

MEETING:	COUNCIL
DATE:	25 MAY 2012
TITLE OF REPORT:	ANNUAL REPORT OF THE STANDARDS COMMITTEE 2011-2012
MEMBERSHIP:	D STEVENS (CHAIRMAN) (INDEPENDENT MEMBER), J BHARIER (VICE-CHAIRMAN) (INDEPENDENT MEMBER), R GETHING (PARISH AND TOWN COUNCIL REPRESENTATIVE), M MORRIS (PARISH AND TOWN COUNCIL REPRESENTATIVE), O BARNETT (LOCAL AUTHORITY REPRESENTATIVE), C CHAPPELL (LOCAL AUTHORITY REPRESENTATIVE).

CLASSIFICATION: Open.

Wards Affected

County-wide

Purpose

To inform the Council of the main activities of the Standards Committee during the period from March 2011 May 2012.

The structure of the Committee

1. The past year has been another busy one for the Committee. We have been making good use of our revised four-sub-committee administrative structure, and have found that it has given us the desired flexibility, and has helped to balance members' workloads and avoid conflicts of interest at the various complaint stages.
2. Robert Rogers, our former Chairman and an Independent Member, and Isabel Fox, an Independent Member, have resigned during the course of the year. Robert's resignation was due to his appointment as Clerk of the House of Commons and Chief Executive, and Isabel's was due to a move to Oxfordshire. Both have made an enormous contribution to standards and ethics in Herefordshire, and we remain grateful to them for their excellent work and invaluable expertise. David Stevens, the former Vice-Chairman of the Committee was appointed as Chairman, and he has been ably supported by Jake Bharier as Vice-Chairman. The Committee now has a membership of six instead of the original eight, deciding not to appoint further members because of the changes to the standards regime which will be brought about by the Localism Act 2011. The Committee has retained three substitute members who are vital to the smooth running of the sub-committees; they are Nicky Carless, John Hardwick and John Stone.
3. As we note below, this present complaints system is to be abolished through the Localism Act 2011. A new standards regime is set to come into force on 1 July 2012, and the Standards Committee and the current legislation will be abolished. Complete

guidance on the new Code of Conduct and successor arrangements are at present still awaited from central government, and we will return to this point below.

How complaints are being dealt with – March 2011 to May 2012

Assessment Sub-Committee

4. Complaints cases have continued to be determined locally, and we have dealt with 55 complaints between March 2011 and May 2012. Out of these:
 - 25 required no further action;
 - 1 was referred to the Monitoring Officer for training of a councillor;
 - 2 were referred to the Monitoring Officer for written guidance to councillors;
 - 5 were referred to the Monitoring Officer for investigation;
 - 3 were withdrawn;
 - 1 is awaiting assessment; and
 - 18 were referred to Standards for England for investigation. Out of these 18: Standards for England investigated 8 and decided that no further action should be taken on them. It did not investigate 6 and decided that no further action should be taken on those, and it referred 4 back to the original assessment sub-committee for further consideration in view of Standards for England's impending closure. The assessment sub-committee subsequently decided to take no further action on those 4.
 - Of the 55 complaints, 37 were made about parish/town councillors; and 18 were about Herefordshire Councillors.
5. Just over a third of all allegations related to members bringing their office into disrepute (Paragraph 5 of the Code of Conduct). Bullying, or failing to treat others with respect, accounted for another third. There were also a significant number of allegations 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). We also received a number of complaints about disclosing confidential information (Paragraph 4 of the Code).
6. Of the 37 complaints against parish or town councillors, 30 related to members of the same council. 18 of those required no further action, 18 were referred to Standards for England and 1 was withdrawn. Of the remaining 7 parish/town council complaints, 5 required no further action, 1 was referred for training and 1 was referred for investigation.
7. In respect of Herefordshire Councillors, no action was required in 10 cases, 2 cases were referred to the Monitoring Officer for other action, such as training or written guidance, 4 were referred for investigation and 2 were withdrawn.

Review Sub-Committee

8. 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 3 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

9. 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 2 cases during the period, and decided that hearings were required in respect of these.

Hearing Sub-Committee

10. We have held 1 hearing so far this year, and a breach of the Code was found in this case, with sanctions being imposed on the parish councillor concerned and training recommended for the parish council.

Governance Issues

11. A continuing 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

12. The Localism Act 2011 has been in force since November 2011, and will result in a new standards regime from 1 July 2012 onwards. Standards for England lost its regulatory powers on 31 January 2012, and was abolished altogether on 31 March 2012. The First and Upper Tier Tribunals system for standards has also been abolished. Although we are still working to the SfE guidance and legislation, all complaints are now being dealt with locally, with no referrals or appeals to another body possible.
13. At this stage, central government has given us very limited information even though the new regime is nearly upon us. Currently, we can confirm the following:
 - Proposals for a new regime of ethical governance to replace the Standards Committee are currently under active consideration. Group Leaders have asked the Standards Committee to devise a complaints procedure and a new Code of Conduct based on the emerging legislation. A Standards Working Group has been set up for this purpose, comprising David Stevens, Jake Bharier, Richard Gething and John Stone. The Group has consulted Group Leaders about its work and they have provisionally endorsed its outline proposals.

- The Committee will present its proposals for approval by full Council as soon as there is sufficient legislation in place for us to move forward. In view of the constrained timescales, it may be necessary for additional meetings of Council and the Committee to be arranged for this purpose.
- The Standards Working Group has suggested that a panel involving the “independent persons” should be created to investigate those complaints referred by the Monitoring Officer, who will have contacted the subject member and the complainant very early in the process. The Panel will then report to the Audit and Governance Committee for a final adjudication. The sanctions at the Audit and Governance Committee’s disposal will be very limited compared with those under the current regime.
- Part of the process will involve the introduction of a new Code of Conduct for Members. The Department for Communities and Local Government (DCLG); The Local Government Association; and The Association of Council Secretaries and Solicitors have all devised different variations of the wording that could be incorporated into a new code. There is likely to be some flexibility for each local authority to finalise its own code but the regulations and timescales regarding this are still awaited from the Government. The Standards Working Group has carried out a considerable amount of work on a code of conduct suitable for the Council and is likely to follow the model prepared by the Association of Council Secretaries and Solicitors.
- Guidance is also awaited from the Government about the issue of independent persons. Indications are that it may not be permissible for the Council’s existing independent members to serve as independent persons under the new regime within a period of five years from their previous service. Steps are therefore being taken to prepare the recruitment process for new independent persons.
- No transitional arrangements have yet been issued for current cases to continue to be dealt with under the existing legislation when the new arrangements are introduced. It is hoped that the new secondary legislation will make provision for these cases to be concluded under the present arrangements.
- The current proposals are a middle course and will be kept under review as the national picture becomes clearer.

**DAVID STEVENS
CHAIRMAN
STANDARDS COMMITTEE**

BACKGROUND PAPERS:

Agendas for the meetings of the Standards Committee held during 2011-2012.