

REPORT OF THE STANDARDS COMMITTEE

Meeting held on 15 October, 2004

Membership:

Robert Rogers (Independent Member) (Chairman); Richard Gething, John Hardwick (Town and Parish Council Representatives); David Stevens (Independent Member); Councillor John Edwards, Councillor Peter Harling

PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS

1. The draft Protocol on the use of Council resources, including personal computers, access to the Internet and e-mail, has continued to pose a number of problems. We have sought the views of the Standards Board for England, and have consulted the Council's Members' Development Working Group.
2. Our main aim is to provide helpful guidance consistent with the National Code of Conduct for Councillors and legislation. The Code provides that when using Council resources a councillor must act in accordance with a Council's requirements and ensure that such resources are not used for political purposes except in certain specified circumstances. The Standards Board for England have strongly recommended that Local Authorities should adopt protocols to guide Members but unfortunately have not issued a model text or detailed guidance.
3. S2. of the Local Government Act 1986 prohibits local authorities from publishing political material which is aimed at promoting or supporting a political party or policy associated with a political party. This has widely been taken to cover e-mails sent by Councillors from a local authority network. We are unhappy about this interpretation. It seems to us that the use of IT has changed out of all recognition since the passing of the 1986 Act, and that it is entirely unrealistic not to take account both of this technological change and the fact that Councillors are practising politicians.
4. We have consulted the Standards Board for England, who take the view that Councillors are not prevented from using Council IT resources in this way. However, we wish our final guidance to be entirely legally sound, and we think that the Board's advice is at odds with the 1986 Act and the interpretative circulars issued by the Office of the Deputy Prime Minister. We have been especially concerned by a recent decision of the Adjudication Panel for England disqualifying a Member for a breach of the Code of Conduct when he used a council computer for private purposes and allowed his family to do so as well.
5. We are pursuing the issues with the Standards Board for England. When we have resolved these problems, we intend to consult all Councillors on the final draft before bringing it to Council.

PROPOSED REVISIONS TO THE PLANNING CODE OF CONDUCT

6. At the March Council meeting we reported on a Court of Appeal case on a councillor with a prejudicial interest in a matter being determined by a planning committee. The case involved a county councillor living near the site of a quarry for which planning permission had been sought. He was not a member of the council's planning committee; wanted to attend the meeting and speak against the application; but could not because he had a prejudicial interest. He contended that he could attend as a member of the public, but the Court took the view that a member of an authority attending a council meeting cannot, simply by declaring he attends in his private capacity, divest himself of his

official capacity as a councillor. He is still to be regarded as conducting the business of his office and only by resigning can he shed that role. The House of Lords has since confirmed that view.

- 7 The law on the use of agents (that you cannot do by an agent something which you cannot do in person) seems to suggest that an agent could not speak or attend a meeting on behalf of the councillor in these circumstances. We have consulted the Standards Board for England, who take a contrary view: that a Member *can* instruct an agent to attend a planning committee meeting and to speak at that meeting. We are seeking clarification and hope to be able to report orally at the 12 November Council. The amendment to the Planning Code of Conduct that would be necessary has been included in the constitutional amendments that Council will also be considering on 12 November.

APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS

8. Under the Code of Conduct councillors may not participate in matters in which they have a prejudicial interest. In the normal course of events this would not prejudice the proper working of the councils, but there are instances where the number of councillors who would be prohibited from participating would impede the transaction of business. Section 97(1) of the Local Government Act 2000 authorises the Standards Committee to grant dispensations in relation to Herefordshire Council and town and parish councils in the County.
9. We have granted a dispensation to ten members of Bartestree with Lugwardine Group Parish Council in respect of their membership of Bartetree Village Hall Committee. We have not been able to grant a dispensation to two Members of Dinedor parish council in respect of their membership of Dinedor Village Hall Management Committee because the law allows a Standards Committee to give a dispensation only if the number of councillors affected *exceeds* 50% of the total. In Dinedor's case, two out of four are affected. In communicating our decision (in which we have no choice, but which will seem unhelpful) we have suggested ways in which they may be able to overcome their problem.

THIRD ANNUAL ASSEMBLY OF STANDARD COMMITTEES

10. Richard Gething and David Stevens attended the third annual assembly of Standard Committees, which was held in September 2004. They reported back to the Committee at our last meeting; it was clear to us that their attendance was well worthwhile.

INQUIRY INTO THE ROLE AND EFFECTIVENESS OF THE STANDARDS BOARD FOR ENGLAND

11. The House of Commons Select Committee that monitors the Office of the Deputy Prime Minister (Housing, Planning, Local Government and the Regions) has resolved to carry out an inquiry into the role and effectiveness of the Standards Board for England with particular reference to the following issues:
 - the effectiveness of the Standards Board for England in promoting and overseeing the Code of Conduct that sets out the rules governing the behaviour of members of local authorities;
 - the role of the Standards Board for England in ensuring local authorities adhere to a Code of Conduct and its ability to assess allegations of misconduct in a timely and fair way;
 - The Standards Board for England's relationships with:

- (a) other regulatory organisations that support the ethical framework set out in the Local Government Act 2000;
- (b) central Government;
- (c) local Government stakeholders; and

- The role of the Standards Board for England in supporting the establishment and operation of standards committees at a local level.

12. We plan to submit our views to the Select Committee.

CASE REVIEWS – STANDARDS BOARD FOR ENGLAND

13. The Standards Board for England has recently published a review of cases heard during 2003/2004 at the adjudication panel for England and other Standards Committees using local determination powers. A summary of the outcome of the investigations is attached at Appendix A to this report.

INVESTIGATIONS BY THE STANDARDS BOARD FOR ENGLAND

14. We have considered a progress report on current investigations by the Standards Board for England.

**ROBERT ROGERS
CHAIRMAN
STANDARDS COMMITTEE**

BACKGROUND PAPERS

- Agenda papers of the meeting of the Standards Committee held on 15 October 2004