

Committee on Standards in Public Life

Getting the Balance Right : Implementing Standards of Conduct in Public Life

Issues and Questions Paper

SUBMISSION FROM HEREFORDSHIRE COUNCIL STANDARDS COMMITTEE

1. Introduction

- 1.1 The Herefordshire Council Standards Committee was formed in January 2002. It currently comprises two wholly independent members (one of whom chairs the Committee) two parish council representatives and the Chairman and Vice-Chairman of Herefordshire Council. Standards issues have been high in the Council's priorities, and the present Committee replaced a separate Standards Commission which was set up before the Local Government Act 2000 came into force, and which consisted of the Lord-Lieutenant for Herefordshire, the Honorary Recorder for Hereford and the Bishop of Hereford.

2. The role of the Committee

- 2.1 The Standards Committee carries out its statutory duties under the Local Government Act 2000, but also plays a wider role in seeking to uphold high standards of conduct within Herefordshire Council, the town and parish councils of Herefordshire and generally.
- 2.2 Under the Local Government Act 2000, our Committee is required to:
- give Herefordshire Council advice about adopting a Local Code of Conduct;
 - monitor the effectiveness of the Code in operation;
 - train members;
 - promote and maintain high standards of conduct from members; and
 - help members to follow the Code.
- 2.3 In addition, there are 136 town and parish councils across Herefordshire, comprising nearly 2000 town and parish councillors. Our responsibilities at this level of local government have given us an additional perspective on standards issues.
- 2.4 We now turn to the aspects of the inquiry by the Committee on Standards in Public Life where our experience and views may be helpful. We stress our whole-hearted commitment to the maintenance of high standards; the issues we raise are of effectiveness, fairness and proportionality.

3. The Management and Enforcement of Codes of Practice

- 3.1 We have extensive experience of the introduction of the Local Government Model Code of Conduct. There was no difficulty with the introduction of the Code for the unitary council of Herefordshire Council (58 elected councillors). However, this was not the case with the introduction of the Model Code of Conduct to the town and parish council sector.
- 3.2 The introduction of Part III of the Local Government Act 2000 across Herefordshire met with considerable resistance from town and parish councils because the Code specified by the Act was imposed mid-term (elections in Herefordshire were held in

May 2000, before the Act came into force). As a result, a number of parish councils and councillors were unwilling to adopt the Code. This resulted in 29 investigations by the Standards Board for England, several of which produced disproportionate national publicity.

3.3 The introduction of the Code was poorly timed: not only out of sequence with local elections, but also with considerable delays in introducing the various aspects of the Act and supporting regulations.

3.4 We can see the theoretical attraction of a single code for local government, but the current arrangements have the following disadvantages:

3.4.1 they take no account of the fact that the functions and activities of town and parish councils are significantly different in scope and scale from those of higher tiers of local government. The Model Code of Conduct as currently drafted introduces:

- a requirement upon **every** council to adopt a code of conduct, and for all members to sign up to it;
- a requirement for financial and other interests to be registered within 28 days of election or co-option;
- a requirement that members declare personal interests at meetings, even if the interest is registered;
- a requirement that, where the interest is “prejudicial” the member must declare it and withdraw from the meeting;
- a right for members of the public to inspect the Register of Interests.

There is a case for standards of conduct of smaller town and parish councils to be more simply regulated.

3.4.2 The introduction of the code has required systems for maintaining the Register of Interests and making it available to the public, at a cost to the council tax payer. Indeed, we estimate that, together with information materials and training, administrative costs of town and parish elections have doubled. It is questionable how far this has made a real difference to the promotion of high standards of conduct.

3.4.3 A Register of Interests has been maintained in Herefordshire since the introduction of the Act. However, there have only been two or three requests from members of the public to inspect the Register of Town and Parish Interests (covering 136 councils).

3.3.4 The nature of smaller rural communities means that town and parish councillors frequently have to declare personal and financial interests, which become prejudicial. This then precludes individual councillors from taking part in that particular business to the detriment of the electorate that they represent. It also means that under the statutory provisions town and parish councils often have to seek dispensation for a number of local community issues which in turn have to be considered by committees such as ours. (We observe in passing that the regulations on this subject are not particularly well drafted, with at least one apparent inconsistency.)

4. The Effectiveness of the Code in Operation

- 4.1 We have concerns about the procedures under which the Standards Board for England exercises its statutory responsibility for investigating alleged breaches of the Council's Code of Conduct in relation to town and parish councils. There are at present 13 cases under investigation involving town and parish councils in Herefordshire which arose in 2003 (in addition to the 29 referred to in paragraph 3.2).
- 4.2 The procedure can appear remote and indeed intimidating. A random example in the county may illustrate this. A councillor is a builder. He took part in a general discussion in a parish council meeting about town and country planning policy. He did not declare the fact that he was a builder and a complaint was made against him. The investigation machinery swung into action, and the Ethical Standards Officer of the Standards Board for England found a breach of the Code but recommended no further action. Nonetheless, the details of the councillor's action, the complaint and the finding have been published on the Standards Board for England website. The individual feels intensely aggrieved by the finding, but has no remedy and, in his view, is unable to clear his good name.
- 4.3 We are concerned at the length of time being taken to deal with complaints and to conclude investigations. We can understand the need for a detailed approach that will be resilient against challenge, but in practice it can lead to a great deal of difficulty for the complainant(s) and councillor in a small rural council; and, while a complaint is pending, council business can become difficult or virtually impossible.
- 4.4 We think that the practice, when a complaint is first being considered, of not notifying the councillor complained of, is especially open to criticism on grounds of natural justice for the person who is the object of the complaint. The fact that the monitoring officer of the superior authority is not notified either is also highly undesirable.
- 4.5 It is worth pointing out that more than half of the 4,000 complaints so far received by the Standards Board relate to town and parish councils. It has certainly been the experience in Herefordshire that many complaints spring from historic disputes and grievances and that in some cases the regulatory regime has provided an excuse for mischievous reporting, with all the attendant cost and distraction from the real business of the parish council.

5. Should there be a general requirement in Codes of Conduct to register membership in any society which though not a charity or directed to charitable purposes might be perceived to constitute a conflict of interest?

- 5.1 This issue has arisen both at unitary and parish level. As the Code is currently drafted, it is unclear whether or not the requirement applies to societies directed to charitable purposes but not registered with the Charity Commission. This should be clarified.

6. Are the requirements for the various Codes of Conduct proportionate or a disincentive to public service?

- 6.1 For the reasons outlined above, and a good deal of (necessarily anecdotal) evidence, it is the view of the Herefordshire Standards Committee that applying the same Local Government Model Code of Conduct to all tiers of local government has been

disproportionate in terms of cost and process, and that it operates as a real disincentive to public service.

We would be happy to give oral evidence in amplification of this submission if the Committee wishes.

Herefordshire Council Standards Committee
April 2004