

**MINUTES of the meeting of Standards Committee held at
The Council Chamber, Brockington, 35 Hafod Road,
Hereford on Friday, 1st April, 2005 at 2.00 p.m.**

Present: Robert Rogers (Chairman)
Councillors: John Edwards and Peter Harling
Independent Members: Richard Gething, John Hardwick
and David Stevens

In attendance: Councillors R.M. Wilson

44. APOLOGIES FOR ABSENCE

There were no apologies for absence.

45. DECLARATIONS OF INTEREST

There were no declarations of interest.

46. MINUTES

RESOLVED (unanimously) that the minutes of the meeting held on 4 February 2004 be approved as a correct record and signed by the Chairman.

47. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM TOWN AND PARISH COUNCILLORS

There were no applications for dispensations received.

48. DRAFT PROTOCOL ON THE USE OF COUNCIL RESOURCES BY MEMBERS

The Committee considered a draft protocol on the use of Council resources by Members. The requirement for such a protocol stemmed from the National Statutory Code of Conduct for Councillors, and the two key concerns and restraints related to (1) the prohibition on using council resources for political purposes; and (2) the use of ICT facilities and, in particular, access to the World Wide Web and the use of the Council Email address. The Standards Committee and the Council had considered previous drafts of the protocol. The County Secretary and Solicitor stated that whereas the previous protocol had attempted to address too many issues, this draft focused solely on ICT usage. Some members expressed concern about this, although they accepted that when the Council provided Councillors with ICT equipment at home, this exceeded their general undertaking to observe the Council's protocols, and instead became a separate legal relationship. It was this in part that the protocol was attempting to address.

In addition, the Member Development Working Group had made a series of recommendations, including one that the Standards Committee should ask the Standards Board for England to produce national guidelines on the issues involved.

Members noted that the Council had sought advice from the Standards Board towards the end of 2004, and they noted the Standards Board's response, which had not been as definitive as the Committee had hoped. Having considered the issues involved and the advice available, Members made the following key points:

- The Committee felt that the protocol should be clearly within the Committee's remit. For example, it should not address issues such as Data Protection or Licensing, which were clearly the business of other bodies. Nor should the protocol rely on other documents to support it; but should be free standing. For these reasons, Members were of the opinion that Sections 12, 13 and 14 should be removed from the draft protocol, and that it should be greatly simplified to contain just six or seven points on one sheet of A4.
- Members noted that the majority of other Local Authorities contacted on this issue made a small charge for limited personal use. The County Secretary and Solicitor confirmed that Councillors currently made a financial contribution for consumables (such as ink, toner cartridges and stationery items) supplied by the Council. Noting that paragraph 13.12 of the draft suggested an annual fee of £50.00 for reasonable private use (including email and the World Wide Web), Members felt that the Standards Committee should not decide on the matter of fees, because this was neither a standards nor an ethical matter. Instead, the fee should be dealt with separately and revised as necessary.
- The Committee agreed that, if the protocol laid out specifications for political use, particularly in relation to email addresses, Councillors must sign up to it individually. Likewise, all Councillors would be consulted on the draft protocol before it was adopted.
- Members felt that personal use of ICT equipment would be too difficult to monitor, and therefore, the protocol should state that *modest* personal use of ICT equipment was acceptable. A separate email account and address, which were distinguishable from the official Council's, would be used for this purpose. The protocol should also specify that no use of equipment by anyone other than the Councillor would be permitted (e.g. family members). This would help to prevent any breaches of security in respect of confidential Council data.
- The exact written advice given by the Standards Board in respect of personal/political use, in Paragraph 8 of the report (3rd, 4th and 5th sentences of the quote from the Standards Board) should be reproduced in the protocol. The Committee would also continue to encourage the Standards Board to issue national guidelines on this subject area.
- Paragraph 5 of the Council's Code of Conduct would be used as a foreword in the protocol document, so that Councillors were clear about their obligations.

RESOLVED: (unanimously) that the draft ICT protocol for Members be revised as outlined in the above bullet points, and used as a consultative document for individual councillors, and thence for adoption by the Council.

49. " A CODE FOR THE FUTURE": STANDARDS BOARD FOR ENGLAND CONSULTATION ON THE CODE OF CONDUCT FOR MEMBERS

The County Secretary and Solicitor presented her report on the National Review of the Code of Conduct for members. The Minister of State for Local and Regional Government had asked the Standards Board to conduct a review of the Code's content, with the aim of ensuring that it was easily understood, and took account the realities of serving local communities as a member of a local authority.

The Standards Board was in the process of consulting all local authorities, and the Committee considered the consultation document. Responses were required by 17 June 2005, which would give the Standards Board time to make its recommendations to the Government over the summer period. Members also noted that the Hereford and Worcester Fire and Rescue Authority's response had been appended to the report as a helpful reference.

The Standards Committee drafted a response to the consultation, and this is attached to the minutes as Appendix A.

RESOLVED (unanimously) that the response set out in Appendix A to the minutes, be approved and submitted to the Standards Board before 17 June 2005.

50. LOCAL INVESTIGATIONS AND DETERMINATIONS

Members considered a report in respect of new powers of local investigation of complaints. The new regulations allowed for local investigations to be carried out by or on behalf of Council Monitoring Officers, and this would mean that up to 50% of investigations would be carried out locally. The basic process remained the same in most respects, with the major change being that ESOs now had powers to refer a particular allegation locally.

The Committee noted the guidance available for deciding about local referrals, and the increased sanctions that were available to Standards Committees.

RESOLVED (unanimously) that the Standards Committee (a) adopts the approach to the new powers of local investigation as set out in the report (b) notes the extension of the sanctions available to it within local determinations and (c) authorises the County Secretary and Solicitor to update the Committee's procedure for local determinations.

51. PARISH COUNCILS

The Committee considered a report, and the Standards Board open paper 04/219: "Problematic Parishes", which outlined the work of the Standards Board in relation to supporting the local parish council sector in compliance with the Code of Conduct. In particular, members noted Paragraph 44 of the paper, which set out proposed practical measures to support Parish Councils. These included developing diagnostic tools, and early warning and prevention strategies for parishes, and working with the National Association of Local Councils and Standards Committees to develop good practice.

Members made the following principal comments:

- the Standards Committee felt that its support role was generally perceived as assigning responsibility for following up any action after hearings, and for ensuring that sufficient training and education was available to local councils and clerks, to prevent the problems envisaged from arising. Members felt that the best approach was to work in partnership with the Herefordshire Association of Local Councils (HALC).
- In Herefordshire, it was important that the roles of the Standards Committee, HALC, and the Monitoring Officer were complementary, but also clearly differentiated so that it was clear which body to go to for advice.
- It was noted that the Chairman would shortly be meeting with HALC and the County Secretary and Solicitor to discuss what sort of training was required and which would benefit from it. The Committee suggested that the next local council Chairs' and Clerks' event should be targeted to assist and to clarify roles. Mr Richard Gething said that he would provide figures on which local councils had attended various types of training over the previous two years, for risk management purposes.

RESOLVED (unanimously) that (a) the Standards Committee notes the work that the Standards Board for England is pursuing in relation to parishes and (b) the action listed in the bullet points above be pursued in partnership with the Herefordshire Association of Local Councils.

52. NOTIFICATION OF FINANCIAL AND OTHER INTEREST FORM

Members reviewed the Notification of Financial and Other Interests form, currently submitted to the Monitoring Officer by all town and parish councillors within 28 days of their election. The requirement for the review had stemmed from a recent Standards Committee Hearing, when it had been suggested that more guidance should be given to clarify what needed to be put on the form, particularly in relation to Section 6 (beneficial interests in land).

Members felt that "land" in Section 6 should be expanded to include Residence, Buildings, and Property, and should also record whether the councillor was an owner, tenant or licensee. Members recognised that some councillors might not wish to disclose commercial interests in some land (particularly agricultural), but commented that declaration was essential nonetheless and outweighed all other concerns. The Chairman said that he would clear the exact wording with Committee members by email after the meeting, and the form would be changed when all of them had responded and were in agreement.

In addition, the County Secretary and Solicitor suggested that there was merit in putting an article in the HALC Newsletter, prompting all town and parish councillors to update their interests on the Register.

RESOLVED (unanimously) that (a) additional guidance be included on the Notification of Financial and Other Interests form to ensure that councillors are clear about what needs to be disclosed (b) the wording of the guidance be agreed by Members via email after the meeting and (c) HALC be requested to include an article in its newsletter, reminding town and parish councillors to update their interests on the Register.

53. DATES OF NEXT AND FUTURE MEETINGS

The Committee noted the dates of future meetings and agreed to a change of date in June 2005 as follows:

- Friday 17 June 2005
- Friday 7 October 2005
- Friday 2 December 2005

54. URGENT ITEM OF BUSINESS - WEST MERCIA INDEPENDENT MEMBERS' FORUM

In accordance with Paragraph 5.8.3.1. of the Constitution, the Chairman agreed that the following item of business would be considered as a matter of urgency on the grounds that the Committee was required to make a decision about Independent Members' attendance at the West Mercia Independent Members' Forum.

Members considered the minutes of the Forum meeting held on 10 March 2005. Mr David Stevens, who had attended the meeting, referred Members to the resolution on page 7 of the minutes, as follows:

“WMF 6 IS A FORUM NEEDED?”

The following points were agreed:

1. that the West Mercia Independent Standards Committee Member Forum should continue to meet;
2. that, from time to time, it would be appropriate to invite Monitoring Officers to meetings;
3. that the merits of, on occasion, holding meetings of the Forum to include elected members be recognised;
4. that meetings be held biannually, a summer meeting to be held in an evening and a winter meeting to be held in an afternoon;
5. that the meetings of the Forum remain informal without the need for any written Constitution at this time;
6. that the host authority meet any administration charges resulting from the meeting it hosts (including staff time, postage, refreshments etc) and provide staff to service the meeting;
7. that Mr Peter Rowland remain as the central contact point for the Forum at the current time but that the election of a Forum chairman be considered at the next meeting. “

Whilst acknowledging the possibility that meetings of this nature might be viewed as divisive, the Committee noted that 90% of those attending had backed the resolution, and that the Standards Board representative was in favour of independent Members meeting together to share information and ideas.

The Committee felt that it would be beneficial for its Independent Members to attend the Forum on a regular basis, to monitor it and keep abreast of the information and ideas exchanged there.

RESOLVED (unanimously) that the Committee endorses the attendance of its Independent Members at the West Mercia Independent Standards Committee Member Forum

RESOLVED: (unanimously) that under section 100(A) of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of information relating to the financial or business affairs of a particular person (other than the Authority)

55. DETERMINATIONS BY THE STANDARDS BOARD FOR ENGLAND 2004/05

The Committee considered a report on the current investigations by the Standards Board for England in respect of complaints of alleged misconduct against certain councillors.

It was decided that the report be noted and that the County Secretary and Solicitor be authorised to request the Standards Board to finalise as a matter of urgency, a case outstanding from October 2003.

56. REVIEW OF STANDARDS COMMITTEE HEARINGS

Members reflected on the first two Standards Committee Hearings. In particular, they expressed concern at the level of sanctions available to them, which they deemed insufficient, especially in view of the level of costs incurred per hearing by the Council and the Standards Board. In addition, the sanctions did not differentiate between County Councillors, who met frequently, and some parish Councillors who might meet only four times a year. It was clear that the sanctions would have a greater impact on the former rather than the latter, and therefore, that there was some inequality in this situation. The Committee felt that these points should be raised at the Annual Assembly of Standards Committees later in the year.

The County Secretary and Solicitor said that there was now provision for referring cases back to the Standards Board when they were deemed sufficiently severe, but it was limited to whether the ESO would allow it. It was decided that the Committee's concerns about sanctions be raised at the Annual Assembly of Standards Committees in 2005 and that the Standards Board be asked to investigate whether a parish councillor had breached the Code of Conduct with his editorial in a local newsletter.

57. COUNCILLOR PE HARLING

The Committee noted that Councillor Peter Harling would be retiring as Chairman of the Council at the end of the municipal year. All Members paid tribute to his outstanding contribution to public service and in particular to the Standards Committee. Members acknowledged his important role in giving the Committee authority, and thanked him for his support and his sound judgement.

The meeting ended at 3:45 p.m.

CHAIRMAN