Codes (to reflect CIPFA best practice) are new Codes. Some of the Codes and Protocols in the current Constitution have been removed because they duplicated other provisions elsewhere in the Constitution.
- 23 The Council is asked to agree that Parts 6-8 should be completed by the Monitoring Officer before the Constitution is implemented. Having this information in the last 3 sections of the Constitution enables amendments to be made more easily when changes are made. These parts are as follows:
- 24 Part 6 – will contain the Members Allowances scheme that is approved by Council from time to time on recommendation of its independent remuneration panel. It is a legal requirement that this information is set out in the Council's Constitution
- 25 Part 7 – will contain:
- a. The details of the number of Cabinet members and the portfolio of each as decided from time to time by the Leader of the Council. The law requires that this information is included within the Constitution and it is clearer and more easily found if this is included in Part 7 rather than in the detailed provisions found in Part 3. The Leader is not intending to make any changes to these arrangements at this time but if any changes are made they can be easily made by simply replacing the relevant section of Part 7.
 - b. The 5 Scrutiny Committees current areas of responsibility. The only change is that the Council is required to nominate one of these Committees as its Crime and Disorder Scrutiny Committee and it is intended that the Communities Scrutiny Committee should be so designated. The Council determines the remit of its Scrutiny Committees at its Annual meeting.
 - c. The Management structure is the responsibility of the Chief Executive in consultation and within the overall establishment budget agreed by Council. The law requires that this be included in the Council's Constitution. If this is in Part 7 the Constitution can be more easily changed if the Chief Executive makes changes to the management structure.
- 26 The Monitoring Officer is authorised by the Constitution to make changes to Parts 6 and 7 to reflect any changes decided by the Council, the Leader and the Chief Executive to those arrangements.
- 27 Part 8 is a glossary of terms used in the Constitution which will be maintained by the Monitoring Officer.

Decision taking

- 28 The Functions Scheme at Part 3 is greatly simplified and is based on the following principles.
- 29 By law, the Cabinet fulfils all functions that are not either defined by law as Council functions (set out in Part 3 – Section 2) or have been allocated to the Council or some other body in its Constitution (known as Local Choice Functions – and allocated in Part 3 Section 4). Those Council and Local Choice functions can in turn be delegated to an officer to carry them out on behalf of the Council.
- 30 Cabinet functions must be carried out by either the Cabinet collectively, a Cabinet committee or an individual Cabinet Member. Those functions can also be delegated to an officer. In Part 3 Section 3 there is an explanation of the criteria for deciding what functions must be carried out by the Cabinet collectively and those which may be carried out by individual Cabinet members. There are no formal Cabinet committees. Where a matter requires a decision of more than one Cabinet member those decisions are taken by the individual Cabinet Members (usually at the same or about the same time). All Cabinet functions that are not within the criteria set out in that section, are carried out by an officer.
- 31 All key decisions must be taken by Cabinet or a Cabinet Member. The definition of key decision is found in Part 4 – Section 2 – the Access to Information Rules and has been changed. The financial level is now stated as £1m but the definition makes it clear that is not the only criteria by which a key decision is defined.
- 32 Scrutiny functions are described in Part 3 – Section 5 and other functions such as planning and regulatory functions are allocated to the relevant Committees or other bodies at Part 3 – Section 6.
- 33 The informal arrangements that also operate to support the formal decision making are set out at Part 3 – Section 7. The role of Group Leaders is a new addition not currently in the Council's Constitution. Similarly the role of the Ward Councillor is reflected in this part.
- 34 In Part 3 – Section 8 all functions to be carried out by an officer are allocated to the Chief Executive. In the current Constitution, functions are delegated to a variety of officer posts.
- 35 This is a different approach to the current Constitution and has the benefit of clarity and avoids the need to change the Constitution if the management structure changes.
- 36 Having a Functions Scheme that provides for the Chief Executive to fulfil all functions not specifically allocated to the Council, the Cabinet, individual Cabinet Members or another Council body has the benefit of certainty and is comprehensive. This avoids any possible risk that a decision cannot be taken because there is no constitutional provision for a specific function. It is also simpler to understand. The current Constitution contains various lists of specific functions allocated to specific Council bodies or officers and there is a risk that if those lists are inconsistent or not comprehensive, a decision may be taken without due authority.

- 37 Some legal powers require the Council to designate one of its officers as the proper officer for that function. At Part 3 – Section 9 the Council designates the Chief Executive as its proper officer for all such purposes.
- 38 However, as it is impractical for all decisions to be taken personally by the Chief Executive, an officer scheme of delegation (referred to as the Chief Executive's Scheme of Delegation) is needed. Work is underway to complete this before the new Constitution is implemented on 1 January 2010 and this information will be provided to all Councillors and made publicly available.

Scrutiny arrangements

- 39 The Scrutiny arrangements at Part 3 – Section 5 reflect the decisions taken by members during the review of scrutiny work facilitated by the Leadership Centre and Cllr John Lamb.
- 40 The call-in procedures in the Scrutiny Rules (Part 4 – Section 5) have been developed so that they more accurately reflect the legal framework and purpose of the call-in procedure.

Forward planning and agenda management

- 41 The greater scrutiny involvement in policy development and pre-decision scrutiny and the changes to the Functions Scheme requires a more effective forward planning and agenda management regime. This is not a matter for the Constitution but the Constitutional Review Working Group discussed how this could be achieved and how the informal arrangements need to be developed. The Group recognised that there was a need for greater member involvement in forward planning to enable items for pre-decision scrutiny to be identified earlier and built into work programmes and for key decisions and those meeting the criteria for Cabinet decision to be readily identified and agreed.

Partnership working

- 42 It is not appropriate for the Council Constitution to detail all the governance arrangements relating to its partnerships. Partnerships are constitutionally separate to the Council and should have their own joint governance arrangements agreed between the partners.
- 43 However, the new Constitution contains more details of the partnership arrangements at Article 9 in Part 2.
- 44 Some functions may be delegated to officers who work for both the Council and the PCT but are employees of the PCT. In order for those officers to carry out Council functions under the Chief Executive's Scheme of Delegation, the Council must designate those PCT employees as officers of the Council. This is provided for in Part 3 – Section 8.

Access to Information

- 45 Article 13 in Part 2 contains details of the information available to Councillors and to the public and explains the interaction between the different information regimes. This area is very complex and the Monitoring Officer will be providing additional guidance and training on these matters to supplement the information in the Constitution.

The Council meeting

- 46 The main changes to the rules relating to the Council meeting can be found in the Council Rules (Part 4 – Section 1). These are:
- a. The rules relating to public questions have been tidied up; in particular, the criteria for questions being rejected are now clearer.
 - b. There is a time limit for dealing with questions; half an hour maximum for public questions, the same for members' questions and an overall time limit for questions of 1 hour maximum.
 - c. The time for submission of questions has been changed slightly to allow more time for answers to be produced.
 - d. There is a time limit for motions for debate.
 - e. The agenda for the ordinary meetings has been slightly changed to reflect the nature of reports and recommendations from the Cabinet
 - f. The arrangements for setting the budget and policy framework have changed slightly to allow for the budget setting meeting in February and the setting of the Council tax at the March Council meeting. The law provides that a period for any objections raised by Council to the budget recommended to it by Cabinet which requires this slight change to the Council rules. The detailed rules for setting the budget and policy framework are set out in Part 4 – Section 3.
 - g. The role of the Chairman in exercising discretion in the conduct of the meeting is restated in the Council Procedure Rules.

The Cabinet meeting

- 47 The Cabinet Procedure Rules at Part 4 – Section 3 explain the arrangements for decision making by Cabinet and the conduct of the Cabinet meeting. The role of non-Cabinet members is more clearly explained. The Constitutional Review Working Group has recommended that the layout of the meeting is changed to ensure that the role of those attending is clearer and more properly reflects the division of responsibility between Cabinet and non Cabinet members. These changes will be agreed with the Leader of the Council and explained to all regular member and officer attendees before they are implemented. The rules require that the Leader explains who is at the meeting at its start so that the public are clearer about the roles of each of those present.

Planning

- 48 The changes to the Planning arrangements agreed by Council on 24 July 2009 are reflected in the Functions Scheme (Part 3 – Section 6) “Planning Committee Functions”, in the Planning Rules (Part 4 – Section 8) and in a revised Planning Code (Part 5 – Section 14).
- 49 The Planning Committee of 19 members must be politically proportionate. It is not possible to have a constitutional requirement that members are drawn from across the County and are representative of both urban and rural wards. Such a requirement would contradict and could conflict with the statutory political balance rules. Instead, the Constitutional Review Working Group suggested that when making nominations Group Leaders should be asked to have regard to the need to reflect geographic diversity in the membership of the Committee.
- 50 The current Planning Committee complies with the composition and political balance requirements and the Council is asked to confirm membership of that Committee. Alternatively, the Council could choose to change the membership at this time.

Employment matters

- 51 The role of members in employment matters has been simplified and narrowed to reflect the legal requirements in that regard. The new arrangements can be found in Part 3 – Section 6 (the functions of the Employment Panel and the Employment Appeals Panel) and in the Employment Rules at Part 4 – Section 9.
- 52 Those rules will be applied in conjunction with the Council's recruitment policies and procedures.
- 53 It remains the intention that members will have an informal role in some other key appointments as is currently the case.

Deferred matters

- 54 The following matters have been deferred for further work:
- a. The functions and procedure rules for Regulatory Committee
 - b. The procedures for Standards Committee assessments, reviews and determination hearings which it was felt should be in the Constitution
 - c. A review of the Contractual and Financial Procedure Rules
- 55 The member seminar raised the following further issues for consideration:
- a. Use of plain English – securing the crystal mark for the Constitution
 - b. The production of a diagram that shows the Council's Functions Scheme
 - c. A review of representation on outside bodies and clearer guidance on conflicts of interest and other issues arising from such appointments
 - d. Public feedback on the new Constitution – is it more accessible?
 - e. Greater public involvement – the duty to involve community representatives in Council activities building on the PACT meetings and the recent Hearts of Herefordshire pilot activities

Implementation and further action

- 56 These deferred matters will be built into a continuing work programme and it is recommended that Council retains the Constitutional Review Working Group to continue this work with the Monitoring Officer.

Web-enabling and version control

- 57 The Constitutional Review Working Group agreed that the Constitution should be available on the Council's website. Initially it will be available in PDF format. However, to improve accessibility the aim is to make the document fully interactive and web-enabled so that it is possible to move between related parts of the Constitution more easily. The Constitutional Review Working Group received a demonstration of the way in which North East Derbyshire District Council has done this and would like a similar facility to be made available in Herefordshire Council.
- 58 The Monitoring Officer will introduce a system of version control so that any updates and amendments are incorporated into all hard copies of the Constitution and changed on the internet version as soon as agreed in future.

Implementation

- 59 In order to implement the Constitution on 1 January 2010, the Council is asked to instruct the Monitoring Officer to undertake the further work in Recommendation (f).

Community Impact

- 60 The new Constitution more clearly explains the Council's vision, aims and objectives for the County and its partnership arrangements. This should enable the public to understand more clearly what the Council and its partners are trying to achieve and how they work together to do that.
- 61 The format and content of the new Constitution should make it simpler and more accessible to the public and should enable communities within the County to understand more clearly how the Council operates.
- 62 The rights and responsibilities of citizens and the arrangements for public involvement in Council business are more clearly set out in the new Constitution.
- 63 The rights of the public to Council information is summarised in the Constitution and the follow up guidance on rights to information which is planned should enable the public to gain easier access to information about the Council and its services.

Financial Implications

- 64 The changes to the Constitution will require some changes to the way the Council works. However, the aim has been to streamline governance arrangements and to avoid duplication and unhelpful or overly bureaucratic processes in the constitutional arrangements. The impact of these changes of the staffing resources both within Legal and Democratic Services and elsewhere within the Council have not been fully assessed but it is envisaged that these changes will not have an impact on the level of resources needed to properly support the Council's governance and financial arrangements.
- 65 There have been no substantive changes to the Council's current Financial or Contract Procedure Rules (Part 4 – Sections 7 and 8).

Legal Implications

66 The new Constitution reflects the statutory requirements and guidance and is in accordance with the modular format established as part of the guidance following the introduction of the changes in the Local Government Act 2000.

Risk Management

67 There are no risk management implications

Consultees

68 The Constitutional Review Working Group has been consulted on a weekly basis from 3 September to 30 October on the proposals in this report.

69 A seminar for all members of the Council took place on 27 October 2009 and the views from that seminar have been taken into account in the preparation of this report and in the Council's new Constitution.

70 This report proposes that the public and our partners are consulted on the new Constitution and their views reported to Council in due course.

Appendices

71 The new Constitution has been circulated separately and there are no other appendices to this report.

Background Papers

72 The following have been used in the preparation of this report and the new Council Constitution:

- a. The Local Government Act 2000 and regulations and guidance issued in relation thereto
- b. The Local Government (Public Involvement in Health) Act and regulations and guidance issued in relation thereto
- c. The New Council Constitutions Guidance Pack Volume 1 and 2
- d. The Council's current Constitution
- e. Constitutional Review Working Group reports and papers including action notes and schedule of "follow up" actions – these papers have been updated after each meeting and made available to all Councillors in the Group rooms within the Council offices



Standards and Ethics Award

The closing date for entries to the 2010 Local Government Chronicle (LGC) awards was Friday 20 November. Around 20 authorities entered the Standards and Ethics Award, which is supported by Standards for England. Our judges, Dr Robert Chilton, Dr Michael Macaulay and Nick Raynsford MP have reviewed the entries and shortlisted six authorities who will be announced on 17 December. The judges will then meet in London to choose a winner which will be announced on 24 March 2010.

More information on the shortlisted authorities will be available on our website in January.

Bias, Predetermination and the Code

At this year's Annual Assembly we ran a session called 'Understanding Predetermination and Bias'. It looked at the relationship between bias, predetermination and the Code of Conduct (the Code). The session proved to be hugely successful in providing information that all standards committees and monitoring officers should be aware of, particularly as it drew on recent and relevant case law in this area. This article attempts to draw out some of the key messages from the session that make understanding predetermination and the Code easier.

Predetermination is a more accurate term than 'bias' used to describe a state of mind which is capable of breaching both the law and the Code. This is not to be confused with predisposition where a councillor holds a view in favour of or against an issue, for example an application for planning permission, but they have an open mind to the merits of the argument before they make the final decision at the council meeting. This includes having formed a preliminary view about how they will vote before they attend the meeting, and/or expressing that view publicly.

There are two types of predetermination; actual and apparent:

- **Actual predetermination** is when a person has closed their mind to all considerations other than an already held view.
- **Apparent predetermination** is where the fair minded and well-informed observer, looking objectively at all the circumstances, considers that there is a real risk that one or more of the decision makers has refused even to consider a relevant argument or would refuse to consider a new argument.

Recent case law has provided some clarity on how to establish whether predetermination might have occurred by using a two stage test:

- **Stage one** - all the circumstances which have a bearing on the suggestion that the decision was undermined by actual or apparent predetermination must be established.
- **Stage two** - the questions to be asked are:
 - a) was there actual predetermination or
 - b) were the circumstances such as would lead a fair minded and informed observer to conclude that there was 'real risk' that one of the decision makers had predetermined the outcome?

It is important to note that apparent predetermination is to be assessed having regard to all the circumstances which are apparent upon investigation. This extends beyond the circumstances available to the 'hypothetical observer.'

This could include information on any other relevant facts affecting the decision, for example, council procedures. It does not include evidence from the member concerned as to their state of mind or evidence from the complainant as to why they believed the subject member's mind was closed.

The test is objectively looking at what view the facts give rise to. The courts have decided that the fair minded and informed observer has: access to all the facts, is neither complacent nor unduly sensitive or suspicious when looking at the facts, is able to decide between the relevant and irrelevant and on the weight to be given to the facts and is aware of the practicalities of local government.

The courts have accepted that these practicalities mean that the **fair minded and informed observer** accepts that:

- a) Manifesto commitments and policy statements which are consistent with a preparedness to consider and weigh relevant factors when reaching the final decision, are examples of legitimate predisposition not predetermination.
- b) The fact that the member concerned has received relevant training and has agreed to be bound by a Code of Conduct is a consideration to which some weight can properly be attached when determining an issue of apparent predetermination.
- c) Previously expressed views on matters which arise for decision in the ordinary run of events are routine and councillors can be trusted, whatever their previously expressed views, to approach decision making with an open mind.

d) To suspect predetermination because all members of a single political group have voted for it is an unwarranted interference with the democratic process.

e) Councillors are likely to have and are entitled to have, a disposition in favour of particular decisions. An open mind is not an empty mind but it is ajar.

What has become evident is that **the threshold**, in the context of administrative decisions, on the test of apparent predetermination is an extremely difficult test to satisfy. Unless there is positive evidence that there was indeed a closed mind, prior observations or apparent favouring of a particular decision is unlikely to be sufficient to establish predetermination.

The Adjudication Panel for England (APE) in case reference 0352 has also looked at the relationship between the Code and predetermination and gave an indication that where such issues arise there is a potential paragraph 5 Code breach. The outcome is likely to depend on the individual circumstances of a case and any other Code issues and breaches. This is because a councillor who renders the decision of a council unlawful due to predetermination could reasonably be regarded as bringing that authority or his office into disrepute.

An important issue for members is that by and large predetermination will not amount to a personal or prejudicial interest. Therefore there is no specific requirement to declare an interest and leave the room under paragraph 8 to 10 of the Code. Members may however find themselves the subject of a complaint under paragraph 5 on disrepute. This paragraph of the Code has no provision for declaring interests or leaving meetings.

For more information on the relationship between predetermination and the Code, what the practicalities of local government have been held to be and case details please see [Day One](#) on the events page of our Annual Assembly website.

For further information on determination please see our [Online Guide on Predetermination and Bias](#).

Local Assessment: sharing lessons learnt

One of the breakout sessions at our Annual Assembly in October was entitled *Local Assessment, sharing lessons learnt*. This session took the form of a discussion forum giving delegates the opportunity to share their experiences of the local assessment process since its introduction in May 2008.

Sessions were held in tandem for monitoring officers and standards committee members respectively. This gave each group the opportunity to share with their peers the challenges that had arisen in their authority and the solutions they had developed to meet these challenges. In addition, delegates

suggested a number of changes to the local standards framework. We value these suggestions but, clearly, many need further evaluation before a decision could be taken whether to make any changes.

A full breakdown of feedback from the sessions can be found on our dedicated [Assembly website](#), but we thought you might be interested in hearing what some of the main issues discussed were.

Top five issues discussed

1. Vexatious or Persistent Complainants

This topic was raised in all four sessions that took place. Potential solutions suggested by delegates included:

- asking for further Standards for England guidance on the definition of what a vexatious complaint is
- change legislation to allow monitoring officers to filter out such complaints and allow committees to refuse complaints from vexatious complainants
- having robust assessment criteria to filter out such complaints at assessment
- to write warning letters to complainants deemed vexatious by the council procedures
- to deliver targeted training
- to publish the average cost of assessing and investigating a complaint.

We are aware that persistent vexatious complainants are causing problems for a number of authorities. This is one area where we intend to provide further guidance for standards committees early in 2010, although we recognise that guidance alone is unlikely to solve this issue.

2. The role of the monitoring officer

Delegates questioned what role, if any, a monitoring officer should have in filtering out complaints before formal assessment by the standards committee. A variety of suggestions were made including that:

- Standards for England should produce further guidance on what steps monitoring officers can take before assessment
- monitoring officers should be given the power to filter complaints before assessment in consultation with the standards committee chair
- monitoring officers should make the initial assessment decision with any review undertaken by the assessment sub-committee

- monitoring officers should make the initial assessment decision for parish complaints
- there should be discretion to halt the formal process if a local solution is reached.

3. Informing the subject member that a complaint has been made

Currently monitoring officers can take the administrative step of informing a member that a complaint has been made about them. However, the current regulations do not allow them to disclose any details of the complaint. Many delegates felt that this puts monitoring officers in a difficult position, especially in circumstances where the complainant has spoken to the press.

Delegates suggested a number of solutions and changes that they would like to see including:

- asking members in advance whether they would like to be told if a complaint is made about them, and make them aware they cannot be told any details until after the assessment
- giving monitoring officers the discretion to reveal some details of a complaint to the subject member depending on the circumstances, in consultation with the standards committee chair
- requesting guidance from Standards for England on what the subject member should be told prior to assessment
- requesting guidance from Standards for England on what the subject member should be told prior to an investigation.

4. Resources

A number of delegates highlighted problems with finding resources to deal with processing complaints. There were some suggestions that monitoring officers could use the Local Government and Housing Act 1989 to ensure they had adequate resources to perform their functions.

Another suggestion was that parishes should either be asked to contribute or alternatively they should be charged for processing complaints about parish members. Currently parish councils cannot be charged for any costs incurred during the assessment or investigation of a complaint about a parish member.

5. Quality of complaint information

Delegates stated that poorly written complaints and lack of information from the complainant could make it difficult to make an assessment decision.

Delegates suggested that:

- a model complaint form from Standards for England would be helpful (we have already published a complaints form – [click here to download](#)).
- complainants should be encouraged to use, or that it should be mandatory to complete, an official form
- monitoring officers should request further information from the complainant if there is insufficient information to make an assessment decision
- the complainant should be asked what they would like the outcome of the process to be.

We are currently undertaking a review of the local standards framework and information gathered from the sessions will feed into this review process. However, some of the changes to the standards framework suggested would be difficult to implement as they would require primary legislation to be amended.

A number of requests were made during the sessions for further guidance from Standards for England. We will consider these requests and use the feedback to inform future guidance updates.

Annual return 2010

In April 2009 we collected annual information returns from the 438 local authorities that we work with, covering the period 8 May 2008 to 30 March 2009.

It is important for us to collect information from monitoring officers and standards committees on how they are helping to maintain high standards of ethical conduct in their authorities. This assists us in ensuring the effectiveness of local standards arrangements.

Last year's return was an opportunity for monitoring officers and standards committees to tell us in detail about the particular achievements, successes and difficulties they had in supporting and promoting the ethical framework. We used the returns to build up a bank of notable practice examples to share across the standards community. Many of these can be found on a dedicated [notable practice](#) section of our website and in our [annual review of 2008-9](#).

We will be continuing to collect examples of notable practice in the annual return 2009-10. The information we gather will allow us to cultivate a national overview of the local operation of the standards framework. We will use this to identify strengths and weaknesses of the framework, prompting where we should be producing guidance or seeking policy changes in response to emerging national trends.

The questions in the annual return are currently being developed. Some will stay the same as last year so that we can report on progress, but many of them will change.

Our reasons

We are aiming to have a shorter questionnaire which will use tick boxes where possible to capture practices that are common across many authorities. This should mean that less time is required completing responses; unless there are exceptional circumstances or innovative activities to tell us about. We only expect authorities to provide lengthy responses where they think that a narrative will help others in the standards community who may find themselves in a similar position.

We appreciate that the timing of the annual return is not ideal. April marks the start of the new financial year and is inevitably a busy time for all concerned. However, we want to be able to relay the messages from the year as soon as possible. Therefore, like last year, we will be asking for annual returns to be completed during April and May.

To help authorities complete this task during a busy time, we will be publishing the questions earlier. We hope to communicate the questions to monitoring officers in January 2010. This is so authorities have more time to plan and consult with their standards committee and other key figures, such as the council leader and chief executive, when preparing their responses.

Governance Toolkit for Parish and Town Councils

The second edition of the Governance Toolkit for Parish and Town Councils was well-regarded, winning a *Municipal Journal* Legal Achievement of the Year Award in 2007. The third edition of this valuable resource was finalised in April and is now available to download.

This edition has been revised, updated and produced in partnership between the National Association of Local Councils, the Society of Local Council Clerks, Standards for England and the Association of Council Secretaries and Solicitors. It is also endorsed by the Local Government Association. Milton Keynes Council, a fully parished part urban and part rural authority, is recognised as having been at the forefront of parish council initiatives for many years, and undertook the editing and production of this edition of the toolkit.

This new edition toolkit is a comprehensive, practical reference guide. The topics covered include governing documents, public engagement and managing information, creation of new town and parish councils and elections.

The toolkit will be most useful for

- town/parish clerks and councillors
- those interested in becoming a parish councillor

- principal councils wanting to establish parish councils in their areas
- monitoring officers.

If you would like to download a copy, you can find it in the [Resource Library](#) on our website under 'toolkits'.

Assessment Made Clear DVD

Copies of our new DVD – '*Assessment Made Clear*' have now been distributed to local authorities. We are keen to hear your feedback and so with each DVD there is a freepost feedback postcard, which should be quick and easy to complete and return to us. If you prefer to provide feedback online there is now an [online form](#) on our website.

So far we have been pleased with the response you've given to its approach in dealing with different assessment scenarios. However, some monitoring officers have expressed disappointment that it is not possible to freely copy the DVD as was the case with our previous DVD.

We have not envisaged a need for authorities to consider widespread distribution of this particular DVD. Our view is that this DVD is targeted at standards committee members serving on assessment sub committees and is best watched in a training situation, where group discussion supports the learning points set out in the DVD.

While it may be considered informative for a wider community of local councillors and appropriate officers, for such audiences we believe the context of the DVD, and discussion around it, are best moderated within a group training setting.

We do appreciate there may be cases where exceptions are to be made - so we have taken the decision to make further copies of the DVD available from us for £12.50.

Using the DVD

Alongside the usual features, the DVD includes 'pause and discuss' slides to allow you to pause after each case study and, as a group or as individuals, discuss or think through what you would do in that situation.

Subtitles are provided as an extra and scene selection allows you to revisit easily the sections that are of most interest to you. A pdf of the learning points is also available when viewing the DVD on your PC.

You can [view a trailer](#) of the DVD on Standards for England's website.

To order further copies please contact publications@standardsforengland.gov.uk or call our reception number – 0161 817 5300.

Police authorities and joint standards committees

In the *Joint standards committee guidance* we state that a police authority is unable to enter into joint arrangements with another police authority because Section 107(2) of the Local Government Act 1972 prevents them from having any of their functions carried out by other police authorities.

After receiving a large number of queries about this from police authorities we consulted again with Communities and Local Government. As a result of this liaison we now believe that our original interpretation of the legislation was incorrect. It is now understood that the 1972 Act does not prevent police authorities from forming joint standards committees with each other in line with the [Standards Committee \(Further Provision\) \(England\) Regulations 2009](#).

We would like to take this opportunity to apologise for the confusion. Our guidance will be modified shortly to reflect our updated position.

Review of the standards framework

We have all been operating the new standards framework for 18 months. As such, now is a good time for Standards for England, as the strategic regulator responsible for making sure it works effectively, to carry out a review of its effectiveness and proportionality. Where necessary we want to make recommendations to Communities and Local Government (CLG) for improvement.

We already have much of the information we need gathered from our research among various stakeholder groups (to which many of you have contributed - thank you), and from our own experience of monitoring and working with the standards framework. Soon we will be consulting with various bodies representing key local government and standards interests on what they think and about any recommendations we want to make. Our intention is to send these recommendations to CLG in March of next year.

We will keep you informed on the progress of the review through future bulletins and on our website. If, in the meantime, you have any queries then please contact Dr Gary Hickey on 0161 8175416 or gary.hickey@standardsforengland.gov.uk

Share your experiences of local standards

You can discuss anything you find topical in this Bulletin with fellow monitoring officers or standards committee members by using our new online forum. The Standards Forum, launched in October, provides a place for you to network, ask questions, share good practice, make recommendations and discuss any topics relating to the local standards framework.

All monitoring officers were automatically registered for the Forum and asked to send us the details of any members of their standards committees who wanted to join along with one other nominated officer. We have had a positive response and registered an additional 300 users, with more requests for membership being received daily. We intend to open membership up further by granting a further two officer registrations for each authority once we have registered this first wave of users. This is likely to happen early in the new year.

There are currently over 30 different subjects being discussed on the Forum. Popular topics include recommendations for external investigators and trainers; debates about protocols including the notification of subject members and the publication of decision summaries; and advice on the recruitment of parish members.

To find out more please access the [forum](#).

If you have any questions please contact forum@standardsforengland.gov.uk

Reminder: the importance of completing information returns

Within part 10 (Ethical Standards) of the Local Government and Public Involvement in Health Act 2007 it states that local authorities must send a periodic information return to us when we request one.

The periods we have specified, in the interest of not placing an unnecessary burden on local authorities, are the financial year quarters. In addition, we request a further return on an annual basis, meaning that there are five information returns required per year.

The information returns are extremely important. We need them to keep us up-to-date with how the local framework is functioning. They allow us to identify individual authorities that are not complying with the local standards framework or who are facing difficulties in implementing it.

So far authorities have been responsive in providing us with information on their experience, and the average percentage of returns completed for each quarter of the year is 99%. Over the 6 quarters for which we have requested returns, there have been just **13** instances where authorities have not provided a response. This is not bad when you consider there are over 400 authorities that we send requests to.

However, it often takes a significant effort to collect all of the returns. Roughly 75% of authorities complete their return by our deadline which is 10 working days after the close of each quarter. But the remaining authorities, who number more than 100, require multiple e-mail reminders and telephone calls before they complete their return. This is unacceptable, as it means it takes us longer than we would like to pull together all of the data and report on our findings.

Ultimately, we expect the authority's monitoring officer to complete our information returns. However, they can delegate this task to a colleague if they wish. For consistency we will always send our email correspondence directly to the monitoring officer, but if they know that they are not going to be available when a return is due they should delegate the task to somebody who is.

For more information on Standards for England's information returns please contact our monitoring team on 0161 817 5300.

Update on the transfer of the Adjudication Panel for England into the unified Tribunal structure

On 1 September, the General Regulatory Chamber (GRC) was launched as part of the First-tier Tribunal. The work of the Adjudication Panel for England will be transferred into the GRC in January 2010.

Legislative process

A 'Transfer of Tribunal Functions Order', transferring the functions of the Adjudication Panel into the GRC, has now been laid in Parliament. The order requires Parliamentary approval. Debates on the order will take place before the end of the year. The order contains amendments to the Local Government Act 2000, to the Standards Committee Regulations and to the Case Tribunal Regulations. Once Parliamentary approval has been obtained an amended version of each of those provisions will be available on the [Tribunals Service website](#).

The Order abolishes the Adjudication Panel for England, whose functions will then be undertaken by the First-tier Tribunal and will be known as the First-tier Tribunal (Local Government Standards, England). The President and members of the Adjudication Panel will be transferring as either judges or members of the First-tier Tribunal assigned to work in the General Regulatory Chamber of that Tribunal. The President will also be a deputy judge in the Upper Tribunal.

Impact on users

References and appeals made to the President of the Adjudication Panel are determined by Case Tribunals and Appeals Tribunals. The people who sit on those Tribunals will be the same people who determine these kinds of matters in the name of the First-tier Tribunal (Local Government Standards, England). The associated administrative work will also be undertaken by the same people as currently do this. Such work will continue to be based at the Tribunals Services offices in Leeds.

Since it was established, the Adjudication Panel has operated without any formal rules. That situation will change as a result of the transfer of work into the First-tier Tribunal. The procedure rules give more explicit powers of

direction to the First-tier Tribunal than were available to the Adjudication Panel, including power to summon witnesses.

All proceedings taking place after the transfer order comes into effect will be conducted in accordance with the rules of the First-tier Tribunal unless, in the case of proceedings which have already started, it would be unfair to apply particular provisions of those rules.

You can view regular updates on the [GRC page](#) of the Tribunals Service website.

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