

REPORT OF THE STANDARDS COMMITTEE

Meeting held on 20 June 2003

Membership:

Robert Rogers (Independent Member) (Chairman); Richard Gething (Parish Council Representative); Councillor Peter Harling; Councillor John Edwards.

CONSTITUTIONAL REVIEW

1. The Standards Committee was set up following the passing of the Local Government Act 2000. Advice and support on standards matters was previously given by an independent Standards Commission consisting of the Lord-Lieutenant, the Bishop of Hereford and the Hon. Recorder of Hereford (Lord Carlile of Berriew QC).
2. The recent making of regulations under the 2000 Act has completed the statutory framework in which complaints must be dealt with either by the Standards Board for England or by the Standards Committees of the authority concerned. Under the law as it now stands, there is no role for the Standards Commission, and the Council's Constitution will need to be amended.
3. We are sure that the Council will be grateful to the members of the Standards Commission for their service. If Council approves our recommendation, the Chairman of the Committee will write to thank them.

RECOMMENDATION TO COUNCIL:

That the Council's Constitution be amended by the deletion of paragraph 8.2 (The Standards Commission)

ELECTIONS 2003

4. We were glad to note that, following the elections on 1 May 2003, all 58 Herefordshire Councillors have made the necessary declaration of office undertaking to abide by the Model Code of Conduct. There is also good progress being made by Town and Parish Councillors in undertaking to comply with the Model Code of Conduct. All councillors are also required to complete the register of financial and other interests within 2 months of taking up office, and Town and Parish Clerks have been working hard to ensure that councillors comply with the requirements and provide the necessary information to the County Secretary and Solicitor.
5. It is important that Town and Parish councillors fully understand the requirements of the Model Code of Conduct, and we have sought to assist them through seminars and other events. We therefore particularly welcome the training programme which will be delivered by a partnership consisting of the University of Gloucester, the Herefordshire Association of Local Councils and the Council. As part of this initiative we look forward to sponsoring an event this Autumn which will cover the new arrangements for determining complaints locally as well as explaining the Code of Conduct and looking at aspects which can cause difficulty, for example declaration of interests and the difference between a personal and a prejudicial interest.

6. We will be providing Herefordshire Councillors with a set of the various standards codes and protocols in a convenient form for their handbook.

LOCAL DETERMINATION OF COMPLAINTS

7. The Local Authority (Code of Conduct) Local Determination (Regulations 2003) are now in force; and we much regret the long delay in their appearance. The main effect of the regulations is that, following a complaint of alleged misconduct being investigated by an Ethical Standards Officer appointed by the Standards Board for England, the complaint may then be referred by the Board to us for final determination, rather than being dealt with by the Board.
8. The law now provides that any complaint referred in this way involves an adjudication process – which may be fairly cumbersome. It may include the examination of witnesses, and the member complained against may be represented by counsel or a solicitor. We will be required to have legal advice independent of that offered by the County Secretary and Solicitor as Monitoring Officer. Our decision may, by leave of the president of the national Adjudication Panel, be appealed to a tribunal, so it is essential that any inquiry that falls to us is thorough, procedurally correct and recorded in detail. We must also – rightly – have regard to the principles of natural justice and the rights conferred by the Human Rights Act 1998.
9. We have already discussed the detailed procedures that will need to be followed, and be refining them further. At this stage there are three issues of which the Council needs to be aware.
10. First, **workload and staffing**. It is impossible to say how many complaints will be referred, but the implications for our workload – and, more important the workload of the County Secretary and Solicitor and her Department, in the preparation and conduct of hearings and in the detailed recording of proceedings – could be considerable. If even three or four cases were to be referred to us, this could have staffing implications.
11. The second issue is **the size of the Standards Committee**. Any hearing has to be conducted within three months of the Ethical Standards Officer's report being received by the Monitoring Officer. The committee conducting the hearing must include an independent member, and for town and parish council cases, the town/parish council representative. Illness or conflicting engagements may make a lengthy hearing with the appropriate quorum difficult to organise. More important, however, is the possibility that one or more of our members would be “conflicted out” through acquaintance in private life with those involved in a complaint.
12. We have therefore concluded that the committee (which at four members is very small by comparison with most authorities) should be larger, with the addition of a second independent member and a second town/parish council representative. We so recommend to Council.
13. The third issue of concern is that, as we have no legal protection in carrying out an inquiry if a complaint is referred to us, **we may individually incur legal costs and expenses** if any action is taken against us on account of the conduct of an inquiry. We therefore recommend to Council that we be indemnified in relation to any such costs and expenses, with the safeguards that they must be judged reasonable by the County Secretary and Solicitor, and that they arise as a result of our duties under the new regulations.

RECOMMENDATION TO COUNCIL:

- That (a) members of the Standards Committee be indemnified in relation to any costs and expenses, which are reasonable in the opinion of the County Secretary and Solicitor, that might be incurred in relation to the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003; and
- and
- (b) one independent member and one parish/town Councillor be added to the Committee.

INVESTIGATIONS BY THE STANDARDS BOARD FOR ENGLAND

14. We have considered a progress report on the current investigations by the Standards Board for England of complaints against town and parish councillors.

MEMBERSHIP

15. We take this opportunity of recording our thanks to Councillor Mrs Joyce Thomas, MBE, and to Mr Marcus Allen, town and parish council representative, for their work on the Committee since its inception. We wish them well, and welcome in their places Councillor John Edwards and Mr Richard Gething.

**ROBERT ROGERS
CHAIRMAN
STANDARDS COMMITTEE**

BACKGROUND PAPERS

- Agenda Papers of the Meeting of the Standards Committee held on 20 June 2003.