

MEETING:	COUNCIL
DATE:	04 MARCH 2011
TITLE OF REPORT:	ANNUAL REPORT OF THE STANDARDS COMMITTEE 2010 – 2011
MEMBERSHIP:	R ROGERS (CHAIRMAN) (INDEPENDENT MEMBER), J BHARIER (INDEPENDENT MEMBER), I FOX (INDEPENDENT MEMBER), R GETHING (PARISH AND TOWN COUNCIL REPRESENTATIVE), J HARDWICK (PARISH AND TOWN COUNCIL REPRESENTATIVE), D STEVENS (INDEPENDENT MEMBER), J STONE (LOCAL AUTHORITY REPRESENTATIVE), B WILLIAMS (LOCAL AUTHORITY REPRESENTATIVE).

CLASSIFICATION: Open.

Wards Affected

County-wide

Purpose

To inform the Council of the main activities of the Committee during the period from January 2010 to February 2011.

The work of the Committee

1. The past year has proved to be another extremely busy time for the Committee. To assist with the workload, consideration sub-committees and hearing sub-committees have been established in addition to the existing assessment and review sub-committees. This arrangement affords the committee greater flexibility and fewer opportunities for conflicts of interest at the various complaint stages. Every sub-committee comprises a minimum of three members, with an independent member in the Chair, and for parish and town council matters, at least one parish and town council representative.
2. As a further response to the Committee's increased level of activity, on 28 May 2010, Council appointed David Stevens as Vice-Chairman of the Standards Committee for the ensuing municipal year.

3. I have said when presenting previous reports to Council that the Committee warmly welcomed the introduction of the local filter and so the local ownership of the complaints process. However, the Committee has remained uneasy about the complexity and cost of the process, especially when cases go to appeal. As I note below, this present system is to be abolished through the Decentralisation and Localism Bill at present before Parliament. The successor arrangements are at present in outline with details to be settled, but the Committee has some concerns about the prospects. I return to this point below.
4. During the period under review, the administrative handling of cases has greatly improved and the delays which concerned us greatly during the previous year have been dealt with. We have maintained our excellent relationship and close co-operation with the Herefordshire Association of Local Councils, collaborating on training and on other matters affecting the County's Town and Parish Councils.
5. We also welcomed Chris Chapman as the new Assistant Director - Law and Governance, and so as Monitoring Officer our principal adviser.

How complaints are being dealt with – January 2010 to February 2011

Assessment Sub-Committee

6. Complaints cases continue to be determined locally, and we dealt with 47 complaints between January 2010 and February 2011. Out of these:
 - 33 required no further action;
 - 10 were referred to the Monitoring Officer for training;
 - 1 was referred to the Monitoring Officer for written guidance; and
 - 3 were referred to the Monitoring Officer for investigation.
 - Of the 47 complaints, 36 were made about parish/town councillors; and 11 were about Herefordshire Councillors
7. Just over half of all allegations were about bullying, failing to treat others with respect, or breaching the Equality Act 2006 (Paragraph 3 of the Code of Conduct). There were also a significant number of allegations relating to members bringing their office into disrepute (Paragraph 5 of the Code). Other allegations were about aspects of members failing to declare interests (Paragraphs 8-12 of the Code), and members using their positions to secure an advantage for themselves (Paragraph 6 of the Code).
8. Of the 36 complaints against parish or town councillors, 30 related to members of the same council. The Monitoring Officer undertook training with all members for 14 of those complaints; 16 required no further action. Of the remaining 6 parish/town council complaints, 4 were referred for training, 1 required no further action, and 1 was incorporated into an ongoing investigation.
9. In respect of Herefordshire Councillors, no action was required in 6 cases, 3 cases were referred to the Monitoring Officer for other action, such as training or written guidance, and 2 were referred for investigation.

Review Sub-Committee

10. In cases when the Assessment Sub-Committee decides that no further action is required, complainants are entitled to ask for a review of the complaint, which is looked at by an entirely different panel of members. The Review Sub-Committee dealt with 6 cases during the period, re-examined each case from scratch, but in no instance reversed the decision of the Assessment Sub-Committee.

Consideration Sub-Committee

11. The Consideration Sub-Committee looks at investigation reports, and can either decide to hold a hearing, or in cases where the Investigating Officer has not found a breach of the Code, to accept the report and take no further action. The Sub-Committee dealt with 8 cases during the period, and decided that hearings were required in respect of 5 of these. The Sub-Committee decided that there had been no breach of the Code in 3 cases, and these are now closed.

Hearing Sub-Committee

12. We held one hearing in 2010, and a breach of the Code was found in this case, with sanctions being imposed on the parish councillor concerned. In relation to an earlier hearing involving a different parish councillor, there is a continuing appeal process in which the Standards Committee's decision was upheld by the First-Tier Tribunal. However, the councillor concerned has since appealed to the Upper Tribunal.

Governance Issues

13. The Monitoring Officer's team is close to concluding a significant piece of work in relation to a Direction from Standards for England. This relates to a case of multiple complaints brought against members of one town council. Standards for England had directed the Monitoring Officer to take action locally, requiring conciliation, training and governance. A programme of ongoing support and mentoring has also been provided. Standards for England have been complimentary about the way that this difficult situation has been handled.
14. One common emerging theme, particularly in instances when multiple complaints are made about parish or town councils, is that many complaints are related to governance issues. We continue to encourage ethical governance, and feel there is merit in developing training for parish and town councils on this aspect.

Outlook: The Future of the Local Government Standards Framework

15. The Decentralisation and Localism Bill was introduced to the House of Commons on 13 December 2010, and it will bring significant changes to the way that complaints about councillors are handled. The Bill gives some guidance about the arrangements that could be put in place locally to deal with matters when the Standards regime ceases. The Bill includes the following provisions:
 - (a) **Code of conduct** - local authorities can make their own decisions about how to regulate the conduct of their members. However, new criminal offences will be introduced regarding members who fail to register or disclose interests when participating in local authority business.

- (b) **Standards for England** - this is to be abolished, and the statutory provisions requiring reports to be submitted to it, together with certain complaints being referred to it, are to be repealed.
 - (c) **Codes of Conduct** - there is a duty for local authorities to ensure that members and co-opted members maintain a high standard of conduct. Unlike the Local Government Act 2000 which requires local authorities to have adopted a code of conduct. However, the Bill proposes that local authorities may adopt codes of conduct but it does not oblige them to do so. The present codes of conduct will cease to have effect and a local authority will be able to revise its code of conduct, adopt a replacement code, or simply withdraw its code without replacing it.
 - (d) **Alleged breaches of codes of conduct** - under the proposals, if a local authority receives an allegation that a member has acted in breach of the code, it must consider whether it is appropriate to investigate it and, if it decides that an investigation is appropriate, it must investigate in the manner it thinks fit. If an authority finds that a member or co-opted member has failed to comply with its code of conduct, the Bill says that it may have regard to the failure in deciding what if any action to take. For example, a local authority might decide that it is necessary to censure a member or to restrict his or her access to the local authority's officers, premises and facilities.
 - (e) **Members' interests** - In order to maintain high standards of behaviour by councillors, the existing requirement for councillors to register certain personal interests on a publicly available register will be retained. This requirement ensures that councillors do not put their personal interests above the public interest when dealing with items of council business to which those interests may relate. It provides transparency and will help the electorate to hold councillors to account. A deliberate failure to register and disclose interests will become a new criminal offence, punishable by a fine of up to £5,000, and an order for disqualification.
 - (f) **Standards Committees** - the requirement for local authorities in England to establish standards committees will be abolished. The functions of standards committees in England to consider applications for posts to be exempt from political restriction will become the responsibility of the head of paid service.
 - (g) **Predetermination** - a decision maker is not to be regarded as having approached a decision with a closed mind if they have given a previous indication of their view on a matter. This applies when there is an issue of allegation of bias or predetermination which affects the validity of a decision. This is intended to ensure that councillors do not feel unable or uncertain about what they may do in terms of championing local issues.
16. Until the new legislation is passed, the statutory framework remains in place and complaints are still being dealt with in the same way. We have concerns about the conduct regulation becoming entirely voluntary, and about how practical the new arrangements will be to administer.

17. There are in addition broader questions to be addressed. The current arrangements, and the more bureaucratic regime which preceded them, were designed to give the public confidence in local governance and government. So what will be the best way of demonstrating and maintaining high standards of conduct, and will it meet the expectation of our citizens and council tax payers?
18. In the first instance we are asking the Herefordshire Association of Local Councils to ensure that these issues are raised in this year's Annual Meetings of Town and Parish Councils, so that we have some initial views. It may also be that the forthcoming Council elections will give a further indication. Thereafter, assuming that the present statutory framework is still in place until a little while into the new mandate, this will be something on which our successor Committee will want both to consult the new Council and to take wider soundings in the County, perhaps with the assistance of our local media. I hope that Councillors find the report helpful. I welcome any comments upon it, and especially on the issues raised in the final section.

**ROBERT ROGERS
CHAIRMAN
STANDARDS COMMITTEE**

BACKGROUND PAPERS:

Agendas for the meetings of the Standards Committee held during 2010-2011.