

[Presentation: retain same typeface and presentation as for 2006 Annual Report]

COVER

STANDARDS IN LOCAL GOVERNMENT

Herefordshire's contribution

The Annual Report of the Standards Committee for 2007



COVER PICTURE

HEREFORDSHIRE....covers 842 square miles (218,000 hectares). In area it is the second largest non-metropolitan unitary authority in England.

It has a population of 179,000, just over half of whom live in Hereford City, and five market towns (Bromyard, Kington, Ledbury, Leominster and Ross-on-Wye

In addition to Herefordshire Council, there are 134 Town and Parish Councils (and four Parish meetings), more than in any other unitary authority.

About 1,300 councillors are involved in representing Herefordshire communities.

Visit our pages on Herefordshire Council's website....

Go to <http://www.herefordshire.gov.uk>

Take the quick link to **Standards and Ethics** on the right of the homepage

You will then be able to access

- *Our agendas, minutes and working papers*
- *An electronic version of this Annual Report, and the Annual Report for 2006*
- *The Constitution of Herefordshire Council*
- *The Model Code of Conduct*
- *Herefordshire Codes of Conduct on Planning, the use of Council resources, IT and Member/Officer relations*
- *Guidance on chairing meetings, and on how to apply for a dispensation when prejudicial interests would otherwise conflict out more than half of the members of a Town or Parish Council*
- *Briefing for those attending a hearing*
- *Our decisions on recent complaints*

You will also find a link to the Herefordshire Association of Local Councils (HALC), our partners on local standards issues

Contact the Committee

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By email: hdonaldson@herefordshire.gov.uk

Contact the Monitoring Officer

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OPEN, FAIR AND PROPORTIONATE

What we do

The Committee was established on 1st July 2001 under section 53 of the Local Government Act 2000 and first met on 8th February 2002.

- **We promote and maintain high standards of conduct by the members and co-opted members of Herefordshire Council, and of Town and Parish Councils in the County**
- **We advise on codes of conduct, and draft and revise them where necessary**
- **We train members on conduct issues, and help them to observe codes of conduct**
- **We hold local hearings and determine complaints against councillors which are referred to us by the Standards Board for England, or which come to us after a complaint is referred by the Board for local investigation**
- **With the introduction of the “local filter”, complaints about councillor conduct will come to us first and not to the Standards Board; it will then be for us to decide whether a complaint should be investigated and, on the basis of the investigation, whether to hold a hearing**
- **We respond to inquiries from the public on any aspect of our work**

In all that we do, we seek to ensure that Herefordshire demonstrates best practice and is at the forefront of developments nationally.

The regulation of standards and ethics issues is now an established part of public life, and plays an important part in enhancing and maintaining confidence. In local government, as elsewhere, that regulation must be open, fair and proportionate. These principles remain at the heart of our work.

Our membership in 2007 was

Robert Rogers (Independent Member)(Chairman)

Robert Rogers has been in the service of the House of Commons since 1972, and is now the House's Clerk of Legislation, and a Clerk at the Table. During his time at the House he has been involved in every area of its work. He writes on Parliamentary and governance issues, and is the co-author of *How Parliament Works*, the sixth edition of which appeared in 2006. He is a member (and has been Chair and Vice-Chair) of the Standards Committee of the Hereford and Worcester Fire and Rescue Authority, and a member of the Standards Committee of the West Mercia Police Authority. He is also Chairman of the Hereford Cathedral Perpetual Trust. He is married with two grown-up daughters and has lived in the County since 1977.

Councillor John Stone

David Stevens (Independent Member: Deputy Chairman)

Richard Gething (Town and Parish Council Representative)

John Hardwick (Town and Parish Council Representative)

Until the elections in May 2007: Councillor John Edwards

Following the elections in May 2007: Councillor Beris Williams

We are advised and supported by

**Alan McLaughlin, Head of Legal and Democratic Services and
Monitoring Officer**

Heather Donaldson, Clerk of the Committee

**We also draw upon the services of Herefordshire Council Officers and
Departments for support in arranging meetings and hearings, printing and
publication, and website publication. We are very grateful for this support, and
for the readiness with which it is provided.**

OVERVIEW OF 2007

This was a year of considerable change in the local government standards and ethics framework. A new national Code of Conduct was introduced, requiring training and familiarisation, and the revision of our subsidiary codes and guidance.

The arrangements for an entirely new national approach to the handling of complaints about councillor conduct were finalised. We played a part in the formulation of these, and warmly welcomed the move from a centralised system to local ownership and control.

We continued to work closely with partners within the County and beyond: the Herefordshire Association of Local Councils, and Herefordshire Town and Parish Councils; the Standards Board for England; neighbouring authorities; and the West Mercia Independent Members' Forum.

We have been involved in a wide range of other activities, which are described in greater detail on the following pages.

There was one change in the membership of our Committee: John Edwards left the Council following the elections in May 2007. He was formerly Vice-Chairman of the Council, and Chairman of the Council from May 2005. We have benefited greatly from his deep knowledge of the County and his wise counsel. His place on the Committee was taken by Councillor Beris Williams, the new Vice-Chairman of the Council; and our member Councillor John Stone became Chairman of the Council.

Neil Pringle, the Chief Executive of the Council, left towards the end of the year. We have been very grateful for his strong support for the work of the Standards Committee, and for ensuring that we have the resources to do our job thoroughly and professionally. We were glad to welcome his successor, Chris Bull, to a meeting of the Committee in January 2008 shortly after his arrival.

ACTIVITIES IN 2007

THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) ORDER 2007

The long-awaited new Code of Conduct came into effect during the year. We contributed to the consultation run by the Department for Communities and Local Government early in the year, and recommended adoption to Herefordshire Council, which took place in July 2007. In addition, almost all the Town and Parish Councils in the County took formal decisions to adopt the new Code before it was statutorily enforced.

It was common ground that the first (2001) Code needed replacing, and the new version is in many ways an improvement (for example, it omits the controversial requirement to “whistleblow” and is in a clearer and more direct style). However, we regretted that, following the judgement in the *Livingstone* case, it applies only to conduct in a narrowly defined performance of official duty. We thought that the public’s view of reputational issues required a wider application, and argued for that; but without success.

GUIDANCE, PROTOCOLS AND THE CONSTITUTION

The introduction of the new Code has required some amendment of Herefordshire codes and protocols on specific areas. We have revised the following:

Code for Members and Officers Dealing with Planning Matters;

Protocol on the Use of Council Resources by Members;

Protocol for Member/Officer Relations;

Code of Corporate Governance;

Communications Protocol.

and they, and the Constitution, are now consistent with the new Code of Conduct.

THE LOCAL FILTER

This is a major change in the local government ethical framework. The Local Government and Public Involvement in Health Act 2007 provided for a change from a centralised system in which every complaint went to the Standards Board for England (SBE), which had the option of investigating it, or of referring the complaint for investigation to the authority concerned, whose Standards Committee could then hold a hearing and determine the matter.

We thought from the start that this was far from ideal. The centralised system was seen by many as remote and bureaucratic; the lack of local ownership was a real disadvantage. To their credit, the SBE were well aware of the problems, and made great efforts both to involve local standards committees and to speed up the process of assessment and investigation.

The move to the local filter means that all complaints will now come in the first instance to a standards committee. That committee will decide whether a complaint merits investigation. If there is an investigation, its findings will be considered by the committee, and if necessary there will be a hearing.

This change is very welcome. It will be a real challenge for standards committees, and we think we are well placed to meet that challenge.

- from our establishment in 2002 we have conformed first with best practice, and now with the statutory requirement, that all our meetings and hearings should be chaired by an independent member (not just “independent” in the purely political sense, but someone entirely independent of the Council)
- we have extensive experience of local investigations and hearings, more than most standards committees, and the practice and procedure for those has been developed case by case
- we took part in the SBE’s local filter pilot, in which a small number of standards committees dealt with scenarios reflecting the practical implications of dealing with complaints at a local level

Under the new system a complaint will first come to our Monitoring Officer. He will make an initial assessment and then seek our view as to whether the complaint should be investigated. We plan to give that task to a small sub-committee.

If the sub-committee decides that no investigation is necessary, that decision may be appealed. The hearing of that appeal must be entirely independent of our committee. We have good relations with other standards committees in the region, and plan to set up reciprocal arrangements for the hearing of appeals against decisions not to investigate.

If a complaint is investigated (and that investigation will always be undertaken by someone other than the Monitoring Officer to provide a properly independent view), we must then decide whether a hearing and determination is necessary. The SBE’s guidance sees no difficulty about the members involved in the first stage taking part in the consideration of the outcome of an investigation (and in a hearing if necessary), so we do not need a further independent element for this task.

At six members, our committee is one of the smallest standards committees. We have found that this has great advantages; we work together very closely; and we maintain a high degree of embodied knowledge and experience. However, we have to ensure that we are able to operate effectively if one or more of our members is unavoidably absent, or “conflicted out” because they know the subject of the complaint, or otherwise have an incompatible interest. If this affects either of our two Herefordshire Councillor members, we are able to co-opt replacements. A similar procedure can be used in respect of our two Town and Parish Council representative members. This is not the case with our independent members, however, and so to provide a reserve capability we will be recruiting an additional independent member.

The costs of the local filter will of course depend entirely on the number of complaints with which it has to deal. But we may assume that the present level of complaints will need to be dealt with at local level (only the most serious complaints, or those with which a standards committee feels for whatever reason that it cannot handle, will go to the SBE). This will have resource implications for every authority in England; and these may well be greater for unitary and district councils, which have responsibility for Town and Parish councillors in addition to those of the principal authority.

It is vital for the credibility of the new process that it is handled thoroughly and professionally; and we have every confidence that Herefordshire Council will continue to provide us with the resources that we need to do our job effectively.

ELECTIONS AND “PURDAH”

The period before an election is usually a time when feelings run high, and charge and counter-charge are part of the political exchange. It is important that the formal process of complaint and investigation is not used in this debate.

Our Monitoring Officer produced guidance for Herefordshire Council about the statutory restrictions on Council publicity in the run-up to the May 2007 elections (the “purdah period”), and we supplemented this with a leaflet for Town and Parish Councils.

In presenting our report to the last meeting of Council before the elections, our Chairman stressed the importance of making a clear distinction between political debate and personal charge. With only one exception, his advice was followed.

TRAINING

Following the May 2007 elections, we contributed to the induction briefing pack and the Councillors’ induction programme. Our Chairman gave a talk to members on standards and ethics, and on the role of the Committee.

We held joint training sessions with the Herefordshire Association of Local Councils (HALC) in June and October 2007. We focused on the implications (and implementation) of the new Code of Conduct, and on prejudicial and personal interests, as part of HALC’s broader training programme for Town and Parish councillors. We continue to work closely with HALC; the excellent relationship we have with them is greatly valued, and will be drawn upon in the SBE pilot project which we describe in the *Outlook for 2008* below.

We are arranging joint training for Standards Committee members from Herefordshire and Worcestershire County Councils, the Hereford and Worcester Fire and Rescue Authority, and the West Mercia Police Authority. This will concentrate on the practical operation of the new Code of Conduct and the Local Filter.

HEARINGS AND LOCAL INVESTIGATIONS

We have produced briefing papers for those involved in, or attending, Standards Committee hearings. This can often be a daunting and stressful experience, and we are keen that participants should understand the process and be aware of what to expect at a hearing. Together with a new procedure note for officers, this will provide comprehensive guidance for everyone involved.

We have considered the final reports of investigations relating to closely related complaints against eight councillors (involving in all around a thousand pages of evidence). In each case, we found that there was no failure to follow the Code of Conduct. The full texts of all our decision notices can be found on the Council’s website (see page 2).

THE STANDARDS BOARD FOR ENGLAND

We have maintained our close relations with the SBE, and have enjoyed working with Sir Anthony Holland, the Chairman; David Prince, the Chief Executive; Paul Hoey, Head of Policy and Guidance; and Sara Goodwin, Head of Legal, together with their colleagues. We look forward to establishing similarly close working relations with Sir Anthony's successor after 30th June 2008, and with Glenys Stacey, who replaces David Prince on 2nd June 2008.

We have continued to monitor the Board's handling of complaints, and are pleased to see continued improvement in the speed with which these are dealt with, and the readiness to refer cases for local investigation – especially useful in the transition to the local filter.

DISPENSATIONS

It has been a particularly busy year for requests from Town and Parish councils for "dispensations" – that is, for our permission for members who have a prejudicial interest to be able to participate in council business when the subject of that interest is being discussed. This is partly due to the impact of the May 2007 elections, which brought in new members.

Our plain-language guide (available on the Council website) explains the background to dispensations, the legal basis for which is complex. We sought advice from the SBE in respect of whether the regulations applied the "50% test" to the total membership of a council or to its quorum as we thought the wording to be ambiguous. The SBE agreed with us, but suggested that we should make our own interpretation on the basis that any reasonable interpretation is unlikely to be challenged. We have adopted the more generous interpretation, because we are concerned that the business of parish and town councils might otherwise be unnecessarily obstructed.

WEST MERCIA INDEPENDENT MEMBERS' FORUM

Our two independent members, Robert Rogers and David Stevens (and Richard Gething in his other role as independent Vice-Chair of the Hereford and Worcester Fire and Rescue Authority Standards Committee) have taken an active part in the Forum, and in the meetings at Shrewsbury in January 2007, at which the guest was Patricia Hughes, Deputy Chair of the SBE, and July 2007, which was addressed by David Laverick, President of the Adjudication Panel for England. Both generated lively question and answer sessions.

The Forum continues to be a useful way of exchanging experience and best practice among standards committees (and supporting independent members in those authorities where their role is not fully recognised), and a report is made to our committee on each occasion.

STANDARDS BOARD FOR ENGLAND SUMMER ROADSHOW

David Stevens and Richard Gething represented the Committee at the SBE Roadshow in Birmingham on 14 June. It focused primarily on the new Code, and was a valuable forum for sharing views, and Richard and David represented our views energetically.

SIXTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Committee was well represented at the Annual Assembly of Standards Committees in October. All members attended, and the Chairman and the Head of Legal and Democratic Services both led seminars.

It was once again an invaluable experience, especially with its focus on the new Code of Conduct and on the practical implications of local assessment. As ours is a committee with a stable membership and a good deal of experience, we were delighted that the Assembly events were targeted at different levels of training and experience amongst Standards Committees – as we had proposed in 2006.

We also had the opportunity to share our 2006 annual report, chairing checklist, and hearing guidance with other authorities. There was a very good reaction, and numerous requests to take the documents away and replicate them. We felt that this said a lot for best practice in Herefordshire.

WEBSITE

As foreshadowed last year, we have developed our web presence. The Standards Committee now has its own web pages on the Council website, where you can find more information about what we do, view agendas, minutes, and hearing details, and download forms and practical guidance. There are also links to other related organisations such as the Standards Board and the Herefordshire Association of Local Councils. More information appears on page 2 of this Report.

OUTLOOK FOR 2008

The main challenge will be the practical implementation of local assessment, investigation and hearings (see pages 9 to 11). We feel we are well equipped for this, and look forward to local ownership of the process.

We hope to run a Standards Board for England “model of excellence” pilot based on our close and successful relationship with the Herefordshire Association of Local Councils.

We will maintain and extend our training programme, both in conjunction with other authorities, and with the aim of reaching more Town and Parish councillors as part of our risk management policy.

We will continue to be active in the other areas covered in this Annual Report, building on the Committee’s six years’ experience, and following the principle that the system for which we are responsible in Herefordshire should be **open, fair and proportionate**.