

AGENDA

Audit and Governance Committee

Date: **Wednesday 5 December 2012**

Time: **10.00 am**

Place: **The Council Chamber, Brockington, 35 Hafod Road,
Hereford, HR1 1SH**

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

For any further information please contact:

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Agenda for the Meeting of the Audit and Governance Committee

Membership

Chairman

Councillor J Stone

Vice-Chairman

Councillor JW Millar

Councillor CNH Attwood

Councillor EMK Chave

Councillor PGH Cutter

Councillor AJ Hempton-Smith

Councillor TM James

Councillor Brig P Jones CBE

Councillor PJ McCaull

(Note: there is also one vacancy on the Committee which will be filled shortly)

AGENDA

	Pages
1. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
4. MINUTES	1 - 8
To approve and sign the Minutes of the meeting held on 12 November 2012.	
5. NOTICES OF MOTION	9 - 14
The purpose of this report is to recommend a change to the Council's Procedure Rules for notices of motion and a protocol for adoption.	
6. STANDARDS PANEL REPORT, 22 NOVEMBER 2012	15 - 22
The purpose of this report is to consider the recommendations of the Independent Person, following the Standards Panel meeting on 22 November 2012, in respect of Councillor GA Powell.	
7. DATE OF NEXT MEETING	
Friday 18 January 2013 10.00 am.	

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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Audit and Governance Committee held at The Library, Shire Hall on Monday 12 November 2012 at 2.00 pm

Present: Councillor J Stone (Chairman)
Councillor JW Millar (Vice Chairman)

Councillors: CNH Attwood, EMK Chave, PGH Cutter, Brig P Jones CBE and PJ McCaull

In attendance: Councillor A Seldon, in his capacity as Chairman of the Overview and Scrutiny Committee

[Note: the meeting was scheduled to take place in the Assembly Hall at the Shire Hall, but was transferred to the Library at the Shire Hall due to the planned meeting space requiring additional cleaning and re-arranging. All members of the public and the Committee were re-directed to the Library.]

25. APOLOGIES FOR ABSENCE

Apologies were received from Councillor AJ Hempton-Smith and Councillor TM James. The Committee also noted that Councillor KS Guthrie was no longer a member of the Committee, having transferred to the new Health Overview and Scrutiny Committee. A replacement Member would be appointed to the Audit and Governance Committee in due course. The Committee expressed their thanks to Councillor Guthrie for her excellent contribution to its role and work.

In addition, the Committee noted that Councillor MAF Hubbard had been invited to attend the meeting in respect of Agenda Item 10 (Report of the Standards Panel: Breach of the Members' Code of Conduct by Councillor MAF Hubbard), and had declined due to other Council commitments.

26. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

27. DECLARATIONS OF INTEREST

There were no declarations of interest made.

28. MINUTES

RESOLVED: that the minutes of the meeting held on 21 September 2012 be approved and signed as a correct record by the Chairman, subject to the following amendment:

Minute 15 (Annual governance Report 2011/12): First bullet point, delete last sentence.

In addition, the following points were made in relation to matters arising from the minutes:

Minute 14 (Statement of Accounts): The Head of Corporate Finance circulated information to the Committee about the Council's current position at the half-year stage in respect of Reserves.

The Chief Officer (Finance and Commercial Services) said that he would forward a Pay Policy Statement to Councillor McCaull, and details of Members' allowances to Councillor Chave, after the meeting.

Minute 15 (Annual Governance Report): Councillor Attwood thanked the Chief Officer (Finance and Commercial) for providing a financial breakdown of costings relating to Hoople. The Chief Officer (Finance and Commercial) agreed to circulate this information to all members of the Committee later that day. Councillor Attwood emphasised the importance of having access to accounts for all of the Council's partners in addition to Hoople, so that the Committee was in a position of being able to provide information and answer questions when asked.

Minute 17 (Annual Assurance Report): The Committee agreed to hold a private meeting with the Head of both Internal and External Audit, starting at 12.30 p.m., after its meeting programmed for 18 January 2013. The meeting would be an informal opportunity to ask questions of the auditors without Council officers being present. The Head of Audit Services emphasised that this was a recommended and standard practice for all local authorities nationally, and was being suggested for this reason only.

29. ANNUAL ACCOUNTS ACTION PLAN

The Chief Officer (Finance and Commercial) reported on the Audit Commission's Annual Audit Letter for 2011/12, and outlined the proposed action plan for closure of the 2012/13 accounts. The Committee noted that the Audit Commission had issued an unqualified opinion on the Council's financial statements, both in terms of the overall audit, and value for money. The Commission had concluded that the Council had made proper arrangements to secure economy, efficiency and effectiveness in its use of resources. Four principal issues had been identified for the Council for 2012/13, namely:

- Financial Position;
- Adult Social Care;
- Waste Disposal PFI Contract; and
- The Health and Social Care Act.

The Committee considered the action plan, comprising eight recommendations, noting that some of these had already been implemented, others agreed and supported by a timetable, and others not fully accepted by the Council. Measures being taken by the Council included:

- Working with the Local Government Association to improve its arrangements for managing outsourced contracts (procurement);
- A review of the financial reporting process with particular reference to Adult Social Care. This service had benefitted from a period of stability in leadership, enabling firm plans to be drawn up for improving strategic service delivery, and strengthening financial management. The Commission's view was that the Council should re-consider its Adult Social Care budget, particularly in view of Herefordshire's challenging demographic profile which indicated a higher than average population of older people;
- Following a review of joint arrangements under the Waste Disposal Contract, Cabinet had approved a set of criteria – including financial parameters – which must be met before any variation of the contract could be approved. The Council had also commissioned a separate review on whether a revision of the contract was the most suitable approach.

In response to questions from Members of the Committee, the following points were made:

- The Chief Officer (Finance and Commercial) reported that there had been challenges in accumulating procurement savings over the time period, although some progress had been made. It was likely that these would not be fully delivered until 2013/14 due to the lengthy processes involved;
- In future years, it would be possible to circulate the accounts to the Audit and Governance Committee at least two weeks prior to signing-off, through bringing the entire accounts timetable forward and creating further efficiencies in the process;
- The Chief Officer (Finance and Commercial) confirmed that the Safeguarding budget would experience additional budget pressure during the current financial year as a result of the need to deliver some short-term remedies following an external inspection.
- The current Root and Branch Review process was expected to identify further budgetary savings. An all-Member seminar on the budget would be held in the near future to keep members apprised of the current situation, and to take account of any announcements from Central Government.

RESOLVED: that

(a) the Audit Commission's Annual Audit and Inspection Letter for 2011/12 be noted; and

(b) the action plan for the 2012/13 accounts be approved.

30. WORK PROGRAMME 2012/13

Members considered a proposed forward work programme, which would assist the Audit and Governance Committee in discharging its responsibilities in an effective and timely manner. The work programme focussed on the transaction of financial and audit business, recognising that governance matters would require a greater degree of flexibility. For this reason, the proposed frequency of meetings would remain as monthly, to allow for *ad hoc* items such as complaints against Councillors, and necessary changes to the Constitution, to be dealt with quickly and at short notice. This was necessary to ensure that there was a minimum delay in responding to governance matters.

The Committee acknowledged that officers involved only in financial and audit business would not be required to attend meetings which were considering only governance business. In addition, it was noted that the Chairman and key officers would take a view on the expediency of any business to be transacted ahead of each meeting, and would agree to cancel any unnecessary meetings during the course of the year.

In response to a question, the Chairman confirmed that if Members wished to raise any items of business for the Committee, they were welcome to do so either during the course of the meeting, or in between meetings in consultation with himself and the Vice-Chairman.

In response to an observation that some paragraphs in the Committee's Terms of Reference required updating, the Assistant Director (Law, Governance and Resilience) said that this was currently being completed as part of a general review of the Constitution, which would be considered by Council at its next meeting.

RESOLVED: that

(a) the Audit and Governance Committee work programme be approved as a basis for future agenda items; and

(b) the frequency of meetings will continue as monthly, to further the efficient management of governance issues, with the Chairman and key officers taking a view in advance on whether certain meetings can be cancelled if there is insufficient business.

31. INTERNAL AUDIT PROGRESS REPORT

The Head of Audit Services apprised Members on progress made with internal audit work, and drew their attention to key internal control issues arising from work recently completed. Recently completed audits included Public Health (Food Licensing), review of income collection procedures over three separate Council functions, Car Parking, and the ISO 27001 review of the Council's Modern Records Unit. No significant issues had been identified with any of the completed audits.

RESOLVED: that the report be noted.

32. HEALTH AND SAFETY

Members considered a report which identified how the Council was currently managing its Health and Safety issues, and welcomed Ms Nia Rowlands-Cranham, Health and safety Officer, to the meeting. Ms Rowlands-Cranham addressed the main points in the report and answered Members' questions arising therefrom. The report had arisen from a request by the Audit and Governance Committee at its meeting on 21 September 2012.

The following key points were made during the discussion:

- The management of Health and Safety issues has been improved through the formation of the Resilience Team and recruitment of staff in April 2012. An integrated approach to risk management had been achieved through the formation of a Resilience Group, which was chaired by the Deputy Chief Executive, and was responsible for providing a steer on all areas of risk.
- A comprehensive audit programme for Health and Safety in schools had been established during late 2011 and to date almost 100% of schools had been inspected.
- KPMG had conducted an audit early in 2012 which identified some key areas of non-compliance with Health and Safety policies. The policies had subsequently been completely revised and updated to ensure compliance with current legislation.
- A Council-wide Health and Safety training programme had been implemented and substantially expanded to ensure that all Managers were able to meet all of the necessary requirements. The training had been accredited by the Institute of Occupational Safety and Health (IOSH), and had also been tailored to meet certain specific local requirements where needed.
- A performance framework was being devised so that progress on Health and Safety improvements could be monitored and reported as a matter of routine, and any problem areas could be identified and addressed rapidly.
- Further work would be undertaken with the Council's partners to ensure that robust contractual arrangements existed, which supported the Council's Health and Safety policies.

In response to questions from the Committee, the Health and Safety Officer confirmed the following:

- Academies were able to buy into the Council's Health and Safety programme if they wished, or alternatively, they could seek the provision of Health and Safety management from an external provider. She confirmed that 80% of Academies had currently bought into the Council's scheme.
- The Council's Health and Safety policies were linked to its disaster recovery and management plans through the Emergency Planning and Resilience Teams.
- The Health and Safety Executive did not tend to conduct unannounced spot checks, but would always investigate promptly whenever a specific Health and Safety issue was raised. She said that she would ask the Health and Safety Executive to provide information about the bases that it used for any urgent or unannounced audits.
- The most influential factor in ensuring that the Council was compliant with Health and Safety legislation and policies was the provision of training on workplace inspection to all Managers. The Council's insurers would also expect the Council to review its procedures and its risk management regularly, thereby keeping up-to-date with changes in Health and Safety legislation. The Chief Officer (Finance and Commercial) confirmed that officers regularly met with the insurers to consider any important Health and Safety issues.

RESOLVED: that

- (a) the report, and the actions undertaken in response to the KPMG audit of the Health and Safety management system in January 2012, be noted;**
- (b) the improvements made by the Health and Safety Team and the Resilience Group be noted; and**
- (c) the Committee supports and communicates the work in progress in order to raise the Corporate Assurance Grading in respect of Health and Safety performance, in readiness for the follow-up audit by KPMG.**

33. THE MONITORING OFFICER'S ANNUAL REPORT

The Assistant Director (Law, Governance and Resilience), presented his annual report in respect of his role as the Council's Monitoring Officer. This included substantial work on major corporate projects, such as the proposed Retail Quarter, the Waste Disposal PFI Contract and the Broadband Contract. He had also overseen the restructure of the Law, Governance and Resilience department, improvements to the Constitution, observations on the Hoople Board during its first year of trading, and the introduction of a new standards regime under the Localism act 2011. As part of the latter, he gave an outline of the way that the Standards Committee had dealt with 55 complaints lodged against Councillors during the course of the year.

RESOLVED: that the report be noted.

34. REPORT OF THE STANDARDS PANEL: BREACH OF THE MEMBERS' CODE OF CONDUCT BY COUNCILLOR MAF HUBBARD

The Assistant Director (Law Governance and Resilience) reported on a breach of the Code of Conduct by Councillor MAF Hubbard, which had been reported as a standards complaint by the Chief Executive of Herefordshire Council.

The complaint had been investigated independently by Ms Olwen Dutton of Bevan Brittan LLB, and she had published her findings in a report. On 2nd November 2012, the Standards Panel, comprising Mr Jake Bharier (Appointed Independent Person), Councillor Chris Chappell (Local Authority Advisor) and Mr Richard Gething (Parish and Town Council Advisor), had met Councillor Hubbard to consider the report and all aspects of the complaint.

The Committee considered the Appointed Independent Person's report which concluded that Councillor Hubbard had breached the Members' Code of Conduct on two counts: (1) that he had failed to comply with one of the ten general principles of public life – namely honesty and integrity – by removing a confidential document from a Council office, to which he was not entitled; and (2) that he had failed to comply with Paragraph 4(a)(iv) of the Code of Conduct, by disclosing to the Hereford Times a document which was exempt from publication for reasons of commercial confidentiality.

The Assistant Director (Law Governance and Resilience) circulated the full list of sanctions available to be administered by the Audit and Governance Committee. The Committee also considered the sanctions which were recommended by the Appointed Independent Person, namely:

- The Audit and Governance Committee would present a report on the investigation and the consideration of the complaints to the next full Council meeting; and
- Training should be arranged for Councillor Hubbard to ensure that he is fully apprised of the established processes for seeking advice;

The Committee also discussed the following issues relating to the complaint:

- Whether there were any alternative or additional options available in terms of sanctions, and whether the sanctions proposed by the Appointed Independent Person were sufficiently, or insufficiently stringent. It was agreed that the sanctions proposed should be administered as set out in the report;
- Whether the decision of the Appointed Independent Person was fair and balanced, given the facts. It was agreed that it was.
- The Assistant Director (Law governance and Resilience) advised the Committee that it also had powers to direct that any complaint be re-investigated if appropriate. Members decided that in this case, the investigation had been thorough and satisfactory, and that no further investigations were necessary.

The Committee also noted as a general issue which was separate from this complaint case, that under the previous Standards regime, the sanctions system was more clearly defined. Members felt that the Localism Act, by enabling local authorities to self-regulate, had introduced a lesser-defined set of sanctions without a finite number of examples. Some limitations were clear, such as not allowing any sanction which would impinge upon Members' powers to assist their electorate, but others were not, such as directing a member to write an apology for a particular action. The Committee agreed that there was merit in considering in greater detail, the powers and sanctions available to it for Standards cases, at a future meeting.

RESOLVED: that

- (a) the Audit & Governance Committee approves the recommendations of the Appointed Independent Person following the Standards Panel meeting on 2nd November;**
- (b) the Audit & Governance Committee reports the outcome of these breaches to Council; and**

- (c) **the Audit and Governance Committee, at a future meeting, considers the powers and sanctions available to it in respect of Standards Cases under the Localism Act 2011.**

35. DATE AND TIME OF NEXT MEETING

Members noted that the Committee's next meeting would be held on Wednesday 5th December 2012, at 10.00 a.m. in the Council Chamber at Brockington.

The meeting ended at 3.51 pm

CHAIRMAN

MEETING / DECISION MAKER:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	5 DECEMBER 2012
TITLE OF REPORT:	NOTICES OF MOTION
REPORT BY:	ASSISTANT DIRECTOR LAW, GOVERNANCE AND RESILIENCE

1. Classification

1.1 Open.

2. Key Decision

2.1 This is not a key decision.

3. Wards Affected

3.1 County-wide.

4. Purpose

4.1 To recommend a change to the Council's Procedure Rules for notices of motion and a protocol for adoption.

5. Recommendation(s)

THAT: it be recommended to Council that:

- (a) **Procedure Rules 4.1.16 be amended as indicated in the Protocol appended to the report; and**
- (b) **The protocol appended to the report be adopted.**

6. Key Points Summary

6.1 These proposals respond to difficulties highlighted at the September Council Meeting with regard to formulating Notices of Motion.

7. Alternative Options

- 7.1 The existing rule could remain, in which event Members would need to perfect their notice of motion before lodging and make amendments only at the Council Meeting.

8. Reasons for Recommendations

- 8.1 The Protocol and amendment to the Procedure Rule allow greater flexibility to ensure motions for debate are properly formulated.

9. Introduction and Background

- 9.1 At the September meeting of Council, difficulties in the process for amending notices of motion were highlighted. Under the current rules, such notices are delivered to the Monitoring Officer and are entered in a book open to inspection by the public. They cannot then be changed until the Council meeting. If withdrawn for changes to be made and relogged, the notice could lose priority because only three such notices can be debated at any one Council meeting. The agenda for the Council meeting often contains wording for notices of motion which are likely to be changed at Council and this makes it difficult for Members to respond in a constructive way in debate.

10. Key Considerations

- 10.1 The appended Protocol and Amended Procedure Rule allows Members to retain priority in the notices of motion by lodging a notice of motion (or a description of the subject matter) and to then change the wording to better effect with the assistance of the Monitoring Officer.

11. Community Impact

- 11.1 Matters of community impact should be the subject of informed debate and these proposals further that purpose.

12. Equality and Human Rights

- 12.1 Upon examination, the General Duty under section 149 of the Equality Act 2010 does not raise issues requiring consideration in this report.

13. Financial Implications

- 13.1 None.

14. Legal Implications

- 14.1 None, save as identified in the report.

15. Risk Management

- 15.1 If these proposals are not adopted, then consideration of matters for debate at Council may be flawed and time wasted at meetings.

16. Consultees

- 16.1 These proposals have been considered and endorsed by Group Leaders.

17. Appendices

- 17.1 Draft Protocol and amended Procedure Rule.

18. Background Papers

- 18.1 None identified.

Draft Protocol for Notices of Motion

1. Council meetings are the centrepiece of the democratic process in Herefordshire and we aim to improve the quality and relevance of debate. It is important that Members are given every reasonable assistance to bring matters of public concern to the debating chamber.
2. Under the Council's Procedure Rules, the conduct of a Council meeting is at the direction of the Chairman, who is generally advised by the Monitoring Officer and supported by the Vice Chairman and the Chief Executive. The Chairman's ruling on a point of order is final and cannot be challenged. A motion can be refused if it is "illegal, scurrilous, improper or out of order". However, it is preferable that such issues are identified and rectified in advance whenever possible so that debate is not curtailed.
3. The Procedure Rules have until now only permitted a Member to amend a Notice of Motion at a Council Meeting. By changing these rules, Members will in future be able to alter the wording in consultation with the Monitoring Officer. This will enable advice to be given which reduces the risk of challenge and makes for more effective debate. A Member can also decide to register the subject matter of a notice of motion to retain priority (only three notices of motion can be debated at any one meeting) and finalise the wording at a later date. This needs to take place prior to dispatch of the Agenda. The amended rule is set out below.
4. The Monitoring Officer will advise Members on the technical points of procedure and make suggestions about the most effective form of words. He cannot advise on political matters. If he is not available, assistance can be given by the Head of Governance.
5. Governance Services maintain a record of all Notices of Motion. This can be viewed by all Members and will be accessible by electronic means.
6. This Protocol is intended to enhance democratic participation and help Members with the technical rules of debate which they will encounter. However, once the meeting is in progress, Members are expected to know and fully comply with the Procedure Rules. Failure to follow these may curtail their contribution to the debate. Training on these Rules is given from time to time as part of the Member Training Programme.

Footnote: Amended Procedure Rule

- 4.1.16.1 Except for motions which can be moved without notice under these Council rules, written notice of every motion, signed by at least one Member, must be delivered to the Monitoring Officer not later than midday on the seventh working day before the date of the Meeting. These will be entered in a book open to inspection by the public. A Member cannot sign more than one motion per Meeting.
- “4.1.16.2 ***Notices of Motion may be amended in consultation with the Monitoring Officer at any time prior to the publication of the Agenda by the Member(s) who have signed the notice PROVIDED THAT such amendment shall not change the subject matter of the motion.***”
- 4.1.16.3 ***Notice of Motion delivered under 4.1.16.1 may take the form of a description of the subject matter to be debated, provided that it is subsequently amended under 4.1.16.2”***

MEETING / DECISION MAKER:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	5 DECEMBER 2012
TITLE OF REPORT:	STANDARDS PANEL REPORT, 22 NOVEMBER 2012
REPORT BY:	ASSISTANT DIRECTOR, LAW, GOVERNANCE AND RESILIENCE & MONITORING OFFICER

1. Classification

1.1 Open.

2. Key Decision

2.1 This is not a key decision.

3. Wards Affected

3.1 County-wide.

4. Purpose

4.1 To consider the recommendations of the Independent Person, following the Standards Panel meeting on 22 November 2012.

5. Recommendation(s)

THAT:

- (a) Members approve the report of the Standards Panel meeting on 22 November 2012;**
- (b) Members approve the recommendations of the Independent Person following the Standards Panel meeting and request the Monitoring Officer to arrange training for the subject member; and**
- (c) Members request Council to consider the recommendation of the Independent Person as to membership of outside bodies.**

6. Key Points Summary

- The complaint was made in December 2010 and referred for investigation by the assessment sub-committee of the Herefordshire Standards Committee;
- The investigation was not completed;
- The complaint was referred to the Standards Panel to be concluded under the new standards system implemented 20 July 2012;
- The panel found the subject member to be in breach of the Members' Code of Conduct;
- The Independent Person made recommendations for penalties to be implemented.

7. Alternative Options

7.1 The alternative options are to:

- accept the findings in the report, but impose an alternative sanction;
- accept the findings and impose no sanction;
- reject the findings and recommendations.

8. Reasons for Recommendations

8.1 The Panel agreed that the subject member had failed to comply with the Code of Conduct. The relevant sections of the Code were:

Part 1, paragraph 2 of the Code of Conduct

- (1) You must comply with this Code whenever you:
- (b) act, claim to act or give the impression you are acting as a representative of your authority.

Part 1, paragraph 3 of the Code of Conduct

- (1) You must treat others with respect.

Part 1, paragraph 5 of the Code of Conduct

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

8.2 The Panel noted that the new Code of Conduct, implemented on 20 July 2012, contained equivalent provisions in the Rules of Conduct, paragraphs 1(a) and 11(b).

9. Introduction and Background

9.1 Council has adopted a new system for resolving complaints against Members, which was approved by the Audit and Governance Committee, at its meeting on 21 September 2012.

- 9.2 Under this process, complaints which were otherwise ready for final determination under the old regime, but which had not been concluded by the Standards Committee, fell to be considered by a newly constituted Standards Panel who would consider the facts and/or previous findings and make an appropriate report to this committee.
- 9.3 This report relates to the second of two complaints that remain outstanding from the old regime.

10. Key Considerations

- 10.1 The Standards Panel met on Thursday 22 November 2012 to consider a complaint made on 2 December 2010 that Councillor Glenda Powell had failed to comply with the Members' Code of Conduct.
- 10.2 The process of addressing the complaint had already commenced under the previous scheme. It had been referred for investigation following consideration by an assessment sub-committee.
- 10.3 The investigation was not concluded owing to delays resulting from the ill health of both subject member and the investigating officer's mother. On 1 July 2012, the standards system was abolished. The implementation of a new system and the statutory requirement to appoint Independent Persons resulted in further delays in resolving the complaint.
- 10.4 The Panel considered the facts of the case and the comments of both the complainant and the subject member, and decided that there had been a breach of the Code of Conduct.
- 10.5 The Panel discussed and agreed what sanctions it would be appropriate to recommend to the Monitoring Officer for decision by the Audit and Governance Committee.

11. Community Impact

- 11.1 None identified.

12. Equality and Human Rights

- 12.1 None identified.

13. Financial Implications

- 13.1 None arising directly from this report.

14. Legal Implications

- 14.1 The Council's Standards Committee and the previous regime for resolving complaints about the conduct of elected members were abolished on 1 July 2012 by the Localism Act 2011. Complaints unresolved at that date fall to be concluded in accordance with the new scheme to ensure a clear transition from the previous standards regime to the new local complaints system. The content of this report complies with the requirements of the Localism Act.

15. Risk Management

- 15.1 If complaints are not handled expeditiously then public confidence may be undermined and the Council's ethical credibility may be undermined.

16. Consultees

- 16.1 None.

17. Appendices

- 17.1 Report of the Standards Panel meeting on 22 November 2012 (attached as an appendix to this report).

18. Background Papers

- 18.1 None identified.

**Meeting of the Standards Panel
22 November 2012: Committee Room, Brockington**

Present:

The Standards Panel:

Jake Bharier, Appointed Independent Person (Chair)
Councillor Chris Chappell (Herefordshire Council representative)
Richard Gething (Town & parish council representative)

Legal adviser:

Chris Chapman, Monitoring Officer

Clerk:

Hazel Lavelle, Democratic Services Support Officer

Subject member:

Councillor Glenda Powell

Complainant:

Councillor Adrian Bridges

1. The Chair introduced all those present. He outlined the roles of the panel members and the function of the panel as a whole, with reference to the relevant section of the Localism Act 2011, and explained that the proceedings were informal. The Chair outlined the current position as follows:
 - Complaint SC1031 was made on 2 December 2010, by Mr Adrian Bridges. Mr Bridges made the complaint in his capacity as Secretary and a director of the Northolme Community Centre Association (NCCA). The complaint relates to an e-mail that the subject member sent to Mr Brian Hubbard, a resident of Belmont parish, following his attendance at a seminar on 21 July 2010, which the subject member had also attended. In the e-mail, the subject member expressed concern about a comment made at the seminar by Mr Hubbard, that the Northolme Community Centre and the Belmont Community Centre, both of which are within the parish of Belmont, should be managed by the same group of people. In the e-mail, the subject member suggested that:
 - the people running the Northolme Community Centre were not outward looking and excluded those not in their "clique";
 - the community centre association members and the community centre were under investigation by the Charity Commission;
 - an Extraordinary General Meeting of the Association on 25 June 2010 was null and void because it had not complied with Charity Commission rules;
 - at that meeting on 25 June, two committee members who tried to speak were shouted down by local residents; and
 - because an Annual General Meeting had not been held in accordance with Charity Commission requirements, the Charity Commission could close down the Community Centre.

The e-mail was sent to Mr Hubbard on 21 July 2010. It was not copied to anyone else. On 8 September 2010, Mr Hubbard forwarded the e-mail to Belmont Parish Councillor Mrs Beryl

Brown, and it was discussed at a meeting of the Directors of NCCA on 14 October 2010. The complainant alleged that all the comments made by the subject member in her e-mail to Mr Hubbard were untrue and that they would have a damaging effect on the reputation of the members of the NCCA.

2. On 8 December 2010, the assessment sub-committee of the standards committee of Herefordshire Council, comprising Jake Bharier, (Independent Member and Chairman), Richard Gething, (Parish and Town Council Representative) and John Stone (Local Authority Representative), considered the complaint and, in accordance with Section 57A(2) of the Local Government Act 2000, as amended, the assessment sub-committee decided to refer the allegation to the monitoring officer of Herefordshire Council for investigation. The sub-committee considered that the information before it was sufficient to suggest that there may have been a breach or breaches of the council's Code of Conduct, subject to the investigation determining that Councillor Powell was acting as a councillor when sending the e-mail. The investigation was not concluded owing to delays resulting from the ill health of both subject member and the investigating officer's mother. On 1 July 2012, the standards system was abolished. The implementation of a new system and the statutory requirement to appoint Independent Persons resulted in further delays in resolving the complaint.
3. The chair expressed his regret that it had taken so long to reach a point at which a decision could be made on the matter.
4. The Chair invited the complainant to outline the grounds for his complaint. Mr (now Councillor), Bridges explained that allegations made in the e-mail sent by the subject member to a member of the public, Mr Brian Hubbard, were untrue and damaging to the NCCA.
5. The subject member stated that the e-mail had been sent from her personal e-mail address and signed 'Glenda', and that she had not, therefore, been acting in her capacity as a councillor at the time. She explained that she sent the e-mail because Mr Hubbard had approached her on 21 July 2010, at a seminar organised by the City Council, wishing to discuss a meeting of the NCCA that had taken place on 25 June 2010. The subject member advised him that it would be inappropriate to discuss this matter at the seminar and that she would speak to him later.
6. At the time the e-mail was sent, the subject member was one of three Herefordshire Councillors representing the Belmont ward, a Hereford City Councillor and a Belmont Rural Parish Councillor. The subject member resigned from Belmont Parish Council in May or June 2012.
7. The panel had further discussion with the subject member and the complainant. It then first addressed the question of whether the subject member had been acting in her capacity as a councillor when she sent the e-mail. The panel considered that:
 - The subject member had been asked by Herefordshire Council to help with setting up the NCCA originally because of her position as a councillor;
 - the subject member was not invited to the NCCA meeting on 25 June 2010 as a director or member of the NCCA, but had been asked by two ex-directors of the NCCA to attend as an observer because of her status as a councillor;
 - the seminar on 21 July 2010 at which the subject member was approached by Mr Hubbard, was organised by and for Hereford City Councillors. The subject member was present in her capacity as a Hereford City Councillor, and had led discussions there. She would therefore have been approached by Mr Hubbard in that capacity.

- although the e-mail on 21 July 2010 may have been sent from the subject member's personal e-mail address and was signed 'Glenda', it was normal practice for the subject member to be addressed by constituents as 'Glenda' when on council business, and not unusual for councillors to use their personal e-mail addresses when on council business;
 - there were significant doubts about the subject member's claim that the e-mail was sent in reply to one from Mr Hubbard.
 - all councillors were aware that they may be seen as representing their authority at all times and must behave accordingly;
 - an ordinary member of the public would not make the distinction between a councillor's different roles as ward, city or parish councillor.
8. **The panel considered that, in the light of the subject member's long involvement as a local councillor and her appointment as a councillor to setting up the NCCA, it was reasonable to perceive her as acting in her capacity as a councillor when she sent the e-mail on 21 July 2010. Therefore, the Code of Conduct applied to her at the time.**
9. The panel went on to consider the allegations made in the e-mail. The panel noted:
- the subject member's statement that the allegations had been based on information given to her by other directors of the NCCA;
 - the subject member's statement that she had given those directors the telephone number of the Charity Commission expecting that they would seek an investigation;
 - the complainant's statement that he knew of no investigation into NCCA instigated by the Charity Commission;
 - The complainant's statement that the only correspondence between the Chair or Secretary of NCCA and the Commission had related to procedural matters for general meetings;
 - the complainant's statement that the NCCA's accounts were properly audited and no financial irregularities had been reported;
 - Correspondence from the Charity Commission to one of the directors of NCCA.
10. The panel noted in particular that there was no evidence that the Charity Commission had considered investigating NCCA or taking any other action against it.
11. **The panel considered that the allegations in the subject member's e-mail were unsubstantiated, and that they could be damaging to the NCCA. The panel therefore considered that the subject member had failed to comply with the Code of Conduct.** The relevant sections of the Code were:

Part 1, paragraph 2 of the Code of Conduct

- (1) You must comply with this code whenever you:
 - (b) act, claim to act or give the impression you are acting as a representative of your authority.

Part 1, paragraph 3 of the Code of Conduct

- (1) You must treat others with respect.

Part 1, paragraph 5 of the Code of Conduct

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

12. The panel noted that the new Code of Conduct, implemented on 20 July 2012, contained equivalent provisions in the Rules of Conduct, paragraphs 1(a) and 11(b).
13. **The panel considered the options for penalties in respect of the complaint. The panel decided, and it is my recommendation, that, in respect of the subject member's position as a member of Herefordshire Council:**
 - **the Audit and Governance Committee be asked to present a report on the consideration of the investigation of the complaint to the next full council meeting;**
 - **the Audit and Governance Committee be asked to recommend to council to consider whether it was appropriate for the member to be appointed or nominated by the authority as a representative to external bodies;**
 - **training should be arranged for the subject member to ensure she is fully aware of the provisions of the members' Code of Conduct.**
14. **The panel further decided, and it is my recommendation, that, in respect of the subject member's position as a member of Hereford City Council, this report should be copied to Hereford City Council for their consideration.**
15. The panel noted that on 23rd March 2010, an assessment sub-committee of the Herefordshire Standards Committee had considered another complaint, number SC0950, made by a representative of NCCA against the subject member. The assessment sub-committee had decided to refer the complaint to the monitoring officer of Herefordshire Council, requiring guidance and advice to be given to Councillor Powell and, if, in the opinion of the monitoring officer, it was necessary, for mediation to take place between the parties. The decision was not implemented pending the outcome of a second complaint, and is now subsumed in the decision on complaint SC1031.

Jake Bharier
Independent Person
Chair of the Standards Panel
26 November 2012