



Standards Committee

Annual Report 2004-05



1. The Standards Committee was established under section 53 of the Local Government Act 2000, which required the Council to adopt a code of conduct to replace its existing one, and to incorporate all the mandatory provisions of the Model Code of Conduct issued by the Secretary of State. We first met on 8th February 2002, and agreed to recommend adoption of the Model Code of Conduct without amendment (save to include a gender neutral approach), and to recommend to Town and Parish Councils that they also adopted it. Council adopted the Code on 8th March 2002.
2. Our functions are: to promote and maintain high standards of conduct by the members and co-opted members of Herefordshire Council; to assist members and co-opted members to observe their code of conduct; to advise on the adoption and revision of codes of conduct; and to advise, train, or arrange to train members and co-opted members on matters relating to the code of conduct. We carry out the same functions in respect of the 134 Town and Parish Councils for which the Council is the responsible authority. We also have the duty of carrying out local hearings and determinations of complaints referred to us by the Standards Board for England.
3. Our membership in 2004/2005 was:
 - **Robert Rogers (Independent Member) (Chair):** Mr. Rogers has been in the service of the House of Commons since 1972 and is one of the Principal Clerks and a Clerk at the Table. During his time at the House he has been involved in every area of its work including postings as Clerk of the Select Committee on Defence, Clerk of Private Members' Bills, Clerk of the Select Committee on European Legislation, and Principal Clerk of Select Committees. He is married with two grown-up daughters and has lived in the County since 1977. He is also Chair of the Standards Committee of the Combined Fire and Rescue Authority.
 - **Councillor Peter Harling:** Councillor Harling has been a local authority Councillor for forty-four years, formerly with Ledbury Urban District Council, Malvern Hills District Council and Hereford and Worcester County Council. He was Chairman of Herefordshire Council until 13 May 2005. He is also a member of Ledbury Town Council, the Herefordshire Society, is on the Board of Malvern Hills Conservators, and is a Director of St Michael's Hospice, Bartestree. He is retired, having worked in the Motor Industry for thirty-eight years. He lives in Ledbury and is married to Sue, with two grown up daughters and two granddaughters.
 - **Councillor John Edwards:** Councillor Edwards was Vice-Chairman of Herefordshire Council until 13 May 2005 when he became Chairman. He helped to found How Caple, Sollers Hope and Yatton Group Parish Council in 1974, and has been a member ever since. He has been a churchwarden for forty-four years, was County Chairman of the Young Farmers Club in the fifties, and represented local farmers at National level. He is a farmer and landowner in How Caple, and is married with a grown up daughter and two sons, and six grandchildren.
 - **David Stevens (Independent Member):** Mr Stevens is the Chairman of Herefordshire Young Enterprise and West Mercia Crimestoppers, and formerly Chairman of the Area Council of the Herefordshire Chamber of Commerce, and an independent member of the West Mercia Police Authority. He worked for many years with Bulmers' Export Department. He lives in Hereford city, and is married with three grown up children.
 - **Richard Gething (Parish Council Representative):** Mr Gething is Chairman of the Herefordshire Association of Local Councils, Bridstow Parish Council and the Local Access Forum, and Vice-Chairman of the Herefordshire Rural Police Community Consultation Group. He is a retired Army Officer, and currently Co-Director of a management consultancy company (public and private sector). He is married with two grown up sons and lives in Glewstone.

- **John Hardwick (Parish Council Representative):** Mr Hardwick farms in the Fownhope area and for many years has been involved in service to the local community. He is currently Vice-Chairman of the Herefordshire Association of Local Councils Executive Committee, and was formerly the Chairman of Fownhope Parish Council.

STANDARDS COMMITTEE WORK PROGRAMME FOR 2004-05

4. We list below the main features of our work over the past year. Where required, our decisions have been ratified by the full Council.

2 JULY 2004:

- **Protocol on the use of Council resources:** We considered a draft protocol with the key principle that public resources should not be used to further private interests or be improperly used for political purposes. The draft was based on the policy developed for employees and other users of the Council's network to provide guidance for use and to minimise the Council's exposure to technical and legal risk. We also needed to ensure compliance with the provisions of section 2 of the Local Government Act 1986 which prohibits local authorities from publishing political material. Technology had moved on significantly since the 1986 Act; there had been a huge increase in the use of ICT in everyday life; and we felt that the Act was imprecise on the nature of "political use". We sought the views of the Standards Board for England.
- **Planning Code Of Conduct – Revisions:** We reviewed the Planning Code of Conduct following the decision of the Court of Appeal in Richardson. The Court had taken the view that a member of an authority attending a Council meeting could not, simply by declaring he attended in his private capacity, divest himself of his official capacity as a Councillor. He was still to be regarded as conducting the business of his office and only by resigning could he shed that role. There were implications about whether an agent could speak or attend a meeting on behalf of a Councillor and on this we sought from the view of the Standards Board for England.

15 OCTOBER 2005

- **Protocol on the use of Council resources:** We re-examined the draft protocol in the light of the views of the Standards Board for England and consultation with the Members Development Working Group. The Board was of the view that Councillors were not prevented from using Council IT resources for certain political purposes. We were surprised at this, as the Board's advice was appeared to be at odds with the 1986 Act and the interpretative circulars issued by the Office of the Deputy Prime Minister. There was also the fact that the Adjudication Panel for England had disqualified a Member for a breach of the Code of Conduct when he used a council computer for private purposes and had allowed his family to do so as well. We decided to pursue the matter further, and to consult all Councillors on the final draft before it was submitted to Council.
- **Planning Code Of Conduct – Revisions:** We heard that the Standards Board for England had not produced formal advice on the matter but had informally supported our approach. We also noted that the Constitutional Review Working Group was in favour of the changes as part of the overall review of the Constitution. We gave further consideration to guidance about planning applications in which a member of the Council had an interest. We noted that the law on the use of agents suggested that an agent could not speak or attend a meeting on behalf of the Councillor in these circumstances. The Board took a contrary view but had produced no formal guidance. We therefore decided that formal clarification should be sought from the Board and submitted with our recommendations to Council.

- **Inquiry into the Role and Effectiveness of the Standards Board For England:** The House of Commons Select Committee on the Office of the Deputy Prime Minister (Housing, Planning, Local Government and the Regions) was carrying out an inquiry into the role and effectiveness of the Standards Board for England. We submitted written evidence, among other things emphasising the need for quicker complaint resolution, and making the case for a more decentralised operation of the standards system, with greater local involvement.
- **The Freedom Of Information Act 2000 and the implications for The Standards Committee:** We examined the implications for the work of the Committee, concluding that the great majority of our proceedings and papers are open, but that the Act provided adequate exemptions when confidences (as in local investigations and hearings) might need to be protected.
- **Training and Development:** We attach the highest importance to training for Councillors and increased awareness of the requirements of the Code. The emphasis should be on prevention rather than sanction. A number of events were put on during the year with a Code of Conduct training element. We have co-operated closely with the Hereford Association of Local Councils and support the work it does in this respect.
- **Public Interest Report - Kington Town Council:** Following the publication of a report by the District Auditor on Kington Town Council, we have provided support to the Council in the agreement and implementation of an Action Plan to improve the functioning of the Council. Our Chairman and the County Secretary and Solicitor have since had a series of meetings with Kington Councillors to follow this up.
- **Local Determination of Complaints** We finalised the arrangements for hearing the first complaint against a local Councillor referred to us by the Standards Board for England. Although we have powers to appoint a panel for the hearing we preferred the whole Committee to be involved, especially as it was the first hearing to be dealt with locally.
- **Discussion with Mr Paul Hoey of the Standards Board for England:** We had a frank and most constructive discussion with Mr Paul Hoey, Head of Policy and Guidance at the Standards Board for England. We began by raising our concerns about the time taken for dispute resolution. The Board was receiving an average of 3,500 allegations per year, and its target was to resolve up to 75% of these through means other than investigation. The decision to investigate or not was now taken within ten days in 90% of cases and the Board making great efforts to improve resolution times. The introduction of the Local Investigations Regulations in September 2004 meant that up to 60% of the Board's investigative work was likely to be referred back to local authorities gradually over a three-year period. The Board would then deal only with those matters which required a higher level of sanction to be imposed by the Adjudication Panel, which involved senior members (because of potential conflicts of interest with Monitoring Officers), or which were 'test cases' which used to set precedents for good working practices. The Board's primary function would become to strengthen the role of Standards Committees and Monitoring Officers in order to develop a 'prevention rather than cure' strategy. We welcomed this as being supportive of our own approach. We ended by discussing the Standards Board's review of the Code of Conduct and some of the issues arising.
- **Committee on Standards In Public Life 10th Report: "Getting The Balance Right":** We considered the Tenth Report from the Committee on Standards in Public Life: Getting the Balance Right: Implementing Standards of Conduct in Public Life. We had submitted evidence to the inquiry (available on the Council's website) and gave a broad welcome to the recommendations, especially to the conclusion that the system for determining complaints should be locally based with the exception of the most serious cases.

- **Lobby Groups, Dual-Hatted Members and the Code Of Conduct:** We considered recently issued guidance the Standards Board for England about lobby groups, "dual-hatted" members and the Code of Conduct. We had some concerns that the Council's Planning Code of Conduct conflicted with the Board's that the Code of Conduct does not automatically prevent members from considering the same planning application at more than one level of Local Government, including speaking and voting at both levels. We felt that the Council's Constitution offered the higher standard of conduct and the firmest guidance on what was potentially a highly controversial area. We decided in the light of the guidance that there was some scope for greater flexibility, but identified the risk that, if a local ward councillor had voted on an application at town or parish level, this would be seen by the public as predetermination. We recommended an amendment to the Constitution to reflect this, providing that the view expressed at local level should not be definitive. This was later adopted by the Council.
- **Public Interest Report - Kington Town Council:** We considered progress on the Action Plan for Kington Town Council following the District Auditor's public interest report.
- **Hearing on 4 March 2005:** We reviewed the conduct of our first local hearing which had taken place on 14 January 2005 and fine-tuned our administrative and other arrangements in readiness for our second hearing on 4 March 2005.

1 APRIL 2004

- **Draft Protocol On The Use Of Council Resources By Members:** We considered a further draft of the protocol, with the assistance of recommendations from the Member Development Working Group.
- **" A Code For The Future" : Standards Board for England Consultation on the Code of Conduct for Members:** The Standards Board was reviewing the Code's content with the aim of ensuring that it was easily understood and took account of the realities of serving local communities as a member of a local authority. We have submitted written evidence, which is available on the Council's website.
- **Local Investigations and Determinations:** We discussed the new powers for Ethical Standards Officer to refer complaints for local investigation by Council Monitoring Officers, and the implication that up to 50% of investigations would be carried out locally. We noted the guidance for decisions on local referrals and the increased sanctions available to Standards Committees. We authorised the County Secretary and Solicitor to update the Committee's procedure for local determinations.
- **Town and Parish Councils:** We considered the Standards Board's paper Problematic Parishes, outlining its work in supporting the local parish council sector in compliance with the Code of Conduct. We noted proposed practical measures to support Town and Parish Councils, including the development of diagnostic tools, early warning and prevention strategies for parishes, and working with the National Association of Local Councils and Standards Committees to develop good practice. We are pursuing a number of issues in partnership with the Herefordshire Association of Local Councils.
- **Notification of Financial and Other Interests Form:** We reviewed the form which must be 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 the form should be clearer, particularly in relation to Section 6 (beneficial interests in land). We agreed that additional guidance was needed, that it would be helpful if HALC included an article in its newsletter reminding town and parish councillors to update their interests on the Register.
- **West Mercia Independent Members' Forum:** We considered the minutes of the inaugural Forum meeting held on 10 March 2005; the agreement that the Forum should be permanent; and its likely method of operation. We had had concerns that a Forum of this sort, limited to one category of Standards Committee Member, might affect the cohesive approach of Committees such as ours. However, on the basis of the Forum's first meeting we felt that there was a real need for Independent Members in some authorities to be more effectively supported. We felt that it would be useful for our Independent Members to attend the Forum and report back.

- **Review of Standards Committee Hearings:** We reviewed our first two local hearings on 14 January and 4 March 2005 expressed concerns that the sanctions available are insufficient, especially in view of the level of costs of hearings to the Council and to the Standards Board. There is also the problem that the sanctions do not differentiate between County Councils, which meet frequently, and some Town and Parish Councils which might meet only four times a year. We decided to raise these points at the Annual Assembly of Standards Committees.
5. During 2004-05, we have also continued to monitor investigations by the Standards Board for England about complaints which have been made against Town and Parish Councillors. We have dealt regularly with requests from Town and Parish Councils for dispensations (that is, for cases when the number of Councillors who have declared an interest would impede the transaction of business if they were to withdraw).

CURRENT ISSUES

6. We now have considerable experience in the complex business of conducting local hearings, on which we will continue to build. It is impossible to predict the number of referrals we will receive in the coming year and the impact that they might have on staffing and other resources. We will continue to monitor the situation and report to Council as necessary.
7. Our membership has changed for 2005/2006 with the resignation of Councillor Peter Harling as Chairman of the Council. We pay tribute to his outstanding contribution to public service and in particular to the Standards Committee. We have much appreciated his wide experience and sound judgement. We congratulate Councillor John Edwards on his election as Chairman of the Council and welcome Councillor John Stone, the new Vice-Chairman of the Council, to the Committee. Councillor Stone joined the Council in 2000 having been in the teaching profession for many years. He was a member of Brimfield and Little Hereford Parish Council for ten years and is a churchwarden of St Michaels, Brimfield. He has held a number of offices with the Council including Vice-Chairman of the Education Scrutiny Committee, Vice-Chairman of the Northern Area Planning Sub-Committee, Vice-Chairman of the Social and Economic Development Scrutiny Committee, Chairman of the Courtyard Review Group, a Member of the Herefordshire Local Admissions Forum and Chairman of the Standing Advisory Council for Religious Education.

CONCLUSION

8. This report reflects another busy year for the Committee. We have sought to ensure that Herefordshire demonstrates best practice and is at the forefront of developments nationally. Codes of conduct, and the regulation of standards issues, are now part of public life. There is no doubt that they play an important part in enhancing and maintaining public confidence. The credibility of the system in local government, as elsewhere, depends upon it being open, fair and proportionate. These principles are at the heart of our approach.

Herefordshire Council

Standards Committee

July 2005